

Mr. Brent Beck  
City of Cartersville Water and Sewer Department  
148 Walnut Grove Road  
Cartersville, Georgia 30120

March 1, 2023

**Proposal to Provide  
Construction Materials Testing, Special Inspection  
and NPDES Compliance Services  
City of Cartersville New Water Department  
Cartersville, Georgia  
Geo-Hydro Proposal Number 222734.10**

Dear Mr. Beck:

Geo-Hydro Engineers appreciates the opportunity to provide you with this proposal to perform construction materials testing, special inspection, and NPDES compliance services for the above referenced project. We have based this proposal on our review of the plans dated November 2, 2022, and our experience with similar projects.

## **SCOPE OF WORK**

### **Construction Materials Testing and Special Inspections**

#### **Subgrade Evaluations and Field Density Testing**

At-grade areas and areas to receive structural fill will be evaluated by proofrolling with a loaded dump truck, scraper, or other similar rubber-tired equipment and recommendations for dealing with unstable soils if encountered.

We will obtain bulk samples of proposed fill or backfill soils and conduct laboratory testing to determine the standard or modified Proctor maximum dry density. We will perform requested field density testing of fill or backfill soils.

#### **Foundation Bearing Surface Evaluations**

The foundation system will consist of shallow foundations. Our representative will be on site to perform foundation bearing surface testing. Geo-Hydro's recommended approach to the testing of shallow foundation excavations bearing in soil is to perform hand auger and dynamic cone penetrometer testing at select locations. We will perform these tests in accordance with the general guidelines established in ASTM STP-399. If the required bearing capacity is not available based on our evaluations, remedial recommendations will be provided in a timely manner so as not to unnecessarily delay the construction process.

#### **Observation of Reinforcing Steel**

Our representatives will be present to observe that concrete reinforcing steel is in compliance with the project documents for quantity, size, and location. Typically, our site representative will compare the as-built condition of the reinforcing steel to the approved structural and shop drawings. If any discrepancies

are observed, they will be immediately brought to the attention of the field personnel so that appropriate corrections can be implemented.

### Concrete Testing

Geo-Hydro's technicians will be present to sample and test structurally significant concrete. Typically, for each sampling event we will perform physical tests to determine the slump, air content, and temperature, and we will cast test cylinders for subsequent compressive strength testing. We will transport cylinders to our laboratory for moist-curing and compressive strength testing which will be performed at the required test interval. Please note that continuous monitoring of concrete placement is required to be in compliance with the IBC.

### Structural Steel Inspection and Testing

We will perform inspections and testing of the welded and bolted connections in accordance with appropriate codes and the requirements of the AISC 360, Chapter N. We will observe welding operations and perform visual inspections of the completed welds to confirm that the materials, procedures, and workmanship are in conformance with the construction documents. We will observe bolting operations to confirm conformance with the construction documents and the provisions of the RCSC specification.

We will perform inspections during placement of anchor rods and other embedment's for compliance with the contract documents. We will inspect the steel elements of composite construction which include placement and installation of steel deck and steel headed stud anchors for compliance with the contract documents.

### Asphalt Placement Observation and Laboratory Testing

In addition to proofrolling the pavement subgrade, we will provide a technician to measure thickness and density of the prepared aggregate base course. We can also observe asphalt placement for lay down thickness, mat temperatures, and perform nuclear density testing to establish a rolling pattern. We can sample the hot mix asphalt for laboratory testing, core the completed pavement to measure thickness, and perform density testing of the asphalt courses.

### NPDES Compliance Scope of Services

The purpose of the services proposed herein will be to help achieve compliance with portions of the Georgia Environmental Protection Division's National Pollutant Discharge Elimination Systems (NPDES) General Permit Number GAR100001 (NPDES Permit).

The proposed NPDES compliance services include the following:

- Task 1: Weekly and Rainfall BMP Inspections & Reporting
- Task 2: Analysis of Storm Water Turbidity Samples

### Task 1: Weekly and Rainfall BMP Inspections & Reporting

Qualified personnel provided by Geo-Hydro will inspect BMPs once every seven days and after each 0.5 inch 24-hour rainfall event, whichever occurs first. The inspector will observe the erosion and sediment control measures in an effort to evaluate if they have been correctly installed and maintained as designed. Qualified personnel will also observe areas of the site that have undergone final stabilization once per

month. The inspections will be performed until a Notice of Termination (NOT) is filed with Georgia EPD by the primary permittee. Storm water discharge points will also be observed to see whether erosion control measures are effective in preventing significant impacts to receiving waters.

