

April 16, 2026

City of Deadwood
Public Works
67 Dunlop Avenue
Deadwood, South Dakota 57732



Attn: Mr. Kevin Kuchenbecker
kevin@cityofdeadwood.com

Subject: Cost Proposal – Construction Materials Testing Services
Crescent Drive Water, Storm Sewer and Streets Improvements
Deadwood, South Dakota

Dear Kevin:

INTRODUCTION

As requested, American Engineering Testing Inc. (AET) is pleased to provide this cost estimate proposal for the Construction Materials Testing services for the above referenced project. As you are aware, AET previously performed the geotechnical investigation for the project (AET Report # 17-02378 dated October 30, 2015).

SCOPE OF WORK

We understand the Base Bid for the Crescent Drive Water, Storm Sewer and Street Improvements project will consist of approximately 1,052 linear feet of water main, water service lines, 662 linear feet of storm sewer, 1,285 tons of base course and 641 tons of asphalt pavement. We also understand that there will be at-grade concrete flatwork, concrete curb & gutter and new cast in place concrete retaining wall. Concrete testing estimate is based on industry knowledge but can be revised once the concrete pour schedule is issued. The asphalt paving will be tested according to City of Rapid City Specifications and will take coordination from the contractor for scheduling the appropriate testing specified for this project. Please allow a minimum of 24 hours' notice for test scheduling. I have included a separate fee estimate for Alternate Bid #1, will be combined with the base bid estimate if accepted.

At this time, we anticipate the testing program will consist of the following services:

- Field and lab testing of subgrade soils and base course. Anticipated tests include but may not be limited to proof roll observations, proctors, gradations and nuclear density testing.
- Field and lab testing of cast-in-place concrete. Anticipated tests on plastic concrete to include slump, air content, unit weight and temperature. Compressive strength testing will be performed on the laboratory cured concrete specimens at the specified intervals.
- Hot Mix Asphalt (HMA) field and lab testing according to City of Rapid City Specifications.
- Preparation of formal reports for services provided.

1745 Samco Road | Rapid City, SD 57702

Phone (605) 388-0029 | (800) 972-6364 | teamAET.com | AA/EEO

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FEES

The attachment on page four (4) provides an estimate of the services and fees as we understand the project at this time. We have tried to be as realistic as possible in estimating testing quantities and time required. Quantities may change due to circumstances beyond our control such as weather, additional testing and/or re-testing required or requested by the Owner or Engineer. **Actual quantities may differ from the estimates.** You will be invoiced only for the work actually performed. If you (the client) or your representative requests AET to spend additional time beyond total estimated amount, the total estimated amount is changed accordingly, and you will be invoiced for all additional services in accordance with the unit rates for this particular project.

TERMS AND CONDITIONS

All AET Services are provided subject to the Terms and Conditions set forth in the enclosed Service Agreement—Terms and Conditions, which, upon acceptance of this proposal, are binding upon you as the Client requesting Services, and your successors, assignees, joint ventures and third-party beneficiaries. Please be advised that additional insured status is granted upon acceptance of the proposal.

ACCEPTANCE

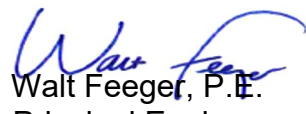
AET requests written acceptance of this proposal in the Proposal Acceptance box below, but the following actions shall constitute your acceptance of this proposal together with the Terms and Conditions and Amendments: 1) issuing an authorizing purchase order for any of the Services described above, 2) authorizing AET's presence on site or 3) written or electronic notification for AET to proceed with any of the Services described in this proposal. Please indicate your acceptance of this proposal by signing below and returning a copy to us. When you accept this proposal, you represent that you are authorized to accept on behalf of the Client.

CLOSING

Thank you for the opportunity for American Engineering Testing, Inc. to provide this proposal for the construction observation and testing services for this project. If you have any questions, please call our office at (605) 388-0029.

