



City of Ketchum

September 6, 2022

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Ppprove Purchase Order #22129 with Strata, Inc. for Geotechnical Design Services for East Avenue and Walnut Avenue Rehabilitation Project

Recommendation and Summary

Staff is requesting the Council approve the Purchase Order with Strata, Inc. for geotechnical engineering services for the East Avenue and Walnut Avenue roadway rehabilitation project.

"I move to approve Purchase Order #22129 and authorize the Mayor to sign Strata, Inc.'s General Conditions for Geotechnical Engineering Services."

The reasons for the recommendation are as follows:

- Geotechnical engineering services will evaluate the existing pavement conditions and rehabilitation options (mill & overlay vs. rebuild).
- This evaluation will inform what amount to plan for in the FY24 Capital Improvement Plan.
- Per the city procurement process, proposals from three firms were solicited. Strata, Inc. is recommended based on the balance of cost and services provided.

Sustainability Impact

No direct connection.

Financial Impact

Contract is not to exceed \$19,600 which can be funded from current fiscal year CIP project savings.

Attachments:

Purchase Order #22129
Strata, Inc. Proposal
General Conditions for Geotechnical Engineering Services



CITY OF KETCHUM
 PO BOX 2315 * 191 5TH ST. * KETCHUM, ID 83340
 Administration 208-726-3841 (fax) 208-726-8234

PURCHASE ORDER
 BUDGETED ITEM? ___ Yes ___ No

PURCHASE ORDER - NUMBER: 22129

To: 3944 STRATA 8653 W. HACKAMORE DRIVE BOISE ID 83709	Ship to: CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
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P. O. Date	Created By	Requested By	Department	Req Number	Terms
09/01/2022	kchoma	kchoma		0	

Quantity	Description	Unit Price	Total
1.00	GEOTECH EVALUATION OF EAST AVENUE 03-4193-7607	19,600.00	19,600.00
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		19,600.00

 Authorized Signature



July 22, 2022
File: TFP22103

Sherrí Newland, P.E., CPESC
Principal Engineering/Owner
S&C Associates LLC
220 East Avenue, Suite 102
Ketchum, ID 83340

RE: **PROPOSAL**
Geotechnical Engineering Pavement Evaluation
East Avenue and Walnut Avenue
Ketchum, Idaho

Dear Ms. Newland:

STRATA, Inc. is pleased to present this proposal to provide a Geotechnical Engineering Pavement Evaluation for East Avenue and a portion of Walnut Avenue in Ketchum, Idaho. The following paragraphs present our project understanding, recommended scope of services, schedule and fee.

PROJECT UNDERSTANDING

We have prepared this proposal for the City of Ketchum (the City) based on our conversations with you and our review of project schematic you have provided. We understand that pavement rehabilitation is being considered for East Avenue between First and Sixth Streets and Walnut Avenue between Sun Valley Road and Fifth Street. At this time, we do not have information on the existing pavement section. We understand the City is considering a mill and inlay as one potential rehabilitation as well as full reconstruction. We further understand that this project will follow the Idaho Standards for Public Works Construction (ISPWC), with City of Ketchum Revisions.

SCOPE OF SERVICES

Our services will consist of obtaining pavement cores and drilling borings in the existing roadway, classification of base and subgrade soil, laboratory testing to estimate the resilient modulus of the existing subgrade soils, and providing pavement rehabilitation/reconstruction recommendations. We will also provide general earthwork and construction-related recommendations. Specifically, we plan to accomplish the following tasks:

Field Exploration

1. Contact the regional One-Call Utility Notification Center (Digline) to locate public utilities. In addition, we will coordinate with the City to locate private utilities in the vicinity of the exploration locations. STRATA will not be responsible for damage to unmarked utilities. We will record the locations of the explorations in the field using a recreational-grade, handheld GPS device accurate to ± 15 feet (ft).
2. Subcontract traffic control to shift traffic from the travel lane to the parking areas in the center of the roadway to perform coring and boring operations.
3. Obtain five (5) asphalt pavement cores on East Ave. and two (2) cores on Walnut Ave. We will obtain 4-inch diameter pavement cores for section thickness documentation and visual observation. Photographs of the cores will be taken and presented in our report.