A BMP inspection worksheet report summarizing the scope of the inspection will be prepared and submitted to the primary permittees following each BMP inspection. The report will identify areas of non-compliance and provide recommended actions for resolution.

Please note that there is some uncertainty in determining what a State or municipal regulatory inspection team will define as a deficiency. Existing field conditions thought to be in compliance may be interpreted by the regulators as a deficiency. The permittee's defense against any regulatory action is to prove that BMPs have been properly designed, installed, and maintained.

### Task 2: Storm Water Collection and Turbidity Analysis

Under the GAR100001 permit, storm water discharges are required to be sampled once after clearing and grubbing are completed and once after 90 days have passed since the clearing and grubbing phase or when mass grading is complete. In addition, if BMPs are found not to be properly designed, installed, or maintained after 90 days have passed since the clearing and grubbing phase or when mass grading is complete, then turbidity samples are to be taken for every 0.5-inch 24-hour rainfall event until those BMPs are found to be properly designed, installed, and maintained. Storm water samples will be collected and analyzed by Geo-Hydro for turbidity in accordance with the GAR100001 permit.

Proposal Assumptions: It is assumed that the primary permittees (owner and general contractor) will provide the following:

- Electronic copy of the site ES&PC Plan.
- Preparation and submittal of the Notice of Intent (NOI) and Notice of Termination (NOT).
- Site superintendent will conduct daily inspections and record rain gauge log.
- Site superintendent will file BMP compliance documents on-site.
- Access to GEOS for submitting turbidity results.

### Project Administration and Miscellaneous Consultation

We will provide our professional staff as necessary for project administration, data review and transmittal, preparation of letters, attending meetings, etc.

### Limitations of Service

- Our presence at the job site and our performance of construction materials testing must not be construed as relieving the contractor of its responsibility to comply with the plans and specifications.
- Construction materials testing consists of a representative sampling of the construction materials. One must not interpret the test results as a guarantee that the entire work product is represented by the results.
- Our services and any observations or recommendations we make must not be construed in any way as relieving the contractor from his responsibilities relating to job site safety.
- Our representatives do not have the authority to supervise the work nor to direct the contractor's personnel.

\* \* \* \* \*

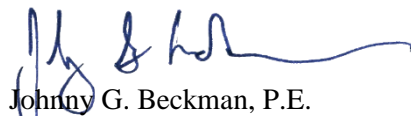
### FEE

We have included a budgetary cost estimate based on preliminary scheduling information and our understanding of the scope of services required for this project. There is no precise way of determining our final costs since they will depend on the actual construction schedule, weather, and other factors beyond our control. Therefore, we will bill for all of our services on a unit-rate basis in accordance with the attached Schedule of Fees.

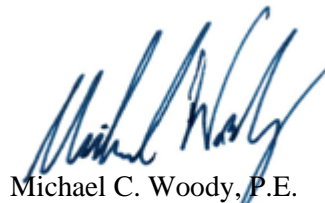
If this proposal is acceptable, please authorize our services by executing and returning the attached acceptance sheet. We look forward to working with you on this project. Please contact us if you have any questions.

Respectfully,

Geo-Hydro Engineers, Inc.



Johnny G. Beckman, P.E.  
Senior Project Manager  
[jbeckman@geohydro.com](mailto:jbeckman@geohydro.com)



Michael C. Woody, P.E.  
Kennesaw CMT Manager  
[mwoody@geohydro.com](mailto:mwoody@geohydro.com)

JGB\MCW\222734.P0 Cartersville New Water Department Proposal

# Geotechnical Engineering Construction Materials Testing, Special Inspections, and NPDES Compliance Services Schedule of Fees

City of Cartersville New Water Department  
Cartersville, Georgia  
Geo-Hydro Proposal Number 222734.P0