Sincerely,
AMERICAN ENGINEERING TESTING, INC.


Joel Lensegrav
Construction Materials Manager


Walt Feeger, P.E.
Principal Engineer – West Division



ACCEPTANCE

SIGNATURE: _____

PRINTED NAME: _____

COMPANY: _____

ADDRESS: _____

PHONE NUMBER/E-MAIL ADDRESS: _____

DATE: _____

PROJECT TESTING SERVICES FEE SCHEDULE
Crescent Drive Storm, Water and Street Improvements
Base Bid
Deadwood, SD



SERVICE DESCRIPTION	PROJECT BUDGET			
	ESTIMATED UNITS	UNIT RATE	BUDGET AMOUNT	
<i>Compaction Testing</i>				
Soil Density Testing - Technician, Level I	28	Hour	\$88.00	\$2,464.00
Trip Charge (mileage)	16	Each	\$88.00	\$1,408.00
ASTM D4318 Atterberg Limits, Liquid Limit or Plastic Limit, Individual	1	Test	\$145.00	\$145.00
ASTM D698 Standard Proctor	2	Test	\$205.00	\$410.00
ASTM C136 Sieve Analysis of Aggregate (Coarse and Fine)	1	Test	\$150.00	\$150.00
Section Subtotal:				\$4,577.00
<i>Subgrade/Base Proof Roll Observations & Testing</i>				
Subgrade/Base Proof Roll Observations & Testing - Technician, Level II	3.5	Hour	\$103.00	\$360.50
Trip Charge (mileage)	2	Each	\$88.00	\$176.00
Section Subtotal:				\$536.50
<i>Concrete Testing</i>				
Concrete Testing - Technician, Level I	31.5	Hour	\$88.00	\$2,772.00
Concrete Cylinder Pickup - Technician, Level I	6	Hour	\$88.00	\$528.00
Trip Charge (mileage)	18	Each	\$88.00	\$1,584.00
ASTM C39 Concrete Compressive Strength 4x8 Cylinder	56	Test	\$45.00	\$2,520.00
Section Subtotal:				\$7,404.00
<i>Bituminous Observations & Testing</i>				
Bituminous Density Testing - Technician, Level I	3.5	Hour	\$88.00	\$308.00
Bituminous Coring - Technician, Level I	3.5	Hour	\$88.00	\$308.00
Trip Charge (mileage)	4	Each	\$88.00	\$352.00
ASTM D2726 Specific Gravity and Density of Non-Absorptive Asphalt	6	Core	\$60.00	\$360.00
AASHTO T 209 Rice Theoretical Max Specific Gravity of Hot Mix Asphalt	2	Test	\$190.00	\$380.00
Section Subtotal:				\$1,708.00
<i>Project Management & Coordination</i>				
Project Management - Project Manager, Level I/Project Manager	8	Hour	\$150.00	\$1,200.00
Project Administrator	10	Hour	\$78.00	\$780.00
Section Subtotal:				\$1,980.00
ESTIMATED SALES BUDGET				\$16,205.50

PROJECT TESTING SERVICES FEE SCHEDULE
 Crescent Drive Storm, Water and Street Improvements
 Bid Alternate 1
 Deadwood, SD