4. Subcontract to perform five (5) exploratory borings at three (3) of the core locations on East Ave. and both core locations on Walnut Ave. The proposed borings will be advanced to depths of approximately 5 feet using hollow-stem augers. Soil samples will be obtained throughout the exploratory borings via 2-inch outside diameter split-spoon samplers. Bulk samples of the base, subbase, and subgrade soils will also be obtained from the flights of the augers. We will visually classify and describe the soils encountered in accordance with the *Unified Soil Classification System* (USCS). The borings will be backfilled in accordance with Idaho Department of Water Resources (IDWR) requirements. A single lift of asphalt cold-patch will be placed at the surface of each boring and pavement core to match the existing Hot-Mix Asphalt (HMA) thickness.
5. Perform a pavement condition survey at one exploration location on Walnut Ave and two exploration locations on East Ave. The survey will include measuring limits and severity of pavement distresses over a single lane width for a 100-ft length referencing the Distress Identification Manual for the Long-Term Pavement Performance Program (LTPP).

Laboratory Testing

Laboratory test procedures will be performed in general accordance with applicable ASTM test procedures identified below. “General accordance” indicates that certain local and common descriptive practices and methodologies have been followed. Specific samples will be tested to further define their physical and engineering properties. The anticipated testing program includes:

- Idaho R-Value (Idaho T-8) – 2
- Gradation (ASTM D6913) – 5
- Percent Passing #200 Sieve (ASTM D1140) – 5
- Moisture Contents (ASTM D2216) – 10
- Atterberg Limit Tests (ASTM D4318) – 1

Soil samples will be retained in our laboratory for 60 days after completion of our field evaluation; the samples will then be discarded unless other arrangements are made to store them for a longer period.

Engineering Analysis, Evaluation, and Report

Following our field exploration and laboratory testing, we will review and synthesize the collected data, complete our engineering analysis and develop recommendations related to the following:

- Pavement Evaluation
 - Thickness of asphalt pavement section at each core location
 - Limited qualitative evaluation of asphalt cores with respect to stripping and crack propagation including a photograph of each core
 - Describe conditions of the existing asphalt surface at each core location
 - Pavement condition survey summary
 - Evaluate properties of existing base and subgrade
 - Provide recommendations for mill/inlay alternative with approximate design life
 - Provide recommendations for one alternative for either pavement rehabilitation or full depth reconstruction for 20-year design life
- Earthwork
 - Pavement subgrade preparation
 - Excavation characteristics



- Cold and wet weather construction
- Structural fill criteria, including suitability of onsite subgrade materials
- Required compaction

We will summarize the information obtained from our subsurface field evaluation, laboratory testing, and engineering analysis in a geotechnical engineering pavement evaluation report. The report will include an exploration location plan, boring logs, photographs of the pavement cores, and laboratory test results. We will schedule a call with you to discuss our recommendations prior to submitting the report. The final report will be signed and sealed by an Idaho licensed professional engineer.

SCHEDULE AND FEE

At your request, we have provided our overall fee along with two potential cost savings items for drilling and traffic control as described below:

- Drill Rig Mobilization – We understand that construction for this project will take place in 2023 and there may be flexibility in the design schedule. We are expecting to perform drilling for a separate project on SH-75 in the fall of 2022. If we can schedule this work to coincide with our drilling on SH-75, the drill rig mobilization fee may be deducted from our fee.
- Traffic Control – Our fee includes subcontracting Road Work Ahead to provide traffic control services during our field exploration. Alternatively, the City may provide these services and the traffic control fee may be deducted from our fee.

We anticipate beginning our work within two weeks of your authorization to proceed. The schedule to complete fieldwork will depend on drilling subcontractor availability and the field schedule of the SH-75 project. Our geotechnical engineering evaluation report will be completed within five weeks of completing our field explorations.

We propose to perform the scope of services outlined above for a lump sum fee of **\$19,600**. As noted above, our fee may be reduced by the following cost savings:

Services	Fee Reduction
Drill rig mobilization	\$2,000
Subcontracted traffic control services	\$1,208

If we become aware of conditions that may affect our scope of services or our proposed fee, we will notify you immediately. Our lump sum fee does not include attendance at meetings, revisions to our final report, or other correspondence. Additional evaluation, exploration, testing, or other services outside of those described herein will increase our fee. However, we will not exceed our authorized fee without your prior written approval.