## FIELD TESTING SERVICES

### Soil, Concrete, and Miscellaneous Testing

Engineering Technician, per hour.....	\$ 70.00
Senior Engineering Technician, per hour.....	\$ 75.00
Special Inspection Technician, per hour.....	\$ 110.00

### Steel Testing

Structural Steel Inspector, per hour.....	\$ 150.00
Skidmore-Wilhelm Bolt Tension Calibrator., per day.....	\$ 100.00
Ultrasonic Flaw Detector, per day.....	\$ 150.00

### Coring - Pavement or Concrete

Equipment Rental (generator & coring machine), per day.....	\$ 200.00
Diamond Bit Usage, per inch diameter, per lineal inch.....	\$ 3.00
Coring Technician, per hour.....	\$ 85.00

### Special Field Test Equipment

Floor Flatness Test Equipment, per day.....	\$300.00
Windsor Probe, per shot.....	\$ 50.00
Nuclear Density Gauge, per day.....	\$100.00
Pavement Quality Indicator (PQI) Non-Nuclear Density Gauge, per day.....	\$100.00
StructureScan Mini all-in-one high-resolution GPR, per day.....	\$500.00
Thermal Imaging Camera, per day.....	\$300.00

NOTE: Above special field test equipment requires an operator billed at the appropriate hourly rate.

StructureScan Mini all-in-one high-resolution GPR, half day.....	\$1,000.00
<i>(Includes travel, operator, and report)</i>	
StructureScan Mini all-in-one high-resolution GPR, full day.....	\$2,000.00
<i>(Includes travel, operator, and report)</i>	

## NPDES SERVICES

NPDES Inspection, per trip.....	\$ 200.00
Monthly Monitoring Report, each.....	\$ 200.00
Automatic Storm Water Sampler, per month.....	\$ 300.00
Turbidity Analysis, each.....	\$ 50.00

## PROFESSIONAL CONSULTING SERVICES

Principal Engineer/Geologist, per hour.....	\$ 250.00
Senior Project Manager/Senior Registered Engineer, per hour.....	\$ 200.00
Project Manager/Registered Engineer, per hour.....	\$ 160.00
Special Inspection Professional, per hour.....	\$ 115.00
Staff Professional, per hour.....	\$ 115.00
Engineering Aide, per hour.....	\$ 85.00
Administrative Assistant, per hour.....	\$ 65.00

# Geotechnical Engineering Construction Materials Testing, Special Inspections, and NPDES Compliance Services Schedule of Fees

City of Cartersville New Water Department  
Cartersville, Georgia  
Geo-Hydro Proposal Number 222734.P0

## LABORATORY TESTING SERVICES

### Soil-Cement/Cement Treated Base Mix Design Testing

Mix Design with up to Three Cement Amendment rates, each.....	\$3,000.00
Proctor Compaction Tests (ASTM D558), each.....	\$ 300.00
Soil-Cement Specimens, Compressive Strength, per specimen .....	\$ 30.00

### Soil & Graded Aggregate Base Material

Proctor Compaction Tests	
Standard (ASTM D-698), each .....	\$ 200.00
Modified (ASTM D-1557), each .....	\$ 250.00
Atterberg Limits (ASTM D-4318), each .....	\$ 125.00
Soil Particle Size Analysis with Hydrometer (ASTM D-422), each .....	\$ 200.00
Particle Size Analysis of Coarse Aggregate (ASTM C-136), each .....	\$ 200.00

### Concrete, Grout, Mortar, and Masonry

Cylinders, Compressive Strength (ASTM C-39), per cylinder .....	\$ 20.00
Beams, Flexural Strength (ASTM C-78), each.....	\$ 30.00
Concrete Cores, Lab Preparation and Compressive Strength	
Testing, (ASTM C-42), each .....	\$ 75.00
Cube Specimens (2" x 2"), Lab Preparation and Compressive	
Strength Testing (ASTM C-109), each.....	\$ 20.00
Masonry Grout Compressive Strength, Lab Preparation	
and Compressive Strength Testing, (ASTM C-1019), each .....	\$ 25.00
Masonry Prisms, Lab Preparation and Compressive Strength	
Testing, (ASTM C 1314), each.....	\$ 200.00
Concrete Masonry Unit (CMU) Lab Preparation and	
Compressive Strength Testing, (ASTM C 140), each .....	\$ 200.00

