

January 19, 2024

Brian Binzer
City Administrator/ City Planner
City of Alabaster
1953 Municipal Way
Alabaster, Alabama 35007

Subject: Proposal for Construction Materials Testing,
& Special Inspections for
Alabaster Amphitheater and Senior Center
Alabaster, Alabama
MBA Proposal No.: G9494-24 (R1)

Dear Mr. Binzer:

We are pleased to submit this proposal to provide construction materials testing and inspection services for the Alabaster Amphitheater and Senior Center located at 1097 7th Street SW in Alabaster, Alabama. We look forward to working with you, and in this proposal, we have included the following:

- A. Description of Project**
- B. Plan of Execution**
- C. Basis of Service Estimate**
- D. Budget Estimate Schedule**
- E. Closing Remarks**

A. DESCRIPTION OF PROJECT

Based on our review of the available project documents provided we understand construction will consist an addition to the existing Senior Center and a new Amphitheater:

Senior Center Addition:

- The new 39' by 64' addition will be located on the north side of the existing building.
- In view of the presence of soft compressible soils, the building pad will require undercut and replacement with offsite borrow material.
- The building will be on shallow foundations with concrete slab on grade. The structure has been designed as a steel frame.

Amphitheater:

- The new 62' by 28' amphitheater will be located to the north of the Senior Center
- The amphitheater has been designed as CMU walls to the stage elevation followed by steel framing over head of the stage.
- The building will be on shallow foundations with elevated slab (stage elevation) and a crawlspace.
- Fill soils will be observed in the general area of footings that will require over excavation.

B. PLAN OF EXECUTION

During the construction of the proposed Amphitheater and Senior Center, our personnel will perform the following services, in accordance with the Project Specifications, ASTM Standards, and IBC Special Inspections 2018.

Personnel Safety – Safety on the jobsite is the first priority for MBA Engineers Inc. personnel. All personnel will follow the established safety protocols relating to individual tests or inspections. Overall safety on the jobsite associated with construction and the contractor, subcontractor, or other personnel working or visiting the jobsite shall be the responsibility of the general contractor.

Quality Assurance and Materials Testing Oversight – Oversight of the project materials testing, and special inspections will be performed by a qualified project manager. The project manager will be responsible for the following as they relate to testing and inspections:

- Providing oversight of testing and inspection in accordance with IBC-2018 and project documents.
- Participate in pre-construction and construction meetings as applicable.
- Perform inspections and testing as necessary or delegate the testing or inspections to a qualified technician.
- Review and manage report distribution to the project team
- Review, manage and inform client of budget status as the project progresses.

Structural testing and special inspection services are required to verify compliance with requirements specified or indicated. These services do not relieve the contractor of responsibility for compliance with other construction document requirements.

Unless otherwise directed and authorized we will perform the following tasks regarding construction materials testing, geotechnical observation, and special inspections:

B.1. Earthwork and Foundations

- B.1.1. Laboratory classification and compaction: Perform testing of representative soils and aggregates as outlined in project specifications.
- B.1.2. Subgrade Evaluation: Perform subgrade evaluation prior to placement of compacted fill material and verify that the site has been prepared properly.
- B.1.3. Undercut Observations: An engineer will document, and quantify undercut depths at each structure.
- B.1.4. Fill Placement: Monitor placement of fill material to verify use of proper materials, densities and lift thickness during placement and compaction of compacted fill.
- B.1.5. Material Verification: Verify materials below shallow foundations are adequate to achieve the designed bearing capacity.
- B.1.6. Excavation Verification: Verify footing excavations are extended to proper dimensions and depth and have reached proper material.

B.2. Cast-in-Place Concrete

- B.2.1. Rebar Inspection: Periodic inspection of reinforcing steel for proper placement, spacing, coverage, etc. prior to concrete placement.
- B.2.2. Concrete Mix: Periodically verify use of required mix design during concrete placement.
- B.2.3. Concrete Placement: Perform continuous observation of concrete placement for proper conveyance and placement techniques.
- B.2.4. Sampling and Testing: Obtain samples and perform tests on plastic concrete in the field including slump, air content, unit weight and temperature.
- B.2.5. Compressive Strength: Fabricate concrete specimens for compressive strength testing.
- B.2.6. Additional cylinders may be made for early breaks if requested.

B.3. Structural Masonry

- B.3.1. Mortar/Grout Mix: Perform periodic inspection of on-site mortar and grout mixing.
- B.3.2. Masonry Inspection: Perform periodic inspection of masonry units and verify size and location of structural elements.
- B.3.3. Reinforcing Steel: Provide periodic inspection of size, placement, positioning and lapping of reinforcing steel.
- B.3.4. Grout Placement: Provide continuous observation of grout space prior to grout placement and observe grouting.
- B.3.5. Material Storage: Perform periodic observation of material storage and protection at the project site.
- B.3.6. Sampling and Testing: Obtain field samples of mortar and grout, prepare mortar and grout specimens, perform laboratory curing and compressive strength testing and report results.