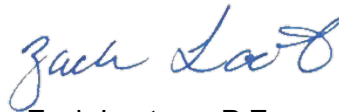
This proposal is valid for a period of 60-days from the date of the proposal.



AUTHORIZATION

We appreciate the opportunity to present this proposal and look forward to working with the City of Ketchum on this project. If we are to proceed with this scope of services as outlined in this proposal, please sign and return a copy of the enclosed *General Conditions for Geotechnical Engineering Services* as our authorization to proceed. We understand that we will have permission to enter onto the site once we are authorized to proceed. If you have any questions, please contact us.

Sincerely,
STRATA, Inc.



Zach Lootens, P.E.
Project Engineer



Paul Wasser, P.E.
Principal Engineer

ZL/DPG/kb

Attachment: General Conditions for Geotechnical Engineering Services



Proposal No./Date:	TFP22103/ July 22, 2022	Client Name:	City of Ketchum
Project Name:	East Avenue and Walnut Avenue	Project Location:	Ketchum, Idaho

STRATA
GENERAL CONDITIONS FOR GEOTECHNICAL ENGINEERING SERVICES

1. DEFINITIONS

- 1.1. Contract Documents.** Plans, specifications, and agreements between Client and Contractors, including addenda, amendments, supplementary instructions, and change orders.
- 1.2. Contractor.** The contractor or contractors retained to construct the Project for which STRATA is providing Services under this Agreement.
- 1.3. Day(s).** Calendar day(s) unless otherwise stated.
- 1.4. Hazardous Materials.** The term Hazardous Materials means 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.
- 1.5. Services.** The Services provided by STRATA as set forth in this Agreement, the SCOPE OF SERVICES and any written amendment to this Agreement.
- 1.6. Work.** The labor, materials, equipment and services required to complete the work described in the Contract Documents.

2. SCOPE OF SERVICES

STRATA will perform the Services set forth in the attached SCOPE OF SERVICES.

- 2.1. Changes in Scope.** If STRATA provides Client with a writing confirming a change in the SCOPE OF SERVICES, it will become an amendment to this Agreement unless Client objects in writing within 5 business days after receipt. All Services performed by STRATA on the Project are subject to the terms and limitations of this Agreement. If Services are performed, but the parties do not reach agreement concerning modifications to the SCOPE OF SERVICES or compensation, then the terms and limitations of this Agreement apply to such Services, except for the payment terms. The parties agree to resolve disputes concerning modifications to scope or compensation pursuant to Section 17, "Disputes."
- 2.2. Licenses.** STRATA will procure and maintain business and professional licenses and registrations necessary to provide its Services.
- 2.3. Excluded Services.** STRATA's Services under this Agreement include only those Services specified in the SCOPE OF SERVICES, OR A WRITTEN AMENDMENT(S) THERETO. STRATA shall have no other responsibility or obligation except as agreed to in writing.
 - 2.3.1. General.** Client expressly waives any claim against STRATA resulting from its failure to perform recommended additional Services that Client has not authorized STRATA to perform, and any claim that STRATA failed to perform services that Client instructs STRATA not to perform.

