



April 8, 2025

Michael Ambrose  
Town Manager  
Town of Landis  
312 S. Main St  
Landis, NC 28088

**Subject: Proposal for Professional GIS Services to Delineate Impervious Areas and Estimate Equivalent Residential Unit (ERU) for the Town of Landis, NC**

Dear Mr. Ambrose,

Gradient, PLLC ("Gradient") is pleased to submit a proposal in response to services requested by the Town of Landis. The background, scope, assumptions, and fees based on our discussion are provided below for your review and approval.

**Background:**

The Town of Landis currently operates on a flat fee structure for the stormwater utility (\$5 for residential and \$10 for commercial), which is anticipated to be raised. The Town uses a current equivalent residential unit (ERU) of 3,250 sf based on Kannapolis, an adjacent municipality. Town has requested Gradient to provide an estimate for delineating the impervious area for residential parcels, generating Town-specific ERU (as an average of residential impervious areas), delineating impervious area of commercial properties to more accurately assess the stormwater fees, and develop ERUs for commercial properties.

**Scope of Services:**

**Task 1: Impervious Area Digitization/Delineation and ERU Estimate for Residential Properties**

- Gradient will first schedule and attend a virtual kickoff meeting with the Town staff.
- Next, Gradient will coordinate with Town Manager's office to obtain impervious area GIS data, orthophotos, and other relevant information from Rowan County. Once the data is received, Gradient will delineate and digitize impervious area for approximately 200 residential parcels located within the Town jurisdiction limits. The impervious delineation will be limited to building footprints, features like driveways and accessory structures such as decks, and sheds will not be delineated.
- Once the new impervious area is established, Gradient will estimate the ERU (as average impervious areas of residential properties). The ERU will be based on building footprints only.
- After this milestone of establishing ERU, Gradient will meet with Town staff to discuss progress and share ERU results.

## **Task 2: Impervious Area Digitization/Delineation and ERU Estimate for Commercial Properties**

- Next, Gradient will delineate and digitize impervious area for approximately 140 commercial parcels located within the Town jurisdiction limits. The impervious delineation for commercial properties will include the building footprint, parking lots, driveways, and accessory structures (deck, sheds etc).
- Once the new commercial impervious area is established, Gradient will export the data to estimate the ERUs based on the newly developed ERUs.

## **Task 3: Project Management and Administration**

This task will include contract execution, project setup, preparation of kickoff meeting, and invoicing.

### **Deliverables:**

- Attend kickoff meeting and one virtual progress meeting.
- Geodatabase with impervious layer for residential and commercial properties in Town limits.
- Brief memorandum summarizing the project findings including ERU calculation.
- Excel file with residential and commercial parcel ERUs based on new impervious area delineation and ERU calculations.
- Monthly invoicing and project administration.

### **Assumptions:**

- Town will assist with obtaining the GIS data from Rowan County.
- For residential impervious area the delineations will be limited to building footprints. For commercial impervious areas, the delineation will include building footprints, driveways, parking lots, and accessory structures.
- While some margin of error is allowable, but anything more than 150 parcels for commercial properties and more than 225 residential parcels will be additional fees.
- No revisions are budgeted under this scope and fees.
- No fees for obtaining County GIS data or from another source is included.

### **Compensation:**

Compensation for engineering services shall be on a lump-sum basis for a total amount of **\$28,750**. Fees will be billed on a monthly basis using a milestone or percent complete method. The estimated fees for each task are provided in the table below.

<b>Task</b>	<b>Task Description</b>	<b>Cost</b>
1	Impervious Area Delineation (residential) and ERU Calculation	\$15,490
2	Impervious Area Delineation (commercial) and ERU Calculation	\$10,920
3	Project Management and Administration	\$2,340
<b>Total:</b>		<b>\$28,750</b>

Additional Services and deliverables that are mutually agreed upon and not included in this scope of work will be provided on a negotiated fee basis.

**Schedule:**

Approximately three (3) months from the notice to proceed:

- Impervious area delineation and digitization- eight (8) weeks from when the GIS layers are received from the County
- ERUs calculation and geodatabase delivery is anticipated one (1) month after completion of impervious area delineation and digitization and virtual meeting with the Town.

This proposal is valid for 15 days from the date of the proposal. If the proposal is not accepted within 15 days, we reserve the right to revise or withdraw the proposal entirely at our discretion. Please confirm your acceptance of this proposal by signing one copy and returning it to our office. Our receipt of the executed copy of this proposal will serve as our Notice to Proceed and contract to perform the work described herein. This Agreement is subject to the Gradient Standard Terms and Conditions which are incorporated herein by reference.