B.4. Steel Inspections

- B.4.1. Material and Personnel Certification: Verify material identification markings as specified and obtain manufacturer's certified mill test reports/certificates of compliance for structural steel, bolt assemblies and weld filler material.
- B.4.2. High Strength Bolt Inspection: If required, inspect installation and tightening of high-strength bolts. Verify proper tightening sequence.
- B.4.3. Field Weld Inspections: Visually inspect welds. Inspect pre-heat, post-heat and surface preparation between passes. Verify size and length of fillet welds.
- B.4.4. Moment Weld Inspections with NDT: not included in this proposal.
- B.4.5. Roof Decking: Inspect welding and side-lap fastening of metal roof deck.

B.5. Exterior Pavement (Asphalt)

- B.5.1. Subgrade Evaluation: Perform subgrade evaluation prior to placement of compacted fill material and verify that the site has been prepared properly.
- B.5.2. Material Verification: Verify materials used conform to approved specifications and or mix codes.
- B.5.3. Asphalt Placement: Perform continuous observation of asphalt placement for proper conveyance and placement techniques.
- B.5.4. Sampling and Testing: Unless otherwise requested, we will not collect cores of asphalt.

B.6. Project Engineering, Management and Administration

- B.6.1. Coordinate with owner's representative, contractor's supervising personnel and MBA Engineers' field personnel. Coordinate with field and laboratory testing
- B.6.2. Review field and laboratory reports and distribute them to the project team as applicable.
- B.6.3. Monitor budget and review invoices as the project progress and keep the client informed.

C. BASIS OF SERVICE ESTIMATES

Based on review of the construction drawings, we have assumed the following materials testing, geotechnical observations, and special inspections. Actual required visits will be a function of the contractor's schedule and conformity. We recommend reviewing the testing quantities with the project design team, including the general contractor, to verify the anticipated schedule and testing quantities.

C.1. Earthwork and Foundations

C.1.1. Laboratory Testing - Soils

- Two (2) Standard Proctors (D698) with Classification (D1140 & D4318)
- One (1) periodic visit by an Engineering Technician for sample collection.

C.1.2. Subgrade Evaluation / Proof Roll

- Two (2) periodic visits by a Geotechnical Professional

C.1.3. Undercutting of Soils

- Two (2) continuous visits by a Geotechnical Professional.

C.1.4. Field Placement / Density Testing

- Six (6) continuous visits by an Engineering Technician.

C.1.5. Footing Excavation Evaluation

- Six (6) periodic visits by a Geotechnical Staff Professional

C.2. Cast-in-Place Concrete

C.2.1. Rebar Inspections:

- Ten (10) periodic visits to inspect rebar prior to concrete pour.
- We assume half (1/2) the inspections can be made on the same day as concrete pour.

C.2.2. Shallow Foundations:

- Six (6) periodic visits by an Engineering Technician.
- Eight (8) sets of cylinders (4x8 qty. 6)

C.2.3. Slab on Grade:

- Four (4) continuous visits by an Engineering Technician.
- Eight (8) sets of cylinders (4x8 qty. 6)

C.2.4. Concrete Pickup:

- We have assumed a trip charge for concrete pick up the day after the concrete pour.
- We assume half (1/2) the pickups can be made on the same day as other activities.

C.3. Structural Masonry

C.3.1. Schedule:

- We have assumed masonry construction will require three (3) weeks in total.

C.3.2. Masonry / Grout Placement Inspection:

- Six (6) continuous visits by a Special Inspector.

C.3.3. Mortar sampling & testing:

- Assumed Three (3) sets of six (6) mortar cubes required for testing.
- Test age (3) 7-day (3) 28-day

C.3.4. Grout sampling & testing:

- Assumed Three (3) sets of four (4) grout prisms required for testing.
- Test age (1) 7-day (3) 28-day

C.3.5. Sample Pickup:

- We have assumed a trip charge for concrete pick up the day after the concrete pour.
- We assume half (1/2) the pickups can be made on the same day as other activities.

C.4. Steel Inspections

C.4.1. Visual Inspection of Weld & Bolt Connections

- Two (2) periodic visits by a Project Professional

C.4.2. Visual inspection of Steel Decking & Trusses.

- One (1) periodic visit by a Project Professional

C.5. Wood Framing Inspections

- C.5.1. Wood Framing is planned for the Senior Center Addition; however, wood framing inspections have not been included, unless otherwise requested by the design team.

C.6. Exterior Pavement

C.6.1. Subgrade Evaluation & Proof Roll

- One (1) periodic visit by a Geotechnical Professional.

C.6.2. Density Testing – Aggregate Base

- One (1) continuous visit by an Earthwork Technician.

C.6.3. Laboratory Testing - Aggregate Base

- One (1) Modified Proctor (D1557) with Gradation (C117 & C136)

C.6.4. Asphalt Pavement:

- Two (2) continuous visits by an Earthwork Technician.