3. PAYMENTS TO STRATA

- 3.1. Basic Services.** STRATA will perform all Services set forth in the attached SCOPE OF SERVICES AND PRELIMINARY FEE ESTIMATE for the amount(s) set forth therein.
- 3.2. Additional Services.** Any Services performed under this Agreement, except those Services expressly identified in the attached SCOPE OF SERVICES, will be provided on a time and materials basis unless otherwise specifically agreed to in writing by both parties.
- 3.3. Estimate of Fees.** To the best of its ability, STRATA will perform the Services and accomplish the objectives of this Agreement within any written cost estimate provided by it. Client recognizes that changes in scope and schedule, and unforeseen circumstances can all influence the successful completion of Services within the estimated cost. The use of an estimate of fees or of a "not to exceed" limitation is not a guarantee that the Services will be completed for that amount; rather, it indicates that STRATA shall not incur fees and expenses in excess of the estimate or limitation amount without obtaining Client's agreement to do so.
- 3.4. Rates.** Client will pay STRATA at the rates set forth in the PRELIMINARY FEE ESTIMATE.
 - 3.4.1. Changes to Rates.** Client and STRATA agree that the PRELIMINARY FEE ESTIMATE is subject to periodic review and amendment, as appropriate to reflect STRATA's then-current fee structure. STRATA will give Client at least 30 days advance notice of any changes. Unless Client objects in writing to the proposed amended fee structure within 30 days of notification, the amended fee structure will be incorporated into this Agreement and will then supersede any prior fee structure. If Client timely objects to the amended fee structure, and STRATA and Client cannot agree upon a new fee structure within 30 days after notice, STRATA may terminate this Agreement and be compensated as set forth under Section 16, "Termination."
- 3.5. Payment Timing; Late Charge.** All invoices are due upon receipt. All amounts unpaid 30 days after the invoice date will include a late payment charge from the date of the invoice, at the rate of 1-1/2% per month or the highest rate permitted by law. In addition, STRATA may suspend performance of the Services when such failure to pay continues for fifteen (15) days following notice to Client of the same.
- 3.6. Payment Disputes.** If Client objects to any portion of an invoice, Client must so notify STRATA in writing within ten (10) days of the invoice date, identifying in such notice the cause of the disagreement. 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. STANDARD OF PERFORMANCE; DISCLAIMER OF WARRANTIES

- 4.1. Level of Service.** STRATA offers different levels of geotechnical engineering Services to suit the desires and needs of different clients. Although the possibility of error can never be eliminated, more detailed and extensive Services yield more information and reduce the probability of error, but at increased cost. Client must determine the level of Services adequate for its purposes. Client has reviewed the SCOPE OF SERVICES and has determined that it does not need or want a greater level of Services than that being provided.
- 4.2. Standard of Care.** Subject to the limitations inherent in the agreed SCOPE OF SERVICES as to the degree of care, the amount of time and expenses to be incurred, and subject to any other limitations contained in this Agreement, STRATA will perform its Services consistent with that level of care and skill ordinarily exercised by other professional engineers practicing in the same locale and under similar circumstances at the time the Services are performed.
- 4.3. No Warranty.** No warranty, express or implied, is included or intended by this Agreement.
- 4.4. No Fiduciary Duty.** Client agrees that STRATA has been engaged to provide technical professional services only and that STRATA does not owe a fiduciary responsibility to Client or to the project Owner, if different from Client.

5. CLIENT'S RESPONSIBILITIES

In addition to payment for the Services performed under this Agreement, Client agrees to:

- 5.1. Cooperation.** Assist and cooperate with STRATA in any manner necessary and within its ability to facilitate STRATA's performance under this Agreement.
- 5.2. Representative.** Designate a representative with authority to receive all notices and information pertaining to this Agreement, communicate Client's policies and decisions, and assist as necessary in matters pertaining to the Project and this Agreement. Client's representative will be subject to change by written notice.
- 5.3. Rights of Entry.** Provide access to and/or obtain permission for STRATA to enter upon all property, whether or not owned by Client, as required to perform and complete the Services. STRATA will operate with reasonable care to minimize damage to the Project Site(s). However, Client recognizes that STRATA's operations and the use of investigative equipment may unavoidably alter conditions or affect the environment at the existing Project Site(s). The cost of repairing such damage will be borne by Client and is not included in the fee unless otherwise stated.

Proposal No./Date:	TFP22103/ July 22, 2022	Client Name:	City of Ketchum
Project Name:	East Avenue and Walnut Avenue	Project Location:	Ketchum, Idaho

5.4. Relevant Information. Supply STRATA with all information and documents in Client's possession or knowledge which are relevant to STRATA's Services. Client warrants the accuracy of any information supplied by it to STRATA, and acknowledges that STRATA is entitled to rely upon such information without verifying its accuracy. Prior to the commencement of any Services in connection with a specific property, Client will notify STRATA of any known potential or possible health or safety hazard existing on or near the Project Site, with particular reference to Hazardous Materials or conditions.