SERVICE DESCRIPTION	PROJECT BUDGET		
	ESTIMATED UNITS	UNIT RATE	BUDGET AMOUNT
<i>Compaction Testing</i>			
Soil Density Testing - Technician, Level I	7	Hour	\$88.00
Trip Charge (mileage)	4	Each	\$88.00
Section Subtotal:			\$968.00
<i>Concrete Testing</i>			
Concrete Testing - Technician, Level I	9	Hour	\$88.00
Trip Charge (mileage)	4	Each	\$88.00
ASTM C39 Concrete Compressive Strength 4x8 Cylinder	16	Test	\$45.00
Section Subtotal:			\$1,864.00
<i>Bituminous Observations & Testing</i>			
Bituminous Density Testing - Technician, Level I	3.5	Hour	\$88.00
Bituminous Coring - Technician, Level I	3.5	Hour	\$88.00
Trip Charge (mileage)	4	Each	\$88.00
ASTM D2726 Specific Gravity and Density of Non-Absorptive Asphalt	6	Core	\$60.00
AASHTO T 209 Rice Theoretical Max Specific Gravity of Hot Mix Asphalt	2	Test	\$190.00
Section Subtotal:			\$1,708.00
<i>Project Management & Coordination</i>			
Project Management - Project Manager, Level I/Project Manager	2	Hour	\$150.00
Project Administrator	3	Hour	\$78.00
Section Subtotal:			\$534.00
ESTIMATED SALES BUDGET			\$5,074.00

SERVICE AGREEMENT - TERMS AND CONDITIONS

SECTION 1 - RESPONSIBILITIES

1.1 – This Service Agreement – Terms and Conditions (“terms and conditions”) is applicable to all services (“Services”) provided by American Engineering Testing, Inc. (AET). As used herein “Services” refer to the scope of Services described in the proposal submitted by AET to Client. The proposal, these terms and conditions and any appendices attached hereto shall comprise the agreement (“Agreement”) between AET and Client for Services described in the proposal and are binding upon the Client, its successors, assignees, joint ventures and third-party beneficiaries. **AET requests written acceptance of the Agreement, but the following actions shall also constitute Client’s acceptance of the Agreement: 1) issuing an authorizing purchase order, task order, service order, or any other documentation for any of the Services, 2) authorizing AET’s presence on site, or 3) written or electronic notification for AET to proceed with any of the Services.** Issuance of a purchase order, task order or service order by Client which contains separate terms and conditions will not take precedence or modify the terms and conditions contained in this Service Agreement AND THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT AND ANY CORRESPONDING PROPOSAL ISSUED BY AET SHALL GOVERN UNLESS AUTHORIZED IN WRITING IN ADVANCE BY AET.

1.2 - Prior to AET performing Services, Client will provide AET with all information that may affect the cost, progress, safety and performance of the Services. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and their client and/or Owner which contain flow-down provisions to AET, if they are included, site safety plans or other documents which may control or affect AET’s Services. If new information becomes available or changes are made during AET’s Services, Client will provide such information to AET in a timely manner. Failure of Client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability of AET. Client will provide a representative for timely answers to project-related questions by AET.

1.3 - AET observes and tests earthwork and other construction operations and materials, and may provide opinions, conclusions and recommendations regarding the same. However, AET’s Services do not relieve the contractors of their contractual responsibility to perform their work in accordance with approved plans, specifications and building code requirements.

1.4 - AET personnel do not have authority to accept, reject, direct or otherwise approve the work of the contractor. AET cannot stop work or waive or alter the requirements of the project documents. Any authority given to AET by Client must be in writing prior to the start of Services.

1.5 - AET does not perform construction management, general contracting or surveying services and our involvement with the project does not constitute any assumption of those responsibilities.

1.6 - Services performed by AET often include sampling at specific locations. Client acknowledges the limitations inherent in sampling. Variations in conditions occur between and beyond sampled/tested locations. The passage of time, natural occurrences and direct or indirect human activities at the site or distant from it may alter the actual conditions. Client assumes all risks associated with such variations.

1.7 - AET is not responsible for interpretations or modifications of AET’s recommendations by other persons.

1.8 - Should change in conditions be alleged, Client agrees to notify AET before evidence of alleged change is no longer accessible for evaluation.

1.9 - Test borings and/or cone penetration test soundings to a proper depth below foundation grade and the base of suitable bearing soils are recommended to explore the deeper unseen soil and ground water conditions. Judgments made by AET personnel regarding the suitability of materials and ground water conditions below the bottom of an excavation are limited if sufficiently deep test borings/soundings are not provided by the Client prior to our observations and judgments. AET’s opinions, conclusions and recommendations are qualified to that extent.