C.6.5. Asphalt Cores:

- Cores will not be conducted unless otherwise requested by the design team.

D. BUDGET ESTIMATE SCHEDULE

Based on the information discussed in Section C, we have prepared our budget as shown below:

Phase / Activity	Visits	Qty/Vst	Rate	Qty.	Units	Total
1.0 Earthwork and Foundations						
ET – Bulk Sample Collection	1.0	4.0	\$ 60.00	4.0	Hr.	\$ 240.00
ET – Proof Roll	2.0	4.0	\$ 95.00	8.0	Hr.	\$ 760.00
ET – Undercut Observation	2.0	8.0	\$ 95.00	16.0	Hr.	\$ 1,520.00
ET – Field Density Testing	6.0	8.0	\$ 60.00	48.0	Hr.	\$ 2,880.00
FN - Footing Inspection	6.0	4.0	\$ 95.00	24.0	Hr.	\$ 2,280.00
PE - Site Visit	1.0	4.0	\$ 180.00	4.0	Hr.	\$ 720.00
LAB - Soil Standard Proctor (D698)	2.0	1.0	\$ 155.00	2.0	Ea.	\$ 310.00
LAB - Soil Classification	2.0	1.0	\$ 180.00	2.0	Ea.	\$ 360.00
CMT - Soils NMD Gauge (Daily)	6.0	1.0	\$ 85.00	6.0	Day	\$ 510.00
Vehicle Charge (10 - 25 miles)	18.0	1.0	\$ 35.00	18.0	Ea.	\$ 630.00
						\$ 10,210.00
2.0 Cast-in-Place Concrete						
CC - Reinforcing Steel Special Inspection	10.0	4.0	\$ 75.00	40.0	Hr.	\$ 3,000.00
CC - Sampling & Testing	10.0	6.0	\$ 60.00	60.0	Hr.	\$ 3,600.00
CC - Sample Pickup & Log in	10.0	2.0	\$ 60.00	20.0	Hr.	\$ 1,200.00
LAB - Concrete Cylinders (4x8, set of 6)	16.0	1.0	\$ 75.00	16.0	Set	\$ 1,200.00
Vehicle Charge (10 - 25 miles)	20.0	1.0	\$ 35.00	20.0	Ea.	\$ 700.00
						\$ 9,700.00
3.0 Structural Masonry						
MN - Masonry Special Inspection	6.0	8.0	\$ 75.00	48.0	Hr.	\$ 3,600.00
MN - Sample Pickup	3.0	2.0	\$ 60.00	6.0	Hr.	\$ 360.00
MN - Grout Samples (3.5x3.5, set of 4)	3.0	1.0	\$ 140.00	3.0	Set	\$ 420.00
MN - Mortar Samples (3x6, set of 6)	3.0	1.0	\$ 60.00	3.0	Set	\$ 180.00
Vehicle Charge (10 - 25 miles)	8.0	1.0	\$ 35.00	8.0	Ea.	\$ 280.00
						\$ 4,840.00
4.0 Steel Inspections						
SS – Visual Special Inspection	2.0	8.0	\$ 105.00	16.0	Hr.	\$ 1,680.00
Vehicle Charge (10 - 25 miles)	2.0	1.0	\$ 35.00	2.0	Ea.	\$ 70.00
						\$ 1,750.00
5.0 Exterior Pavement						
ET – Proof Roll	1.0	4.0	\$ 95.00	4.0	Hr.	\$ 380.00
ET – Field Density Testing (Agg.)	1.0	8.0	\$ 60.00	8.0	Hr.	\$ 480.00
AP – Field Density Testing (Asphalt)	2.0	8.0	\$ 60.00	16.0	Hr.	\$ 960.00
CMT - Asphalt NMD Gauge (Daily)	3.0	1.0	\$ 85.00	3.0	Day	\$ 255.00
LAB - Soil Modified Proctor (D1557)	1.0	1.0	\$ 175.00	1.0	Ea.	\$ 175.00
LAB - Aggregate Sieve Analysis (C136)	1.0	1.0	\$ 105.00	1.0	Ea.	\$ 105.00
Vehicle Charge (10 - 25 miles)	4.0	1.0	\$ 35.00	4.0	Ea.	\$ 140.00
						\$ 2,495.00
6.0 Project Engineering & Management						
PE – Report Review	64.0	0.25	\$ 180.00	16.0	Hr.	\$ 2,880.00
PM – Report Review	10.0	1.00	\$ 125.00	10.0	Hr.	\$ 1,250.00
PA – Report Processing	64.0	0.25	\$ 55.00	16.0	Hr.	\$ 880.00
						\$ 5,010.00
Estimate Total:						\$ 34,005.00

E. CLOSING REMARKS

E.1. Additional Notes

The personnel rates will be billed portal to portal. A minimum trip charge of four (4) hours will apply to all site visits. Overtime pay will apply to hours worked more than eight (8) hours per day, or for work performed on weekends or Federal holidays. Overtime will be billed at a rate of 1.5 times the normal unit rates.