5.5. Subsurface Structures. Correctly designate on plans to be furnished to STRATA, the location of all subsurface structures, such as pipes, tanks, cables and utilities within the property lines of the Project Site(s), and be responsible for any damage inadvertently caused by STRATA to any such structure or utility not so designated. STRATA is not liable to Client for any losses, damages or claims arising from damage to subterranean structures or utilities that were not correctly shown on plans furnished by Client to STRATA.

6. UNANTICIPATED AND CHANGED CONDITIONS

Actual subsurface conditions may vary from those encountered in the specific locations where STRATA conducts its explorations. STRATA can only base its site data, interpretations and recommendations on information reasonably available to it. Practical limitations on available data will result in some level of uncertainty, and therefore risk, with respect to the interpretation of environmental, geological and geotechnical conditions even when STRATA follows the standard of care. If STRATA discovers conditions or circumstances that it had not contemplated at the commencement of this Agreement ("Changed Conditions"), STRATA will notify Client in writing of the Changed Conditions. Client and STRATA agree that they will then renegotiate in good faith the terms and conditions of this Agreement. If STRATA and Client cannot agree upon amended terms and conditions within 30 days after notice, STRATA may terminate this Agreement and be compensated as set forth in Section 16, "Termination." Underground utilities and other structures that are not properly located on plans and specifications provided to STRATA will be considered a Changed Condition under this clause.

7. HAZARDOUS MATERIALS

Client understands that STRATA's Services under this Agreement are limited to geotechnical engineering and that STRATA has no responsibility to locate, identify, evaluate, treat or otherwise consider or deal with Hazardous Materials. Client is solely responsible for notifying all appropriate federal, state, municipal or other governmental agencies, including the potentially affected public, of the existence of any Hazardous Materials located on or in the Project site, or located during the performance of this Agreement. The existence or discovery of Hazardous Materials constitutes a Changed Condition under this Agreement. Client further agrees to indemnify and hold STRATA harmless from any claims related to Hazardous Materials that may be brought or filed by third parties due to the services provided by STRATA under this Agreement, except to the extent caused by the sole negligence of STRATA.

8. CERTIFICATIONS

Client agrees not to require that STRATA execute any certification with regard to Services performed or Work tested and/or observed under this Agreement unless: 1) STRATA believes that it has performed sufficient Services to provide a sufficient basis to issue the certification; 2) STRATA believes that the Services performed or Work tested and/or observed meet the criteria of the certification; and 3) STRATA has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by STRATA is limited to an expression of professional opinion based upon the Services performed by STRATA, and does not constitute a warranty or guarantee, either expressed or implied. Any such certification in no way relieves the contractor or any other party from meeting requirements imposed by contract or other means, including industry standards. Client further agrees not to make resolution of any dispute with the STRATA or payment of any sums due STRATA in any way contingent on STRATA signing any such certification or similar document.

9. ALLOCATION OF RISK

9.1. Limitations of Remedies. In recognition of the relative risks and benefits of the project to Client and STRATA, the risks are allocated such that Client agrees, to the fullest extent permitted by law, that the total cumulative liability of STRATA, its consultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "STRATA Entities"), to Client arising from Services under this Agreement, including any indemnity obligation, any defense costs and attorney's fees, and any consequential damages which may be due under this Agreement, will not exceed the gross compensation received by STRATA under this Agreement or \$ (50,000) _____, whichever is greater; provided, however, that such liability is further limited as described below. This limitation applies to all lawsuits, claims or actions that allege errors or omissions in STRATA Entities Services, whether alleged to arise in tort, contract, warranty, or other legal theory. Client further agrees to require any contractor or subcontractor who may perform work in connection with any design, report or study by STRATA to include a like indemnity and limitation of remedies clause in favor of STRATA. Client and STRATA agree that this clause was expressly negotiated and agreed upon.