### Bituminous Materials

Bitumen Content & Gradation (ASTM D-2172; GDT-83), each.....	\$ 350.00
Core Density and Thickness Determination, each.....	\$ 45.00
For cores which require splitting add, each .....	\$ 15.00
Theoretical Voidless Density Determination (AASHTO T-209), each.....	\$ 300.00

## MISCELLANEOUS

Mileage, per mile.....	\$ 0.62
Authorized Ancillary Expenses.....	Cost + 15%

- Hourly rates are portal to portal. -All prices are quoted for services performed during a normal 8:00 a.m. to 5:00 p.m. work day (Monday through Friday). For services required outside of these hours (or on Saturday, Sundays and holidays), multiply unit rates by 1.5. A minimum charge of 4 hours will apply to all necessary weekend or holiday work
- Expert witness testimony will be billed at a multiplier of 2.0 times the appropriate unit rate for all time spent in preparation, depositions, court appearances, etc.
- Prices are valid for 90 days from date of schedule.

**PRELIMINARY CONSTRUCTION MATERIALS TESTING/SPECIAL INSPECTIONS COST BREAKDOWN**

**Soils Density & Subgrade Evaluations**

Subgrade Evaluations and Field Density Testing (Based on 30 days at 6 hours per day)

180 hours	Senior Special Inspections Technician	at	\$75.00 per hour	\$13,500.00
Laboratory Testing				
1 tests	Standard Proctor Tests	at	\$200.00 per test	\$200.00
Project Management				
15 hours	Senior Project Manager	at	\$160.00 per hour	\$2,400.00
Travel				
30 trips	40 Miles per Trip	at	\$0.62 per mile	\$744.00
<b>Subtotal</b>				<b>\$16,844.00</b>

**Foundation Testing & Observations**

Shallow Foundation Evaluation(Based on 4 trips at 4 hrs. average per trip)

16 hours	Senior Special Inspections Technician	at	\$75.00 per hour	\$1,200.00
Project Management				
4 hours	Senior Project Manager	at	\$160.00 per hour	\$640.00
Travel				
4 trips	40 Miles per Trip	at	\$0.62 per mile	\$99.20
<b>Subtotal</b>				<b>\$1,939.20</b>

**Cast-in-Place Concrete, Grout Testing and Reinforcing Steel Inspection**

(Based on 6 trips at 6 hrs. average per trip)

36 hours	Senior Special Inspections Technician	at	\$75.00 per hour	\$2,700.00
Cylinder Pickup (Based on 6 trips at 2 hrs. per trip)				
12 hours	Senior Special Inspections Technician	at	\$75.00 per hour	\$900.00
Laboratory Testing				
50 specimens	Concrete Cylinders	at	\$20.00 per specimen	\$1,000.00
Project Management				
6 hours	Senior Project Manager	at	\$160.00 per hour	\$960.00
Travel				
12 trips	40 Miles per Trip	at	\$0.62 per mile	\$297.60
<b>Subtotal</b>				<b>\$5,857.60</b>

**Construction Materials Testing and Special Inspections Services**  
**City of Cartersville**  
**New Water Department Complex**  
**Cartersville, Georgia**  
**Geo-Hydro Proposal Number 222734.P0**

**Steel Inspections**

Visual Observations (Based on 4 trips at 6 hrs. average per trip)				
24 hours	Structural Steel Inspector	at	\$150.00 per hour	\$3,600.00
Non Destructive Testing (Based on 2 trips at 6 hrs. average per trip)				
12 hours	CWI/ANST Certified Weld Inspector	at	\$150.00 per hour	\$1,800.00
Project Management				
4 hours	Senior Project Manager	at	\$160.00 per hour	\$640.00
Travel				
8 trips	40 Miles per Trip	at	\$0.62 per mile	\$198.40
			<b>Subtotal</b>	<b>\$6,238.40</b>