Engineering review of typically ¼ hours per report will be added to cover report review and incidental consultation. Administrative services will be billed at a rate of ¼ hours per report to cover the cost of report preparation, and transmittal. Project coordination time will be billed according to the actual time required. Project document search, duplication, special billing requests, backup information, etc. will be charged at actual time.

Our charges will be for actual services and tests provided. The opinion of probable cost does not include charges for non-compliant items or retests. Costs for such services would be charged in accordance with our fee schedule.

Please note that the opinion of probable cost show above is only an estimate and not a not-to-exceed fee. There will likely be several factors beyond our control, such as inclement weather and the contractor's schedule that could affect the final cost for our services. We will make efforts to provide our services in a cost-efficient manner and we will look for ways to multitask and save the client money

Cancellation of services after personnel have arrived on site will be charged for actual time and vehicle charges. Cancellation prior to scheduled services will not result in charges.

E.2. Schedule of Services

Our services will be provided as scheduled by your designated field personnel. A minimum 24-hours' notice is required to schedule our services, although we will attempt to meet requests in a shorter time frame. MBA Engineers' personnel will only provide testing when scheduled by your designated representative (i.e., contractor superintendent). The extent of our observations and documentation will be limited to items observed during the site visits as defined by the scope outlined previously. MBA Engineers' will not be responsible for tests not performed because of failure to schedule or request our services or subsequent damage caused because of the lack of testing.

NOTE: Failure to properly schedule services can be a major problem with quality assurance as well as managing the CMT budget. We strongly recommend that these items be clearly discussed during preconstruction meetings with the contractor's field superintendent.

RETESTING COSTS: Our budget does not include re-testing costs and the contractor will be responsible for any additional costs related to retesting of failed work.

E.3. Additional Services

We will perform only those services outlined previously. Client and MBA Engineers Inc. may subsequently agree in writing to provide additional services under this agreement for additional negotiated compensation.

E.4. Warranty

It is important to acknowledge that the presence of our field representatives and performing observation and testing services during construction does not relieve the contractor from meeting the project plans, specifications, or other contractual details regarding the project. Services provided by MBA Engineers Inc. will be consistent with the engineering standards prevailing at the time and in the area where the services are performed. No other warranty, expressed or implied, is intended. Our testing and observation services would be provided for the sole benefit of our client to assist the client in meeting the quality assurance function.

E.5. Authorization

The attached General Terms and Conditions should be acknowledged as part of this proposal. A signed copy of the attached Proposal Acceptance Sheet returned to our office will serve as our authorization to proceed with the proposed scope of services. We appreciate the opportunity to present this proposal and would be happy to discuss the proposed scope with you. If you have any questions or need modifications to our scope of services, we would be happy to consider such changes. We look forward to working with you.

Respectfully submitted,



Drew Thornbury, P.E.
Principal Engineer
Dthornbury@mbasei.com

GEOTECHNICAL & CONSTRUCTION TESTING SERVICES AUTHORIZATION SHEET

MBA Engineers Inc. is pleased to provide the services detailed below. The purpose of this sheet is to obtain your authorization for the work requested and to confirm the terms under which these services are provided as shown below and on the attached General Terms and Conditions sheet(s).

Please complete, sign, and return this form ONLY to authorize project.

PROJECT NAME/LOCATION: Alabaster Senior Center and Amphitheater

PROPOSAL/PROJECT #: G9494-24 **DATE:** January 18, 2024

**OWNER/CLIENT
(REPRESENTATIVE):** Brian Binzer with the City of Alabaster

FOR PAYMENT OF CHARGES:

Charge invoice to the Account of:

Firm: _____

Address: _____

Contact: _____ **Title:** _____

Phone: _____ **E-Mail:** _____

FOR APPROVAL OF CHARGES:

If the invoice is to be mailed to someone other than the account charges, please indicate where to mail the invoice in the space below

Firm: _____

Address: _____

Contact: _____ **Title:** _____

Phone: _____ **E-Mail:** _____

REPORT DISTRIBUTION:

Firm: _____ **Firm:** _____

Contact: _____ **Contact:** _____

E-mail: _____ **E-mail:** _____

PAYMENT TERMS: Net 10 days. A late payment of 18% per annum or the maximum amount allowed by law, including all costs of collection and attorney fees, may be added in the event payment is not made within 30 days after invoice date.

PROPOSAL ACCEPTANCE:

The Terms and Conditions of this Proposal, including the Terms on this page and the attached General Conditions are accepted this date: _____ 2024.

Print or type individual, firm or corporate body name

Signature of authorized representative

Print or type name of authorized representative and title

GENERAL TERMS & CONDITIONS FOR CONSTRUCTION MATERIALS TESTING & ENGINEERING SERVICES

1. DEFINITIONS

1.1. Contractor. The contractor or contractors, and including its/their subcontractors of every tier, retained to perform construction for which MBA Engineers (COMPANY) is providing Services under this Agreement.