1.10 – Pricing in the proposal assumes use of these terms and conditions. AET reserves the right to amend pricing if Client requests modifications to the Agreement or use of Client’s alternate contract format. Any contract amendments made after Client has authorized the Services shall be applicable only to Services performed after the effective date of such amendment. The proposal and these terms and conditions, including terms of payment, shall apply to all Services performed prior to the effective date of such amendment.

1.11 – The AET proposal accompanying these terms and conditions is valid for thirty (30) days after the proposal issuance date to the Client. Any attempt to authorize Services after the expiration date is subject to AET’s right to revise the proposal as necessary.

SECTION 2 – ON CALL SERVICES

2.1 - If AET’s Services are performed on an on-call basis at the direction of the Client or its authorized representatives, Client acknowledges the inherent limitations associated with performing engineering judgments and testing Services on an on-call basis, including without limitation, the inability to completely evaluate, document or judge work and conditions not directly observed or tested by AET. AET’s opinions, conclusions, and recommendations are qualified to the extent of those limitations.

2.2 - Density tests of fill soils represent conditions only at the locations and elevations tested and do not necessarily represent conditions laterally, above or below. AET can only provide judgments regarding the engineered fill system to adequately support the design construction loadings by monitoring the filling process on a continuous basis for consistency of soil type, moisture content, lift thickness, and compaction effort.

2.3 – AET requires a minimum of 24 hours’ notice of the need for Services. AET will not be liable for claims, damages, or delays related to failure of Client to provide adequate advance notice to AET.

SECTION 3 - SAFETY

3.1 - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the site. Client or its authorized representative(s) is responsible for the safety of the jobsite. If, during the course of AET’s Services, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate Services. Client shall be responsible for payment of such additional protection costs.

3.2 - AET shall only be responsible for safety of AET employees at the site; the safety of all others shall be Client's or other persons' responsibility.

SECTION 4 - SAMPLES

4.1 - Client shall inform AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by or submitted to AET remain the property of the Client during and after the Services. Any known or suspected hazardous material samples will be returned to the Client at AET’s discretion.

4.2 - Non-hazardous samples will be held for thirty (30) days and then discarded unless, within thirty (30) days of the report date, the Client requests in writing that AET store or ship the samples. Storage and shipping costs shall be borne solely by Client.

SECTION 5 - PROJECT RECORDS

The original project records prepared by AET will remain the property of AET. AET shall retain these original records for a minimum of three years following submission of the report, during which period the project records can be made available to Client at AET's office at reasonable times.

SECTION 6 - STANDARD OF CARE

AET performs its Services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints.

SECTION 7 - INSURANCE

AET maintains insurance with coverage and minimum limits shown below. AET will furnish certificates of insurance to Client upon request.

7.1 –

Workers' Compensation Employer's Liability	Statutory Limits \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee
Commercial General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Automobile Liability	\$1,000,000 each accident
Professional/Pollution Liability Insurance	\$1,000,000 per claim \$1,000,000 aggregate

7.2 - Commercial General Liability insurance will include coverage for Products/Completed Operations extending one (1) year after completion of AET's Services as outlined in our proposal, Property Damage, Personal Injury, and Contractual Liability coverage applicable to AET's indemnity obligations under this Agreement.

7.3 - Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.

7.4 - Professional/Pollution Liability Insurance is written on a claims-made basis and coverage will be maintained for one (1) year after completion of AET's Services as outlined in our proposal. Renewal policies during this period shall maintain the same retroactive date.