Sincerely,

GRADIENT, PLLC



Sujit A. Ekka, PE, PhD

Cc: C. Heath Wadsworth, PE, Vice President

## AUTHORIZATION TO PROCEED

### Proposal for Professional GIS Services to Delineate Impervious Area and Estimate ERU for the Town of Landis, NC

I/We agree and accept Gradient's proposal to provide the above described services. We understand the Scope of Services as provided herein and agree to the fees estimated for these services. We further acknowledge that Gradient will provide a proposal for any change in the Scope of Services described herein and that a signed agreement to provide those additional services will be executed prior to any work being performed.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Billing and Payment.** Invoices will be submitted by Gradient, PLLC (the "Consultant") to the Client periodically for services performed and expenses incurred in accordance with this Agreement. Payment of each such invoice will be due upon receipt and considered past due if not paid within thirty (30) days of the date of the invoice. Any retainers shall be credited on the final invoice.

**a) Interest.** A service charge will be added to delinquent accounts at 18 percent per annum (1.5 percent per month).

**b) Suspension of Services.** If the Client fails to make any payment due the Consultant for services and expenses within thirty (30) days of the invoice date on the project(s) covered by this agreement or any other project(s) being performed by Consultant for Client, the Consultant may suspend services under this Agreement until it has been paid in full for all past due amounts owed by Client for services and expenses. The Consultant shall have no liability whatsoever to the Client for any costs or damages occurring as a result of such suspension caused by any such breach of this Agreement by Client.

**c) Collection Costs.** In the event legal action is necessary to enforce the payment provisions of this Agreement, the Consultant shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Consultant in connection therewith and, in addition, the reasonable value of the Consultant's time and expenses spent in connection with such collection action, computed at the Consultant's prevailing fee schedule and expense policies.

**d) Termination Of Services.** The failure of the Client to make payment to the Consultant in accordance with the payment terms set forth herein shall constitute a material breach of this Agreement and shall entitle the Consultant, at its option, to terminate the Agreement. Any material breach of this Agreement by the Client shall, at the Consultant's option and in its sole discretion, constitute a breach of and default under any and/or all other agreements between the Client and Consultant.

**Confidentiality.** The Consultant agrees to keep confidential and not to disclose to any person or entity, other than the Consultant's employees, sub-consultants and the general contractor and subcontractors, if appropriate, any data and information not previously known to and generated by the Consultant or furnished to the Consultant and marked CONFIDENTIAL by the Client. These provisions shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the 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 or other authority with proper jurisdiction, or if it is reasonably necessary for the Consultant to defend itself from any suit or claim.

The Client agrees that the technical methods, techniques and pricing information contained in any proposal submitted by the Consultant pertaining to this project or in this Agreement or any addendum thereto, are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of the Consultant.

**Consequential Damages.** Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of the fault or whether it was committed by the Client or the Consultant, their employees, agents, sub-consultants or subcontractors. Consequential damages include, but are not limited to, loss of use and lost profit.

**Non-Contingency.** The Client acknowledges and agrees that the payment for services rendered and expenses incurred by the Consultant pursuant to this Agreement is not subject to any contingency unless the same is expressly set forth in this Agreement. Payments to the Consultant shall not be withheld, postponed or made contingent on the financing, construction, completion or success of the

project or upon receipt by the Client of offsetting reimbursement or credit from other parties causing Additional Services or expenses. No withholdings, deductions or offsets shall be made from the Consultant's compensation for any reason.

#### **Opinions of Cost.**

(a) Because the Consultant has no control over the cost of labor, materials, equipment or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to costs rendered hereunder, including but not limited to opinions as to the costs of construction and materials, are estimates only and shall be made on the basis of its experience and qualifications and represent its best judgment as an experienced and qualified professional Consultant, familiar with the construction industry; but the Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from opinions of probable cost prepared by it and the Consultant shall have no liability whatsoever if the actual cost differs from the Consultants estimate. If at any time the Client wishes greater assurance as to the amount of any cost, Client shall employ an independent cost estimator to make such determination. Consulting services required to bring costs within any limitation established by the Client will be paid for as additional services hereunder by the Client.

**Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, the Consultant shall provide a final statement of charges due and will be paid for all services rendered to the date of termination, all expenses subject to reimbursement hereunder, and other reasonable expenses incurred by the Consultant as a result of such termination. In the event the Consultant's compensation under this Agreement is a fixed fee, upon such termination the amount payable to the Consultant for services rendered will be determined using a proportional amount of the total fee based on a ratio of the amount of the work done, as reasonably determined by the Consultant, to the total amount of work which was to have been performed, less prior partial payments, if any, which have been made.

**Reuse of Documents.** All documents, including but not limited to drawings and specifications, prepared by the Consultant pursuant to this Agreement are related exclusively to the services described herein. They are not intended or represented to be suitable for reuse by the Client or others on extensions of this project or on any other project. Any reuse without written verification or adaptation by the Consultant for specific purposes intended will be at the Client's sole risk and without liability or legal exposure to the Consultant; and the Client releases and shall indemnify and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting there from. Any such verification or adaptation will entitle the Consultant to further compensation at rates to be agreed upon by the Client and the Consultant.

**Liability.** The Consultant is protected by Workmen's Compensation Insurance (and/or employer's liability insurance), professional liability insurance, and by public liability insurance for bodily injury and property damage and will furnish certificates of insurance upon request. The Consultant agrees to compensate the Client for loss, damage, injury or liability arising directly and exclusively from the negligent acts or omissions of the Consultant, its employees, agent, subcontractors and their employees and agents but only to the extent that the same is actually covered and paid under the foregoing policies of insurance. If the Client requires increased insurance

coverage, the Consultant will, if specifically directed by the Client, take out additional insurance, if obtainable, at the Client's expense.

**Limitation of Liability.** In performing its professional services hereunder, the Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality. No other warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services hereunder. THE CLIENT UNDERSTANDS AND AGREES THAT THE CONSULTANT HAS NOT MADE AND IS NOT MAKING ANY PROMISE, WARRANTY OR REPRESENTATION EXCEPT THE WARRANTIES EXPRESSLY MADE HEREIN, AND THE CONSULTANT EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED WARRANTIES. It is agreed that, in accordance with and subject to the provisions of the foregoing paragraph (Liability) and this paragraph, any claim for damages, cost of defense, or expenses which the Client or any third party may assert against the Consultant on account of any and all design defects, errors, omissions, and professional negligence shall be limited to \$50,000 or the amount of Consultant's fee for this project, whichever is greater. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions or for costs related to the failure of the contractor or material men to install work in accordance with the plans and specifications. The limitation of liability to \$50,000 or the amount of Consultant's fee for this project is a specifically bargained-for provision of this agreement, reflected in Consultant's fee. The Consultant shall not be liable for errors in judgment or for any loss or damage, which occurs for any reason beyond the control of the Consultant. No action may be instituted hereunder more than one year after the cause of action accrued or should have been discovered by reasonable diligence. The provisions of this paragraph and the previous paragraph (Liability) shall survive the termination of this Agreement.

**Expenses of Litigation.** In the event litigation in any way related to the services performed hereunder is initiated against the Consultant by the Client, its contractors, or subcontractors, and such litigation concludes with the entry of a final judgment favorable to the Consultant, the Client shall reimburse the Consultant for all of its reasonable attorneys' fees and other expenses related to said litigation. Such expenses shall include, but shall not be limited to, the cost, determined at the Consultant's normal hourly billing rates, of the time devoted to the defense of such litigation by the Consultant's employees.

**Controlling Law.** This Agreement is to be governed by the law of the State of North Carolina. The parties agree that any suit or action related to this Agreement shall be instituted and prosecuted in the courts of the County of Cumberland, State of North Carolina, and each party waives any right or defense relating to such jurisdiction or venue.

**Binding Effect.** This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors and permitted assigns.

**Merger; Amendment.** This Agreement constitutes the entire agreement between the Consultant and the Client with respect to its subject matter, and all negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Consultant and the Client.

**Ownership Of Instruments Of Service.** All reports, plans, specifications, field data, notes and other documents, including all documents on electronic media, prepared by the Consultant as instruments of service shall remain the property of the Consultant. The Consultant shall retain all common law, statutory and other reserved rights, including the copyright thereto.

**Photographs.** Photographs of any completed project embodying the services of the Consultant provided hereunder may be made by the Consultant and shall be considered as its property, and may be used by it for publication.

**Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement, including but not limited to fees that are due or fees that may be due, without the prior written consent of the other party.

**Archiving of Project Documentation.** Consultant shall maintain copies of printed project documentation for a period of three years from substantial completion of Consultant's services. Consultant shall maintain copies of all electronic media related to the project for a period of one year from substantial completion of Consultant's services. Requests for reproduction of project documentation after these periods have expired will be considered additional services and will be invoiced at the Consultant's prevailing hourly rates at the time of the request, plus expenses.