1.2. Day(s). Calendar day(s) unless otherwise stated.

1.3. Hazardous Materials. Any toxic substances, chemicals, radioactivity, pollutants, or other materials, in whatever form or state, known or suspected to impair the environment in any way whatsoever. Hazardous materials include, but are not limited to, those substances defined, designated, or listed in any federal, state, or local law, regulation or ordinance concerning hazardous wastes, toxic substances, or pollution.

1.4. Inspection (or Observation). Visual determination of conformance with specific or, on the basis of COMPANY's professional judgment, general requirements.

1.5. Services. The professional services provided by COMPANY under this Agreement, including all services described in the SCOPE OF SERVICES included in Exhibit A, and any written Task Order or amendment to this Agreement.

1.6. Testing. Measurement, examination, performance of tests, and any other activities to determine the characteristics or performance of materials.

1.7. Work. The labor, materials, equipment, and services of Contractor.

2. SCOPE OF SERVICES

2.1. Services Provided, Independent Contractor. COMPANY will provide construction materials engineering and testing services as set forth in the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES. COMPANY will perform its services under this Agreement as an independent contractor.

2.2. Authority of COMPANY. COMPANY will report observations and data to the Client. COMPANY will report any observed work to the Client or Client's representative, which, in COMPANY's opinion, does not conform with plans, specifications, and codes applicable to the project. COMPANY has no right or responsibility to approve, accept, reject, or stop work of any agent of the Client.

2.3. Referenced Standards. COMPANY will perform all standard tests, inspections, and observations in general accordance with referenced standards and makes no representation regarding compliance with any other standards.

2.4. Variation of Material Characteristics and Conditions. Observations and standardized sampling, inspection and testing procedures employed by COMPANY will indicate conditions of materials and construction activities only at the precise location and time where and when services were performed. Client recognizes that conditions of materials and construction activities at other locations may vary from those measured or observed, and that conditions at one location and time do not necessarily indicate the conditions of apparently identical material(s) at other locations and times. Services of COMPANY, even if performed on a continuous basis, should not be interpreted to mean that COMPANY is observing, verifying, testing, or inspecting all materials on the project. COMPANY is responsible only for those data, interpretations, and recommendations regarding the actual materials and construction activities observed, sampled, inspected, or tested, and is not responsible for other parties' interpretations or use of the information developed. COMPANY may make certain

inferences based upon the information derived from these procedures to formulate professional opinions regarding conditions in other areas.

2.5. Changes in Scope. Client may request changes in the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES. Such changes, including any change in COMPANY's compensation or time of performance, which are mutually agreed upon by COMPANY and Client, will be incorporated in written amendments to this Agreement. No change will be effective unless it is in writing and signed by Client and COMPANY, or if made orally, confirmed by the parties in writing within 10 days.

2.6. Excluded Services. COMPANY's services under this Agreement include only those services specified in the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES. Client expressly releases any claim against COMPANY relating to any additional Services that COMPANY recommended, but that Client either did not authorize or instructed COMPANY not to perform.

3. PAYMENTS TO COMPANY

3.1. Basic Services. COMPANY will perform all services set forth in the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES AND UNIT FEE SCHEDULE for the amount(s) set forth therein. COMPANY will give Client at least 30 days advance notice of any changes to its standard rates. Unless Client objects in writing to the amended fee structure within 30 days of notification, it will be incorporated into this Agreement and will supersede any prior fee structure.

3.2. Additional Services. Any services performed under this Agreement, except those services expressly identified otherwise in the attached SCOPE OF SERVICES in Exhibit A, will be provided on a time and materials basis unless otherwise specifically agreed to in writing by both parties.

3.3. Estimate of Fees. COMPANY will, to the best of its ability, perform the Services and accomplish the objectives defined in this Agreement within any written cost estimate provided by COMPANY. Client recognizes that unforeseen circumstances along with changes in scope and schedule can influence the successful completion of services within the estimated cost. The use of an estimate of fees or of a "not to exceed" limitation indicates that COMPANY will not incur fees and expenses in excess of the estimate or limitation amount without obtaining Client's agreement to do so but is not a guarantee that the services will be completed for that amount.

3.4. Rates. Client will pay COMPANY at the rates set forth in the UNIT FEE SCHEDULE, which is subject to periodic review and amendment, as appropriate to reflect COMPANY's then-current fee structure.

3.5. Prevailing Wages. Unless Client specifically informs COMPANY in writing that prevailing wage regulations cover the project and the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES identifies it as covered by such regulations, Client hereby releases and agrees to reimburse COMPANY for any liability and costs it may incur resulting from a subsequent determination that prevailing wage regulations cover the project, including all costs, fines, and attorney's fees.