7.5 - **To the extent permitted by applicable state law, and upon Client's signing of the proposal, which includes these Terms and Conditions, and return of the same to AET, or Client provided forms of acceptance as defined in Section 1.1; Client and Owner shall be named an "additional insured" on AET's Commercial General Liability Policy (Form CG D4 14, which includes blanket coverage for the Additional Insured on a Primary and Non-Contributory basis). Client and Owner shall also be named an "additional insured" on a Primary and Non-contributory basis on AET's Automobile Liability Policy (Form CA T4 74). Any other endorsement, coverage or policy requirement may result in additional charges.**

7.6 - AET will maintain insurance coverage required by this Agreement at its sole expense, provided such insurance is reasonably available, with insurance carriers licensed to do business in the state in which the project is located and having a current A.M. Best rating of no less than A minus (A-). Such insurance shall provide for thirty (30) days prior written notice to Client for notice of cancellation or material limitations for the policy or ten (10) days' notice for non-payment of premium.

7.7 - AET reserves the right to charge Client for AET's costs for additional coverage requirements unknown on the date of the proposal, e.g., coverage limits or policy modification including waiver of subrogation, additional insured endorsements and other project specific requirements.

SECTION 8 - DELAYS

If delays to AET's Services are caused by Client or Owner, other parties, strikes, natural causes, pandemic, weather, or other items beyond AET's control, a reasonable time extension for performance of the Services shall be granted, and AET shall receive an equitable fee adjustment.

SECTION 9- PAYMENT, INTEREST AND BREACH

9.1 - Invoices are due net thirty (30) days from the date of receipt of an undisputed invoice. Invoices will be paid without reductions for bond or retention. Client will inform AET of invoice questions or disagreements within fifteen (15) days of invoice date; unless so informed, invoices are deemed correct.

9.2 – Invoices remaining unpaid for sixty (60) days shall constitute a material breach of this Agreement, permitting AET, in its sole discretion and without limiting any other legal or equitable remedies for such breach, to terminate performance of this Agreement and be relieved of any associated duties to the Client or other persons. Further, AET may withhold from Client data and reports in AET's possession. If Client fails to cure such breach, all reports associated with the unpaid invoices shall immediately upon demand be returned to AET and Client may neither use nor rely upon such reports or the Services.

9.3 – AET reserves the right to pursue any unpaid invoice utilizing available remedies at law. AET explicitly reserves its Mechanic Lien or Bond Claim rights for nonpayment of an undisputed invoice. Client is responsible for paying AET expenses and attorney fees related to collection of past due invoices.

9.4 – AET reserves the right to charge a 2.5% fee on any payment made using a credit card or debit card.

SECTION 10 - CHANGE ORDERS

AET's proposal associated with this project may provide an estimated cost for the work. If the proposal amount is a time and material estimate, or if changes occur affecting the project scope, estimated quantities, project schedule or other unforeseen conditions, AET will communicate with Client and request a change order. However, nothing in this agreement shall be construed in any way as a waiver of payment by Client to AET for Services authorized under this agreement. Approval of a change order may be in writing, by electronic communication, or any directive for additional Services.

SECTION 11 - MEDIATION

11.1 - Except for enforcement of AET's rights to payment for Services rendered or to assert and/or enforce its lien rights, including without limitation assertion and enforcement of mechanic's lien rights and foreclosure of the same, Client and AET agree that any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party; provided however that if either party fails to respond to a request for mediation within sixty (60) days, the party requesting mediation may without further notice, proceed to arbitration or the institution of legal or equitable proceedings.

11.2 - Mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equally and each party shall pay their own legal fees. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

SECTION 12 - LITIGATION REIMBURSEMENT

Except for matters relating to non-payment of fees, which is governed by Section 10 hereof, payment of attorney's fees and costs associated with lawsuits or arbitration of disputes between AET and Client, which are dismissed or are judged substantially in either party's favor, shall be paid by the non-prevailing party. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and other direct costs.

SECTION 13 - MUTUAL INDEMNIFICATION

13.1 - Subject to the limitations contained in Sections 14 and 17, AET agrees to indemnify Client from and against damages and costs to the extent caused by AET's negligent performance of the Services.