**Betterment.** If, due to the Consultant's error, any required item or component of the project is omitted from the Consultant's construction documents, the Consultant shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise adds value or betterment to the project. In no event will the Consultant be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project.

**Electronic Files.** Because data stored on electronic media can deteriorate undetected or be modified without the Consultant's knowledge, the Client agrees that it will accept responsibility for the completeness, correctness, or readability of any electronic media delivered to the Client after an acceptance period of 30 days after delivery of the electronic files, and that upon the expiration of this acceptance period, Client will release, indemnify and save harmless the Consultant from any and all claims, losses, costs, damages, awards or judgments arising from use of the electronic media files or output generated from them. The Consultant agrees that it is responsible only for the printed and sealed drawings and documents, and if there is a conflict between these printed documents and the electronic media, the sealed documents will govern. Consultant makes no warranties, express or implied, under this agreement or otherwise, in connection with the Consultant's delivery of electronic files.

**Certifications, Guarantees and Warranties.** The Consultant shall not be required to sign any documents, no matter by whom they may be requested, that would result in the Consultant's having to certify, guarantee or warrant the existence of conditions which the Consultant cannot ascertain. The Client also agrees that it has no right to make the resolution of any dispute with the Consultant or the payment of any amounts due to the Consultant in any way contingent upon the Consultant's signing any such certification.

**Corporate Protection.** It is intended by the parties to this Agreement that the Consultant's services in connection with the project shall not subject the Consultant's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, a North Carolina corporation, and not against any of the Consultant's employees, shareholders, officers or directors.

**Extension Of Protection.** The Client agrees to extend any and all liability limitations and indemnification's provided by the Client to the Consultant to those individuals and entities the Consultant retains for performance of the services under this Agreement, including but not limited to the Consultant's officers and employees and their heirs and assigns, as well as the Consultant's sub-consultants and their officers, employees, heirs and assigns.



**Job-Site Safety.** Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and sub-consultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for job-site safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's consultants shall be indemnified and shall be made additional insured under the General Contractor's general liability insurance policy.

**Scope of Services.** Services not set forth as Basic Services or Additional Services and listed in this Agreement are excluded from the scope of the Consultant's services and the Consultant assumes no responsibility to perform such services.

**Severability And Survival.** Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the Client and the Consultant shall survive the completion of the services hereunder and the termination of this Agreement.

**Shop Drawing Review.** If included in the scope of services to be provided, the Consultant shall review and approve Contractor submittals, such as shop drawings, product data, samples and other data, as required by the Consultant, but only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. The Consultant's review shall be conducted with reasonable promptness while allowing sufficient time in the Consultant's judgment to permit adequate review. Review of a specific item shall not indicate that the Consultant has reviewed the entire assembly of which the item is a component. The Consultant shall not be responsible for any deviations from the contract documents not brought to the attention of the Consultant in writing by the Contractor and approved by the Consultant. The Consultant shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

**Specification Of Materials.** The Client understands and agrees that products or building materials, which are permissible under current building codes or ordinances may, at some future date, be banned or limited in use in the construction industry because of presently unknown hazardous characteristics. The Client agrees that if the Client directs the Consultant to specify any product or material, after the Consultant has informed the Client that such product or material may not be suitable or may embody characteristics that are suspected of causing or may cause the product or material to be considered a hazardous substance in the future, the Client waives all claims as a result thereof against the Consultant. The Client further agrees that if any product or material specified for this project by the Consultant shall, at any future date be suspected or discovered to be a health or safety hazard, the Client hereby releases the Consultant from any and all liabilities and waives all claims against the Consultant relating thereto.

**Standard Of Care.** Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same

profession currently practicing under similar circumstances in the same geographic area.

**Suspension Of Services.** If the project is suspended for more than thirty (30) calendar days in the aggregate, the Consultant shall be compensated for services performed and charges incurred prior to such suspension and, upon resumption of services, the Consultant shall be entitled to an equitable adjustment in fees to accommodate the resulting demobilization and re-mobilization costs. In addition, there shall be an equitable adjustment in the project schedule based on the delay caused by the suspension. If the project is suspended for more than ninety (90) calendar days in the aggregate, the Consultant may, at its option, terminate this Agreement upon giving notice in writing to the Client.