3.6. Payment Timing; Late Charge. COMPANY will submit invoices to Client periodically, but no more frequently than every two (2) weeks. All invoices are due and payable upon presentation, and any amounts unpaid 30 days after the invoice date will include a late payment charge from the date of the

invoice, at 1-1/2% per month or the maximum legal rate, whichever is lower. The failure by Client to pay COMPANY within thirty (30) days of date of invoice will constitute a substantial failure of Client to perform under this Agreement. Client will reimburse COMPANY for all time spent and expenses (including fees of any attorney, collection agency, and/or court costs) incurred in connection with collecting any delinquent amount.

3.7. Payment Disputes. If Client objects to any portion of an invoice, Client must so notify COMPANY in writing within 10 days of the invoice date, identify the cause of disagreement, and pay when due the portion of the invoice not in dispute. The parties will immediately make every effort to resolve the disputed portion of the invoice. Payment thereafter will first be applied to accrued interest and then to the unpaid principal amount.

4. PERFORMANCE STANDARD

4.1. Professional Standards. COMPANY will perform the services consistent with that level of care and skill ordinarily exercised by other professionals providing similar services in the same locale and under similar circumstances at the time the services are performed. No other representation, express or implied, and no warranty or guarantee is included or intended by this Agreement or any report, opinion, document, or other instrument of service.

4.2. Sampling, Inspection & Test Locations. Unless specifically stated otherwise, the PROPOSAL FOR GEOTECHNICAL OBSERVATION AND CONSTRUCTION MATERIALS TESTING SERVICES does not include surveying the site or precisely identifying sampling, inspection or test locations, depths, or elevations. Sampling, inspection and test locations, depths and elevations will be based on field estimates and information furnished by Client and its representatives. Unless stated otherwise in the report, such locations, depths, and elevations are approximate. COMPANY will take reasonable precautions to limit damage to the project site due to the performance of services, but Client understands that some damage may necessarily occur in the normal course of services, and this Agreement does not include repair of such damage unless specifically stated in the SCOPE OF SERVICES in Exhibit A.

4.3. Sample Disposal. COMPANY will dispose of all samples after submission of the report covering those samples. COMPANY will provide further storage or transfer of samples only upon Client's prior written request and agreement on appropriate compensation.

4.4. Buried Utilities & Structures, Property Restoration. If the services require borings, test pits or other invasive exploratory work, Client will provide COMPANY with all information in its possession regarding the location of underground utilities and structures. COMPANY will contact an appropriate utility locator and take into consideration utility locations shown on drawings provided to COMPANY by the Client to reduce the risk of damage or injury to underground structures, pipelines, and utilities. The Client agrees to hold COMPANY harmless for any damage to underground structures or utilities that are not called to its attention or are not correctly shown on plans or drawings furnished for the purpose of locating such structures and utilities. If Client desires COMPANY to restore the property to its former condition or better, COMPANY will provide the additional services at an additional cost.

5. CONTRACTOR'S PERFORMANCE

5.1. COMPANY is not responsible for contractor's means, methods, techniques, or sequences during the performance of its work. COMPANY will not supervise or direct contractor's work, nor be liable for any failure of contractor to complete its work in

accordance with the project's plans, specifications and applicable codes, laws, and regulations. Client understands and agrees that contractor, not COMPANY, has sole responsibility for the safety of persons and property at the project site.

6. CLIENT'S RESPONSIBILITIES

6.1. In addition to payment for the services performed under this Agreement, Client agrees to:

6.2. Access. Grant or obtain free access to the project site for all equipment and personnel necessary for COMPANY to perform its services under this Agreement.

6.3. Representative. Designate a representative for notices and information pertaining to the services, communicate Client's policies and decisions, and assist as necessary in matters pertaining to the project and this Agreement. Client may change its representative by written notice.

6.4. Information. Supply to COMPANY all information and documents relevant to the services. COMPANY may rely upon such information without independently verifying its accuracy. Client will notify COMPANY of any known potential or possible health or safety hazard regarding the materials to be tested, including its intended use, chemical composition, relevant MSDS, manufacturers' specifications and literature, and any previous test results.

7. CHANGED CONDITIONS

7.1. If COMPANY discovers conditions or circumstances that it did not contemplate ("Changed Conditions") at the time of this Agreement, it will give Client written notice of the changed conditions. Client and COMPANY will then negotiate an appropriate amendment to this Agreement. If they cannot agree upon an amendment within 30 days after the notice, COMPANY may terminate this Agreement and be compensated as set forth in Section 12, "Suspension & Delay; Termination."

8. CERTIFICATIONS

8.1. Client will not require COMPANY to execute any certification regarding services performed or Work tested or observed unless: 1) COMPANY believes that it has performed sufficient Services to provide a sufficient basis to issue the certification; 2) COMPANY believes that the services performed, and work tested or observed meet the criteria of the certification; and 3) COMPANY has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by COMPANY is limited to the expression of a professional opinion based upon the services performed by COMPANY, and does not constitute a warranty or guarantee, either express or implied. Client agrees not to condition the resolution of any dispute upon COMPANY signing a certification.