13.2 - Client agrees to indemnify AET from and against damages and costs to the extent caused by the intentional acts or negligence of the Client, Owner, Client's contractors and subcontractors or other third parties.

13.3 - If Client has an indemnity agreement with other persons or entities relating to the project for which AET's Services are performed, the Client shall include AET as an Additional Insured.

13.4 - AET's indemnification to the Client, including any indemnity required or implied by law, is limited solely to losses or damages caused by its failure to meet the standard of care and only to the extent of its negligence.

SECTION 14 - NON-SOLICITATION

Each party to this Agreement (a "Party") agrees that it will not encourage, induce, or actively solicit any employee of the other party to leave their employment for any reason, provided that neither Party is precluded from (a) hiring any such employee who has been terminated by a Party or its subsidiaries prior to commencement of employment discussions between a Party and such employee, or (b) soliciting any such employee by means of a general advertisement or through an employment agency that does not specifically pursue the employee, or (c) hiring employees or former employees of the other Party who contact the Party on its own accord. This Non-Solicitation provision shall be effective and enforceable for six (6) months following termination of this Agreement.

SECTION 15- MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

Except as specifically set forth herein and to the extent permitted by applicable law, Client and AET waive against each other, and each other's officers, directors, members, subcontractor, agents, assigns, successors, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive, or consequential damages arising out of, resulting from, or in any way related to the Services provided by AET under this Agreement. This mutual waiver of consequential damages includes, but is not limited to, the following: loss of profits; loss of revenue; rental costs/expenses incurred; loss of income; loss of use of property, equipment, materials or services; loss of opportunity; loss of rent; loss of good will; loss of financing; loss of credit; diminution of value; loss of business and reputation; loss of management or employee productivity or the services of such persons; increased financing costs; cost of substitute facilities; cost of substitute goods/property/equipment; cost of substitute services; and/or cost of capital. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement in accordance with the provisions of the Agreement and related documents and shall survive any such termination.

SECTION 16 - LIMITATION OF LIABILITY

To the fullest extent permitted by applicable law, the total aggregate liability of AET and its officers, directors, partners, employees, subcontractors, agents, and sub-consultants, to Client and/or Client's employees, officers, directors, members, agents, assigns, successors, or partners, or anyone claiming through Client, for any and all injuries, damages, claims, losses, or expenses (including attorney's fees and costs) arising out of, resulting from or in any way related to Services provided by AET from any cause or causes, including, but not limited to, its negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty shall not exceed the total compensation in excess of costs received by AET for Services or \$50,000, whichever is less. The limitation of liability set forth herein does not apply to claims arising solely out of or related to the willful or intentional acts of AET.

SECTION 17 - POSTING OF NOTICES ON EMPLOYEE RIGHTS

Effective June 21, 2010, prime contracts with a value of \$100,000 or more and signed by federal contractors on projects with any agency of the United States government must comply with 29 CFR Part 471, which requires physical posting of a notice to employees of their rights under Federal labor laws. The required notice may be found at [29 Code of Federal Regulations Part 471, Appendix A to Subpart A](#). The regulation also has a "flow-down" requirement for subcontractors under the prime agreement for subcontracts with a value of \$10,000 or more. AET requires strict compliance of its subcontractors working on federal contracts subject to this regulation. The regulation has specific requirements for location of posting and language(s) for the poster.

SECTION 18 - TERMINATION

After 7 days' written notice, either party may elect to terminate work for justifiable reasons. In this event, the Client shall pay AET for all Services performed, including demobilization and reporting costs to complete the Services.

SECTION 19 - SEVERABILITY

Any provisions of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

SECTION 20 - GOVERNING LAW

This Agreement shall be construed in accordance with the Laws of the State of South Dakota without regard to its conflicts of law provisions.