**Asphalt Pavement Testing**

GAB Compaction Testing (Based on 4 trips at 4 hrs. per trip)				
20 hours	Senior Engineering Technician	at	\$75.00 per hour	\$1,500.00
Asphalt Placement Monitoring (Based on 4 trips at 8 hrs. per trip)				
32 hours	Senior Engineering Technician	at	\$75.00 per hour	\$2,400.00
Laboratory Testing				
1 test	Modified Proctor (ASTM D1557)	at	\$250.00 per test	\$250.00
Project Management				
6 hours	Senior Project Manager	at	\$160.00 hour	\$960.00
Travel				
8 trips	40 Miles per Trip	at	\$0.62 per mile	\$198.40
			<b>Subtotal</b>	<b>\$5,308.40</b>

**NPDES Best Management Practices (BMP) Inspections**

NPDES INSPECTIONS (Based on 14 months)				
Weekly and Rainfall BMP Inspections & Reporting				
14 months	Senior Special Inspections Technician	at	\$600.00 per month	\$8,400.00
			<b>Subtotal</b>	<b>\$8,400.00</b>

<b>ESTIMATED COST FOR CMT SERVICES</b>	<b>\$44,587.60</b>
--	--------------------



**AGREEMENT**

Project Name: City of Cartersville New Water Department Building

Project Location: Cartersville, Georgia

Proposal Number: 222734.P0 Date: March 1, 2023

The Client, as identified and defined below, engages Geo-Hydro Engineers, Inc. to provide the services on the Project as detailed in the proposal previously provided to the Client, the terms of which are incorporated herein and made a part of this Agreement. The general terms and conditions on the following pages are likewise incorporated herein and are explicitly made part of this Agreement.

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between

Geo-Hydro Engineers, Inc. (“Consultant”) and \_\_\_\_\_ (“Client”).

**GEO-HYDRO ENGINEERS, INC.**

\_\_\_\_\_  
Client Firm Name

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name and title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of City Clerk

\_\_\_\_\_  
Name of City Clerk (attesting to Mayor’s Signature)

Please complete information in box

Billing Entity Name _____	
Individual to Receive Invoices _____	
Email address _____	Phone No. _____
Street Address _____	
City and State: _____	



# TERMS AND CONDITIONS OF SERVICE

## A. STANDARD OF CARE.

Services under this contract will be performed by Consultant in accordance with that degree of care and skill ordinarily exercised under similar conditions by members of Consultant's profession practicing in the same locality.

## B. CERTIFICATION.

Consultant may employ sampling procedures during the course of the work. Client acknowledges that such procedures indicate actual conditions only at the precise locations and elevations from which samples were taken. Client further acknowledges that, in accordance with the generally accepted construction practice, Consultant shall make certain inferences based on the results of sampling and any related testing to form a professional opinion of conditions in areas beyond those from which samples were taken. Client acknowledges that despite proper implementation of sampling and testing procedures, and despite proper interpretation of their results, Consultant cannot guarantee the existence or absence of conditions which it may infer to exist. Client further acknowledges and agrees that Client shall not cause any resolution of a dispute, including, but not limited to, payment or settlement, contingent upon Consultant's certification of certain conditions, without first receiving Consultant's written certification regarding those conditions.

## C. WARRANTIES.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, CONSULTANT MAKES NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO CONSULTANT'S WRITTEN REPORTS, FINDINGS, OPINIONS, OR SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## D. EXISTING CONDITIONS.

Client agrees that subsurface explorations and geotechnical or environmental engineering evaluations are subject to naturally occurring and/or man-made soil and other conditions which cannot always be discovered or anticipated and that a potential exists for such phenomena to impact the Project in ways for which Consultant cannot be responsible. Client shall disclose, at least 7 days before any scheduled inspections by Consultant, the presence and location of all known man-made or naturally occurring objects which could be affected by or affect field tests or borings to be performed by Consultant.

Client acknowledges and agrees that Consultant has neither created nor contributed to the creation or existence of any irritant, pollutant, or hazardous, radioactive, toxic, otherwise dangerous or harmful substance that may exist at the site, or dangerous conditions resulting therefrom. Client further acknowledges that Consultant's sole role is to provide a service intended to benefit Client and that Consultant is performing no function at or association with the site that would classify Consultant as a generator, disposer, treater, storer, coordinator, handler, or transporter of hazardous materials.