9. ALLOCATION OF RISK

9.1. Limitation of Remedy. The total cumulative liability of COMPANY, its subconsultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "COMPANY Entities") to Client arising from services under this Agreement, including attorney's fees due under this Agreement, will not exceed the gross compensation received by COMPANY under this Agreement or \$50,000, whichever is greater. This limitation applies to all lawsuits, claims, or actions that allege errors or omissions in COMPANY's services, whether alleged to arise in tort, contract, warranty, or other legal theory. Upon Client's written request, COMPANY and Client may agree to increase the limitation to a greater amount in exchange for a negotiated increase in COMPANY's fee, provided that the parties amend

this Agreement in writing, as provided in Section 14.3 "Modification of This Agreement."

9.2. Indemnification of Client. Subject to the terms and limitations of this Agreement, COMPANY will indemnify and hold harmless Client, its shareholders, officers, directors, employees, and agents from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reasonable attorney's fees and defense costs) and other losses (collectively "Losses") to the extent caused by COMPANY's proven negligence in performance of this Agreement.

9.3. Indemnification of COMPANY. Client will indemnify and hold harmless COMPANY entities from and against any and all Losses except to the extent caused by the sole negligence of COMPANY entities. In addition, except to the extent caused by COMPANY's negligence, Client will defend, indemnify, and hold harmless COMPANY entities from and against any and all losses arising from or related to the existence, disposal, release, discharge, treatment or transportation of hazardous materials, or the exposure of any person to hazardous materials, or the degradation of the environment due to the presence, discharge, disposal, release of or exposure to hazardous materials.

9.4. No Personal Liability. Client and COMPANY intend that COMPANY's services will not subject COMPANY's individual employees, officers, or directors to any personal liability.

Therefore, and notwithstanding any other provision of this Agreement, Client agrees as its sole and exclusive remedy to direct or assert any claim, demand, or suit only against the business entity identified as "COMPANY" on the first page of this Agreement.

9.5. Consequential Damages. Neither Client nor COMPANY will be liable to the other for any special, consequential, incidental, or penal losses or damages including but not limited to losses, damages or claims related to the unavailability of property or facilities, shutdowns or service interruptions, loss of use, profits, revenue, or inventory, or for use charges, cost of capital, or claims of the other party and/or its customers.

9.6. Continuing Agreement. The provisions of this Section 9, "Allocation of Risk," will survive the expiration or termination of this Agreement. If COMPANY provides services to Client that the parties do not confirm through execution of an amendment to this Agreement, the provisions of this Section 9 will apply to such services as if the parties had executed an amendment.

10. INSURANCE

10.1. COMPANY's Insurance. If reasonably available, COMPANY will maintain the following coverages:

10.2. Statutory Workers' Compensation / Employer's Liability Insurance.

10.3. Commercial General Liability Insurance with a combined single limit of \$2,000,000.

10.4. Automobile Liability Insurance, including liability for all hired and non-owned vehicles with minimum limits of \$1,000,000 combined single limit per occurrence.

10.5. Professional Liability Insurance in amounts of at least \$3,000,000 per claim and annual aggregate.

10.6. Client's Insurance. As appropriate, Client will obtain Builder's Risk or other property insurance to protect it from injury or damage to the project, and which waives all rights of subrogation against COMPANY. Proceeds from such insurance will be held by Client as trustee and will be payable to COMPANY as its interests appear.

10.7. Certificates of Insurance. Upon request, COMPANY and Client will each provide the other with certificate(s) of insurance evidencing the existence of the policies required herein. Except for Professional Liability and Workers' Compensation Insurance, all policies required under this Agreement shall contain a waiver of subrogation.

11. OWNERSHIP AND USE OF DOCUMENTS

11.1. COMPANY Documents. Unless otherwise agreed in writing, all documents and information prepared by COMPANY including, but not limited to, reports, boring logs, maps, field data, field notes, drawings and specifications, test data and other similar instruments of service (collectively "Documents") are the property of COMPANY. COMPANY has the right, in its sole discretion, to dispose of or retain the Documents.

11.2. Client Documents. All documents provided by Client will remain the property of Client. COMPANY will return all such documents to Client upon request but may retain copies for its files.

11.3. Use of Documents. Except as otherwise agreed to by Client and COMPANY, all Documents prepared by COMPANY are solely for use by Client and will not be provided by either party to any other person or entity without COMPANY's prior written consent.

11.4. Use by Client. Client has the right to reuse the Documents for purposes reasonably connected with this project for which the services are provided, including without limitation design and licensing requirements of the project.

11.5. Use by COMPANY. COMPANY retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from services and the right to use the Documents for any purpose.