SECTION 21 - ENTIRE AGREEMENT

This Agreement, including these terms and conditions and attached proposal and appendices, is the entire agreement between AET and Client. Regardless of method of acceptance of this Agreement by the Client, this Agreement supersedes any written or oral agreements, including purchase/work orders or other Client agreements submitted to AET after the start of our Services. Any modifications to this Agreement must be mutually acceptable to both parties and accepted in writing. No considerations will be given to revisions to AET's terms and conditions or alternate contract format submitted by the Client as a condition for payment of AET's accrued Services.

SECTION 22 - SITE ACCESS, UNDERGROUND FACILITIES AND CONSTRUCTION STAKING (CONSTRUCTION)

22.1 - Client will furnish AET safe and legal site access.

22.2 - With the exception of public utilities which AET will contact state "call before you dig" notification centers (e.g. South Dakota One Call), Client will mark or cause to be marked the location of all other underground utilities and structures (Facilities) that service or are located on the site. AET shall be entitled to rely upon the accuracy of all location information supplied by any source.

22.3 - Client shall hold harmless, indemnify and defend AET from all claims, damages, losses, fines, penalties and expenses (including attorney's fees) arising out of or related to the following: a) Facilities that are not shown or vary from the locations shown on any plans or drawings, b) Facilities that are not located by or vary from the locations marked by Client, governmental or quasi-governmental locator programs, or private utility locating services, or c) any other Facilities that are not disclosed or vary from locations provided by the Client. The obligation to defend AET shall be independent of the obligation to indemnify and hold harmless AET and shall be with independent counsel acceptable to AET.

22.4 - The location and elevation of a proposed structure or facility shall be staked (with offsets) and controlled by surveying or GPS equipment by others. AET's measurements are made in relation to that information. The reliability of any opinions, conclusions, and recommendations based on those measurements is strictly dependent on the accuracy of the staking or GPS information provided by others.

22.5 - During construction, observations and testing Services are based on the positioning of the formwork by the contractor or its subcontractor. AET will not be responsible for any errors or damages resulting from improper location or positioning of the formwork.

22.6 - Client acknowledges that in the normal course of its Services, AET may unavoidably alter existing site conditions or affect the environment in the area being studied. AET will take reasonable precautions to minimize alterations to the site or existing materials. Restoration of the site is the responsibility of the Client.

SECTION 23 UNDERGROUND UTILITIES AND STRUCTURES AND FACILITIES (GEOTECH)

23.1 - Public Utilities: AET's sole responsibility under this section will be to contact the state "call before you dig" notification center (e.g. SD One Call), if such an entity exists, for location information of public utilities only. AET shall have no obligation to proceed with the work until Client has fully complied with all the requirements of this Section 23.

23.2 - Private Utilities and all other Equipment or Facilities: Client will mark or cause to be marked the location of all other Facilities, Equipment and/or Utilities that service or are located on the site including but not limited to private utilities. AET shall be entitled to rely upon the accuracy of all location information supplied by any source including the Client.

23.3 - Client acknowledges that location data may be incorrect or that some Facilities, Equipment or Utilities may not be capable of location and Client fully acknowledges and accepts this risk and waives any claims against AET for damages or claims arising out of or in any way related to incorrect locations of Utilities, Equipment or Facilities incapable of location.

23.4 - Client shall waive as against AET and further hold harmless, indemnify and defend AET from all claims, damages, losses, fines, penalties and expenses (including attorney's fees) by any third parties arising out of or related to the following: a) Facilities and utilities that are not shown or vary from the locations shown on any plans or drawings, b) Facilities and utilities that are not located by or vary from the locations marked by Client, governmental or quasi-governmental locator programs, or private utility locating services, or c) any other Facilities or utilities that are not disclosed or vary from locations provided by the Client. The obligation to defend AET shall be independent of the obligation to indemnify and hold harmless AET and shall be with independent counsel acceptable to AET.