### (i) SAMPLING OR TEST LOCATION.

Unless otherwise stated, the fees in this proposal do not include costs associated with surveying of the site for the accurate horizontal and vertical locations of tests. Field tests described in a report or shown on sketches are based upon information furnished by others or estimates made in the field by Consultant's representatives. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated.

### (ii) HAZARDOUS SUBSTANCES.

Client agrees to advise Consultant, in writing, of any hazardous substances on or near the site within 24 hours after Client learns about the presence of such hazardous substances. In the event that test samples obtained contain substances hazardous to health, safety, or the environment, these samples shall remain the property of the Client. Likewise, any equipment which becomes contaminated and cannot be reasonably decontaminated shall become the property and responsibility of Client. Such samples or equipment will be delivered to Client. Client agrees to pay transportation costs for samples and equipment and the fair market value of such contaminated equipment upon request. Exploratory activities may expose soil and/or ground water considered to be hazardous by local and/or state and/or federal agencies. Consultant agrees to contain such materials in a manner approved by Consultant both during and at the completion of Consultant's field activities. Client understands and agrees that Client, and not Consultant, is responsible for the storage or disposal of hazardous materials or suspected hazardous materials brought to the surface during Consultant's exploratory activities.

### (iii) DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Client also agrees that the discovery of unanticipated hazardous materials could make it necessary for Consultant to take immediate measures to protect human health, safety, or the environment. Consultant agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client encourages Consultant to take any and all measures that in Consultant's professional opinion are justified to preserve and protect the health and safety of Consultant's personnel, and Client agrees to compensate Consultant for the additional cost of such work. In addition, Client waives any claim against Consultant, and agrees to indemnify, defend, and hold Consultant harmless from any claim or liability for injury, loss or perceived loss arising from Consultant's encountering of unanticipated hazardous materials or suspected hazardous materials. Client acknowledges that discovery of hazardous materials or suspected hazardous materials may lead to a temporary or permanent diminution of property value, and/or may cause delays in or otherwise affect completion of the real estate transaction Client now contemplates.

## E. AQUIFER CONTAMINATION.

Subsurface sampling may result in unavoidable contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading hazardous materials off-site. Because nothing can be done to eliminate the risk of such an occurrence, and when subsurface sampling is a part of the work which Consultant will perform on Client's behalf, Client hereby waives any claim against Company, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination caused by sampling. Client further agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of such claim, including, but not limited to, any attorneys' fees and expenses incurred by Consultant, in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

## F. SAMPLES, DATA AND RECORDS.

Consultant shall be the sole owner of any and all data gathered by Consultants or reports prepared by Consultant. No entity or individual, other than Consultant, its representatives, or Client, may use or rely upon any data collected by Consultant or reports prepared by Consultant. Except as expressly set forth in this Agreement, Consultant and Client do not intend the benefits of this Agreement, including, but not limited to, the samples, data, and records created by Consultant, to inure to any third party, and nothing contained herein shall be construed as creating any right, claim or

cause of action in favor of any such third party, against either Consultant or Client. Samples, data and records are subject to Georgia Open Records Law.

Routine test specimens will be discarded immediately upon completion of tests. Consultant shall retain drilling samples of soil or rock for a period of ninety (90) days following submission of Consultant's report to Client. If Client requests a longer period of storage, Consultant will retain test specimens or drilling samples for an agreed upon time period and fee. Records relating to services hereunder shall be maintained by Consultant for at least three (3) years following completion of Consultant's services.