11.6. Electronic Media. COMPANY may agree at Client's request to provide documents and information in an electronic format as a courtesy. However, the paper original issued by COMPANY will remain the final product of the services. COMPANY makes no warranties, either express or implied, regarding the fitness or suitability of any electronic documents or media.

11.7. Unauthorized Use. No party other than Client may rely on the documents without COMPANY's prior written consent and receipt of additional compensation. Client waives any and all claims against COMPANY resulting from the unauthorized use or alteration of documents by Client or any party obtaining them through Client. Client will defend, indemnify, and hold harmless COMPANY from and against any claim, action or proceeding brought by any party claiming to rely upon information or opinions contained in documents without having obtained COMPANY's prior written consent.

12. SUSPENSION & DELAY; TERMINATION

12.1. Suspension & Delay. Client may, upon 10 days written notice at any time, suspend COMPANY's services. COMPANY may terminate this Agreement if Client suspends the services for more than 60 days, in which case Client will pay COMPANY as provided in Section 12.4. If Client suspends the services, or if Client or others delay COMPANY's services, Client and COMPANY agree to equitably adjust the time for completion of the services and COMPANY's compensation for the additional labor, equipment, and other charges associated with maintaining its workforce for Client's benefit during the delay or suspension, and any charges incurred by COMPANY for demobilization and subsequent remobilization.

12.2. Termination for Convenience. COMPANY and Client may terminate this Agreement for convenience upon 10-days written notice delivered or mailed to the other party.

12.3. Termination for Cause. In the event of material breach of this Agreement, the non-breaching party may terminate this Agreement if the breaching party fails to cure the breach within 10 days following delivery of the non-breaching party's written notice of the breach to the breaching party. The termination notice must state the basis for the termination. The Agreement may not be terminated for cause if the breaching party cures the breach within the 10-day period.

12.4. Payment on Termination. Following termination other than for COMPANY's breach of this Agreement, Client will pay COMPANY for the services performed prior to the termination notice date, and for any necessary services and expenses incurred in connection with the termination of the Project, including but not limited to, the costs of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination of subcontractor contracts in accordance with COMPANY's then-current UNIT FEE SCHEDULE.

12.5. Force Majeure. In the event that COMPANY is prevented from completing performance of its obligations under this Agreement by adverse weather or other occurrence beyond the control of COMPANY, then COMPANY will be excused from any further performance of its obligations and undertakings. In the event of a force majeure delay that does not result in termination of the Agreement, the schedules will be equitably adjusted.

13. DISPUTES

13.1. Mediation. All disputes between COMPANY and Client are subject to mediation. Either party may demand mediation by serving a written notice stating the essential nature of the dispute, the amount of time or money claimed, and requiring that the matter be mediated within 45 days of service of notice. No action or suit may be commenced unless the parties fail to conduct the mediation within 45 days after service of notice; or mediation occurred but did not resolve the dispute; or a statute of limitation would elapse if suit was not filed prior to 45 days after service of notice.

13.2. Choice of Law; Venue. This Agreement will be construed in accordance with and governed by the laws of the state in which the project is located.

13.3. Statutes of Limitations. Any applicable statute of limitations will be deemed to commence running on the earlier of the date of substantial completion of COMPANY's Services under this Agreement or the date on which claimant knew, or should have known, of facts giving rise to its claims.

14. MISCELLANEOUS

14.1. Assignment and Subcontracts. During the term of this Agreement and following its expiration or termination for any reason, neither party may assign this Agreement or any right or claim under it, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Any assignment that fails to comply with this paragraph will be void and of no effect. COMPANY may subcontract for the services of others without obtaining Client's consent if COMPANY deems it necessary or desirable for others to perform certain services.

14.2. Integration and Severability. This Agreement reflects the parties' entire agreement with respect to its terms and limitations and supersedes all prior agreements, written and oral. If any portion of this Agreement is found void or voidable, such portion will be deemed stricken and the Agreement reformed to as closely approximate the stricken portions as law allows. These terms and conditions survive the completion of the Services under and the termination of the Agreement, whether for cause or for convenience.

14.3. Modification of This Agreement. This Agreement may not be modified or altered, except by a written agreement signed by authorized representatives of both parties and referring specifically to this Agreement.

14.4. Notices. Any and all notices, requests, instructions, or other communications given by either party to the other must be in writing and either hand delivered to the recipient or delivered by first-class mail (postage prepaid) or express mail (billed to sender) at the addresses given in this Agreement.

14.5. Headings. The headings used in this Agreement are for convenience only and are not a part of this Agreement.

14.6. Waiver. The waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition, or breach.

14.7. Precedence. These GENERAL CONDITIONS take precedence over any inconsistent or contradictory provisions contained in any other agreement term, proposal, purchase order, requisition, notice to proceed, or other document regarding COMPANY's services.

14.8. Incorporation of Provisions Required By Law. Each provision and clause required by law to be inserted in this Agreement is included herein, and the Agreement should be read and enforced as though each were set forth in its entirety herein.

End of General Terms & Conditions