9.2 Indemnification.

9.2.1. Indemnification of Client. Subject to all otherwise applicable statutes of limitations and repose and the provisions and limitations of this Agreement, including section 9.1 above, STRATA agrees to indemnify and hold harmless Client, its shareholders, officers, directors, and employees from and against any and all third party claims, suits, liabilities, damages, expenses, or losses (including reimbursement of reasonable attorney's fees and costs of defense), (collectively "Losses") to the extent caused by STRATA's negligent performance of its Services under this Agreement. With regard to any claim alleging STRATA's negligent performance of professional services, STRATA's defense obligation under this indemnity paragraph means only the reimbursement of reasonable defense costs to the proportionate extent of its actual indemnity obligation hereunder. The indemnity obligations provided under this section shall only apply to the extent such Losses are determined by a court of competent jurisdiction or arbitrator to have been caused by the negligence of STRATA.

9.2.2. Indemnification of STRATA. Client will indemnify and hold harmless STRATA Entities from and against any and all Losses to the extent caused by the negligence or willful misconduct of Client, its employees, agents and contractors. In addition, except to the extent caused by STRATA's sole negligence, Client expressly agrees to indemnify and hold harmless STRATA 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 Material.

9.3 No Personal Liability. Client and STRATA intend that STRATA's services will not subject STRATA's individual employees, officers, or directors to 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 "STRATA" on the first page of this Agreement.

9.4 Deviation from Recommendations. Unless specifically agreed otherwise in writing, Client agrees that STRATA bears no responsibility for ensuring Client's or any other party's compliance with any specifications, procedures, or recommendations provided by STRATA to Client under this Agreement (collectively, "recommendations"). Client hereby releases STRATA from all liability arising from any other party's failure to fully comply with recommendations, and Client will indemnify, and hold harmless STRATA from any party's claims for losses arising from or related to Client's or any other party's failure to fully comply with recommendations.

9.5 Consequential Damages. Neither Client nor STRATA will be liable to the other for any special, consequential, incidental, indirect, punitive 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, business, reputation, financing or inventory, or for use charges, cost of capital, or claims of the other party or its customers. This waiver applies to all such claims and damages, whether based on contract, warranty, tort or any other legal theory.

9.6 Continuing Agreement. The indemnity obligations, limitation of remedies, and consequential damages waiver established under this Agreement will survive the expiration or termination of this Agreement. If STRATA provides additional or different Services to Client that the parties do not confirm through execution of an amendment to this Agreement,



Proposal No./Date:	TFP22103/ July 22, 2022	Client Name:	City of Ketchum
Project Name:	East Avenue and Walnut Avenue	Project Location:	Ketchum, Idaho

the obligations of the parties to indemnify each other, the limitations on liability, and the consequential damages waiver established under this Agreement apply to such Services as if the parties had executed an amendment.

10. INSURANCE

10.1. STRATA's Insurance. STRATA will obtain the following coverages:

10.1.1. Statutory Workers' Compensation/Employer's Liability Insurance;

10.1.2. Commercial General Liability Insurance with a combined single limit of \$1,000,000;

10.1.3. Automobile Liability Insurance, including liability for all owned, hired and non-owned vehicles with minimum limits of \$1,000,000 for bodily injury per person, \$1,000,000 property damage, and \$1,000,000 combined single limit per occurrence; and,

10.1.4. Professional Liability Insurance in amounts of \$1,000,000 per claim and annual aggregate.

10.2. Certificates of Insurance. Upon request, STRATA 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 herein shall contain a waiver of subrogation.

11. OWNERSHIP AND USE OF DOCUMENTS

11.1. Client Documents. All documents provided by Client will remain the property of Client. STRATA will return all such documents to Client upon request, but may retain file copies of such documents.

11.2. STRATA's Documents. Unless otherwise agreed in writing, all documents and information prepared by STRATA or obtained by STRATA from any third party in connection with the performance of Services, including, but not limited to, STRATA's reports, boring logs, maps, field data, field notes, drawings and specifications, laboratory test data and other similar documents (collectively "Documents") are the property of STRATA. STRATA has the right, in its sole discretion, to dispose of or retain the Documents.

11.3. Use of Documents. All Documents prepared by STRATA are solely for use by Client and will not be provided by either party to any other person or entity without STRATA's prior written consent.

11.3.1. *Use by Client.* Client has the right to use the Documents for purposes reasonably connected with the Project for which the Services are provided, including design and licensing requirements of the Project.

11.3.2. *Use by STRATA.* STRATA retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from its Services and the right to use the Documents for any purpose.