**G. ENTRY.**

Client shall provide Consultant, its representatives, and equipment with right of entry on to the Project site. Consultant will endeavor to minimize damage to the land upon which the project is located, however Consultant shall not be under any duty or responsibility whatsoever to restore the Project site to its condition prior to performance of any tests or borings unless a separate agreement to do so is acknowledged in writing with Client. Unless otherwise indicated, Consultant's scope of service contains no provision for backfilling boreholes, test pits, or other exploration holes created to facilitate testing. Client hereby acknowledges that, unless some other arrangement is made in writing between Client and Consultant, Consultant cannot be held liable for any injuries or damages that may occur for Consultant's failure to perform services not included in the Proposal or this Agreement. Client further acknowledges that testing operations may result in damage to certain landscaping or improvements, due to the tests themselves, disposal of cuttings or ground water, movement of equipment, or due to other cause(s) that can commonly occur and are outside Consultant's control. Consultant will attempt to avoid causing damage, but Client understands and acknowledges that Consultant cannot guarantee damage will not occur and, accordingly, Client agrees to waive any claim against Consultant and to hold harmless, indemnify, and defend Consultant for any claim alleging injury or damage as a consequence of unfilled exploration holes on the site or any other disturbance to natural conditions of or any improvements on the site. Any costs of such restoration shall be added to our compensation pursuant to an agreed-upon price and terms set forth in a separate written agreement entered into between Consultant and Client.

**H. FIELD MONITORING AND TESTING.**

Whenever Consultant's personnel make on-site observations of materials and/or services provided by a contractor engaged by Client (the "Contractor"), Client agrees that Consultant is not responsible for the Contractor's means, methods, techniques, sequences or procedures of construction. Client acknowledges and agrees that the field services provided by Consultant shall not relieve the Contractor of his responsibilities for performing the work in accordance with the plans and specifications. The words "monitoring," "supervision," "inspection," or "control" mean the periodic observation of the work and the conducting of tests by Consultant to verify substantial compliance with the plans, specifications, and design concepts for the Project. Continuous or full-time monitoring does not mean that our personnel are observing placement of all materials or that we assume any responsibility or liability for placing or directing placement of materials.

**I. SAFETY.**

During the provision of observations or monitoring services at the job site during construction, Client agrees that in accordance with the generally accepted construction practice, the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work and compliance with OSHA regulations. These requirements will apply continuously and are not limited to normal working hours. Any monitoring of the contractor's procedures conducted by

Consultant does not include review of the adequacy of the contractor's safety measures in, on, adjacent to, or near the construction site.

**J. FREEDOM TO REPORT.**

It is contemplated that, during the course of this engagement, Consultant may be required to report on the past or current performance of others engaged or being considered for engagement directly or indirectly by Client and to render opinions and advice in that regard. Those about whom reports and opinions are rendered may, as a consequence, initiate claims of libel or slander against Consultant and its present or former principals, officers, shareholders, directors, agents, representatives, consultants, successors, insurers, and attorneys (the "Consultant Representatives"). To help create an atmosphere in which Consultant's personnel feel free to express themselves candidly, Client agrees (1) to waive any claim against the Consultant Representatives and (2) to defend, indemnify, and hold harmless the Consultant Representatives from any claim or liability for injury or loss allegedly arising from professional opinions rendered by Consultant to Client or Client's agents, including, but not limited to, claims for slander or libel. Client further agrees to compensate the Consultant Representatives for any time spent or expenses incurred by the Consultant Representatives in defense of any such claim, in accordance with Consultant prevailing fee schedule and expense reimbursement policy. Client acknowledges that Client and/or Consultant may be required by local, state, and/or federal statute and/or regulations to report the discovery of hazardous materials to a government agency, and that Consultant, when practical, will do so only after notifying Client. Client waives any cause of action, claim, suit, or demand associated with Consultant's compliance with its duties to report as required by local, state, and/or federal laws and regulations.

**K. PAYMENT.**

Client agrees to pay Consultant in full for all services provided by Consultant to Client. Time is of the essence regarding payment of Consultant's invoices. Client's obligation to pay Consultant is not dependent upon Client's ability to obtain financing, approval of any governmental or regulatory agency, or upon Client's successful completion of the Project. Consultant reserves the right to submit progress invoices to Client on a monthly basis and a final invoice upon completion of Consultant's work. Each invoice is due and payable to Consultant, by Client, immediately upon presentation. All amounts due to Consultant and not paid within thirty (30) days of the presentation of the invoice shall bear interest at the rate of eighteen percent (18%) per annum (or the maximum permissible rate allowed by law) until paid in full.