11.4. Electronic Media. STRATA may agree at Client's request to provide Documents and information in an electronic format. Client recognizes that Documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration due to (among other causes) transmission, conversion, media degradation, software error, or human alteration. Accordingly, all Documents and information provided by STRATA in electronic media are for informational purposes only and not as final documentation. Accordingly, any reliance thereon is deemed to be unreasonable and unenforceable. The signed and/or stamped hard copies of the Documents are the only true contract documents of record. Unless otherwise defined in the Scope of Services, STRATA's electronic Documents and media will conform to STRATA's standards. STRATA will provide any requested electronic Documents for a 30-day acceptance period, and STRATA will correct any defects reported by Client to STRATA during this period. STRATA makes no warranties, either express or implied, regarding the fitness or suitability of any electronic Documents or media.

11.5. Unauthorized Reuse and Reliance. No party other than Client may rely, and Client will not represent to any other party that it may rely on Documents without STRATA's express prior written consent, receipt of additional compensation by STRATA, and the written agreement of the party seeking reliance to be bound to the same terms and conditions as Client. Client will not permit disclosure, mention, or communication of, or reference to the Documents in any offering circular, securities offering, loan application, real estate sales documentation, or similar promotional material without STRATA's express prior written consent.

Any reuse or modification of the Documents, including Documents in an electronic format, by Client or anyone obtaining them through Client will be at Client's sole risk and without liability to STRATA. Client will indemnify and hold STRATA harmless from all claims, demands, actions, and expenses (including reasonable attorney's fees, expert fees, and other costs of defense) arising out of or in any way related to the reuse or modification of the Documents by Client or anyone obtaining them through Client. Client further releases and agrees to indemnify and hold harmless STRATA from and against any claim, action or proceeding brought by any party claiming to rely upon information or opinions contained in the Documents provided to such person or entity, published, disclosed or referred to without STRATA's prior written consent.

12. SAMPLES AND CUTTINGS

12.1. Sample Retention. If STRATA provides laboratory testing or analytic Services, STRATA will preserve such soil, rock, water, or other samples as it deems necessary for the Project, but no longer than 45 days after issuance of any Documents that include the data obtained from these samples. Client will promptly pay and be responsible for the removal and lawful disposal of all contaminated samples, cuttings, Hazardous Materials, and other hazardous substances.

12.2. Monitoring Wells. Client will take custody of all monitoring wells and probes installed during any investigation by STRATA, and will take any and all necessary steps for the proper maintenance, repair or closure of such wells or probes at Client's expense.

13. ASSIGNMENT AND SUBCONTRACTS

Client and Consultant, respectively, each binds itself and its successors and assigns to the other and its successors and assigns with respect to all covenants of this Agreement. During the term of this Agreement and following its termination for any reason, neither Client nor STRATA shall assign, convey, sublet or transfer any rights under or interest in this Agreement without the prior written consent of the other party, including but not limited to, (a) any interest in the proceeds of this Agreement, or any proceeds of claims arising from or under this Agreement; (b) any rights, claims, or causes of action alleging breach, loss or damages arising from or under this Agreement; (c) the control of claims or causes of action against the other party arising from or under this Agreement; and (d) any proceeds from claims or causes of action as security, collateral or the source of payment for any notes or liabilities to any third party. This section shall not, however, apply to any subrogation rights (if any) of any insurer of either party. This section shall survive the completion or termination of this Agreement for any reason and shall remain enforceable between the parties. Any assignment that fails to comply with this paragraph will be void and of no effect.

14. RELATIONSHIP OF THE PARTIES

STRATA will perform Services under this Agreement as an independent contractor.

15. SUSPENSION AND DELAYS

15.1. Procedures. Client may, at any time by 10 days written notice suspend performance of all or any part of the Services by STRATA. STRATA may terminate this Agreement if Client suspends STRATA's Services for more than 60 days and Client will pay STRATA as set forth under Section 16, "Termination." If Client suspends STRATA's Services, or if Client or others delay STRATA's Services, Client and STRATA agree to equitably adjust: (1) the time for completion of the Services; and (2) STRATA's compensation in accordance with STRATA's then current PRELIMINARY FEE ESTIMATE OF CHARGES for the additional labor, equipment, and other charges associated with maintaining its workforce for Client's benefit during the delay or suspension, or charges incurred by STRATA for demobilization and subsequent remobilization.

15.2. Liability. STRATA is not liable to Client for any failure to perform or delay in performance due to circumstances beyond STRATA's control, including but not limited to pollution, contamination, or release of hazardous substances, strikes, lockouts, riots, wars, fires, flood, explosion, "acts of God," adverse weather conditions, acts of government, labor disputes, delays in transportation or inability to obtain material and equipment in the open market.

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GENERAL CONDITIONS FOR GEOTECHNICAL ENGINEERING SERVICES REVISED MAY 2021

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www.strategeotech.com

Proposal No./Date:	TFP22103/ July 22, 2022	Client Name:	City of Ketchum
Project Name:	East Avenue and Walnut Avenue	Project Location:	Ketchum, Idaho

16. TERMINATION

- 16.1. Termination for Convenience.** STRATA and Client may terminate this Agreement for convenience upon 10 days written notice delivered or mailed to the other party.
- 16.2. Termination for Cause.** In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon 10 days written notice delivered or mailed to the other party. The termination notice shall 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.
- 16.3. Payment on Termination.** Following termination other than for STRATA's material breach of this Agreement, Client will pay STRATA for 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 STRATA's then current PRELIMINARY FEE ESTIMATE.

17. DISPUTES

- 17.1. Mediation.** All disputes between STRATA and Client are subject to mediation. Either party may demand mediation by serving a written notice stating the essential nature of the dispute, amount of time or money claimed, and requiring that the matter be mediated within 90 days of service of notice.
- 17.2. Precondition to Other Action.** No action or suit may be commenced unless the mediation did not occur within 90 days after service of notice; or the 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.
- 17.3. 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. Unless the parties agree otherwise, any mediation or other legal proceeding will occur in the state in which the Project is located.
- 17.4. Statutes of Limitations.** Any claim related to or arising out of this Agreement by either party, whether known or unknown, including but not limited to claims for breach of this Agreement or for the failure to perform in accordance with the applicable standard of care, shall be made within two (2) years from the time the Client knew or should have known of its claim, but in any event, not later than four (4) years after the completion of STRATA's Services on the project.

18. MISCELLANEOUS

- 18.1. Integration and Severability.** This Agreement reflects the entire agreement of the parties with respect to its terms and supersedes all prior agreements, whether written or oral. If any portion of this Agreement is void or voidable, such portion will be deemed stricken and the Agreement reformed to as closely approximate the stricken portions as the law allows, and the remaining provisions of this Agreement shall be valid and binding on both the Client and STRATA.
- 18.2. 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.
- 18.3. 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.
- 18.4. Headings.** The headings used in this Agreement are for convenience only and are not a part of this Agreement.
- 18.5. Waiver.** The waiver of any term, conditions or breach of this Agreement by STRATA or Client will not operate as a subsequent waiver of the same term, condition, or breach.
- 18.6. No Third-Party Rights.** Nothing in this Agreement or as a consequence of any of the Services provided gives any rights or benefits to anyone other than the Client and STRATA. All duties and responsibilities undertaken in this Agreement are for the sole use and exclusive benefit of Client and STRATA, and not for the use or benefit of any other party.
- 18.7. Value Engineering.** Client acknowledges that if it elects to pursue value engineering on the project, it assumes the risk that it could result in reduced functionality or performance of the project, increased maintenance, or other issues. In addition, if the Client requires the incorporation of changes in the construction documents to accommodate value engineering, the Client agrees, to the fullest extent permitted by law, to waive all claims against STRATA and to indemnify and hold harmless STRATA from any damages, liabilities or costs, including reasonable attorneys' fees and costs of defense, which arise in connection with or as a result of the incorporation of such design changes required by the Client. In addition, STRATA shall be compensated for services necessary to incorporate recommended value engineering changes into reports, drawings, specifications, bidding or other documents.
- 18.8. 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 STRATA's services.

STRATA Signature: _____	Printed Name: _____
Title: _____	Date: _____
Client Signature: _____	Printed Name: _____
Title: _____	Date: _____