If any obligation of Client hereunder is collected by legal proceeding, including, but not limited to, a demand letter, lawsuit, arbitration, and/or mediation, Client shall pay to Consultant, in addition to the amount due, all Costs of Collection (as defined below), including, but not limited to, fifteen percent (15%) of the total amount due by Client to Consultant as reasonable attorney's fees as well as all costs incurred by Consultant if the legal proceeding does not result in a lawsuit or arbitration proceeding, and thirty percent (30%) of the total amount due by Client to Consultant as reasonable attorneys' fees as well as all court costs incurred by Consultant if the legal proceeding results in a lawsuit or arbitration proceeding. "Costs of collection" shall include, but are not limited to, the hourly cost to Consultant for employee's time expended in collection efforts.

**L. TERMINATION.**

In the event that Client requests termination of the work prior to completion, Consultant reserves the right to complete such analysis and records as are necessary to place Consultant's files in order and to complete a report on the work performed to date. Client acknowledges and agrees that the amount of damages that Consultant will sustain in the event Client terminates this Agreement prior to Consultant's completion of its work required by the proposal and this Agreement will be uncertain or difficult to ascertain. As such, Client agrees that in the event Client terminates this Agreement prior to Consultant's completion of the work required by the proposal and this Agreement, Client shall be liable to Consultant for liquidated damages in the amount equal to thirty percent (30%) of all charges incurred as of the date of Client's termination of the Agreement (the "Liquidated Damages"). Client

acknowledges and agrees that the foregoing Liquidated Damages do not represent a penalty, but rather, represent a good faith pre-estimation by the parties of the damages that would be incurred by Consultant.

**M. PROFESSIONAL LIABILITY.**

Client agrees that the liability of Consultant and its principals, officers, shareholders, directors, agents, representatives, consultants, successors, insurers, and attorneys, to Client due to any negligent professional acts, errors or omissions, or breach of contract will be limited to an aggregate of \$500,000.00.

Consultant does not assume any responsibilities, duties, or obligations of Client or any other entity or individual. Consultant's performance shall not be considered to reduce, eliminate, abridge, or abrogate, any responsibilities, duties, or obligations of any other party. Consultant is not responsible for the design or construction of the project or the failure of any party to perform in accordance with the plans and specifications for the Projects or any of Consultant's recommendations or instructions.

**N. INDEMNIFICATION.**

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

**O. CONFIDENTIALITY.**

Consultant agrees to keep confidential and not to disclose to any person or entity, other than Consultant's principals and employees, any data or information not previously known to and generated by Consultant or furnished to Consultant and marked CONFIDENTIAL by Client ("Confidential Information"). These provisions shall not apply to information in whatever form that is in the public domain, nor shall it restrict Consultant from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency, arbitrator, or other legitimate authority, or if disclosure is reasonably necessary for Consultant to defend itself from any legal action or claim. City of Cartersville agreements are subject to Georgia Open Records Law.

**P. NON-CIRCUMVENTION. (DELETED)**

**Q. GOVERNING LAW; VENUE.**

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed and construed by the laws of the State of Georgia, and Venue shall lie in the State of Georgia, Bartow County, for all causes of action under this Agreement.

**R. SEVERANCE; SURVIVAL.**

If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance here from and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

**S. EXECUTION.**

This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall together constitute one document. In the event one or more of the parties intends to sign and deliver this Agreement by facsimile transmission, ".pdf", or "jpeg," each party agrees that the delivery of the Agreement by facsimile, ".pdf", or "jpeg" shall have the same force and effect as delivery of original signatures, and each party may use such facsimile, ".pdf", or "jpeg" signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.

**T. REPRESENTATIONS.**

Client represents and warrants that it has full authority to enter into this Agreement and to consummate the transactions contemplated herein, and that this Agreement is not in conflict with any other Agreement to which Client is a party or by which it may be bound.

**U. MISCELLANEOUS.**

This instrument constitutes the entire agreement of the parties. There are no terms or conditions except those set forth herein. This Agreement may not be modified, altered, or amended except in a subsequent written instrument executed by each of the parties which refers to this Agreement and specifies the amendment made. No waiver of any breach of this Agreement shall be deemed or considered a waiver of any other or subsequent breach. Paragraph headings are used to facilitate reference to the various provisions and do not affect the meaning or construction of any provision. This Agreement is governed by the laws of the State of Georgia.