**Unauthorized Changes To Documents.** In the event the Client consents to, allows, authorizes or approves of changes to any plans, specifications, construction documents or electronic media, and these changes are not approved in writing by the Consultant, the Client recognizes that such changes and the results thereof are not the responsibility of the Consultant. Therefore, the Client releases the Consultant from any liability arising from the construction, use or result of such changes. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) arising from such changes.

**Compensation for Additional Services.** The undertaking of the Consultant to perform professional services under this Agreement extends only to those services specifically described herein. If upon the request of the Client, the Consultant agrees to perform additional services hereunder, the Client and the Consultant shall negotiate and agree upon an additional fee to be paid to the Consultant for completion of the agreed upon Additional Services. The Consultant will be under no obligation to begin or complete requested Additional Services until the additional fee has been negotiated and agreed upon in writing by the Client and the Consultant.

**Hourly Billing Rates.** All services to be billed on an hourly basis under this agreement will be billed using the Consultant's prevailing billing rate schedule at the time services are provided. If a specific rate schedule is to be used for this Agreement, it shall expire no later than one year from the date of this Agreement and will be replaced with the prevailing rate schedule in effect at that time.

**Priority Over Form Agreements.** The parties agree that the provisions of this Agreement shall control and govern over any Work Orders, Purchase Orders or other documents, which the Client may issue to Consultant in regard to the project(s) which is (are) the subject of this Agreement. The Client may issue such documents to Consultant for its convenience for accounting or other purposes, but any such Orders will not alter the terms of this Agreement, regardless of any contrary language appearing therein.

**Indemnity.** The Client shall and hereby agrees to indemnify and hold harmless the Consultant from and against all losses, costs, damages, expenses and liability of whatever nature, including but not limited to reasonable attorney's fees, litigation and court costs, expert witness fees and expenses, amounts paid in settlement, amounts paid to discharge judgments, penalties, punitive damages, and interest, directly or indirectly resulting from, arising out of or related to one or more Claims, as hereinafter defined. The word "Claims" as used herein shall mean all claims (whether valid or not), lawsuits, causes of action, liens, investigations, administrative proceedings, and other legal actions and proceedings of whatsoever nature that directly or indirectly result from, arise out of or relate to this Agreement, the project which is the subject of this Agreement, and/or any other matter or transaction contemplated hereunder, including without limitation, any failure by the Client to adhere to or comply with any drawing, design, plans, specifications, recommendation or advice given or furnished by the Consultant to the Client; provided however,

that the foregoing shall not apply to any claim resulting primarily from the negligence of the Consultant.

**Paragraph Headings.** The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**Third Parties.** Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity other than the parties to this Agreement and their respective successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any of its provisions.

**Default.** The Client shall be in default under this Agreement if (i) it fails to pay in full any invoice from the Consultant on the due date or fails to make any other payment due to the Consultant under this Agreement, (ii) it fails to observe or perform any other term, condition or covenant under this Agreement, (iii) it breaches any warranty or representation made under this Agreement, (iv) it dissolves, terminates or liquidates its business, or its business fails or its legal existence is terminated or suspended, (v) any voluntary or involuntary bankruptcy, reorganization, insolvency, receivership, or other similar proceeding is commenced by or against the Client, or (vi) it becomes insolvent, makes an assignment for the benefit of creditors, or conveys substantially all of its assets.

**Design Without Construction Phase Services.** If the services to be provided by Consultant hereunder do not include construction observation and/or construction administration services, or if such services are included in Consultants contracted services and Client later decides to perform these services itself or decides to retain other consultants or individuals to perform these services, Consultant assumes no responsibility for interpretations of the Consultant's services or for any construction observation, construction administration and/or supervision performed by Client or other parties and Client waives any and all claims against Consultant for any losses, claims, costs or damages of any kind whatsoever that may be in any way connected thereto.

In addition Client agrees, to the fullest extent permitted by law, to indemnify and hold Consultant harmless from any loss, claim, damage or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of construction observation, construction administration and/or supervision by Client, its employees, agents or consultants, and including any and all claims arising from the modification or adjustment of, or any clarifications or interpretations of, the Consultant's Work by others.

Unless, in the Consultant's sole opinion, appropriate levels of construction observation and construction administration services are contracted for and performed by Consultant, Consultant will not be responsible to provide any Consulting or other certifications related to the construction or installation of any improvements.

**Reliance on Data Provided by Others.** Consultant shall be entitled to reasonably rely on the accuracy of information provided to it by Client or any of Client's other consultants or sub-consultants. Consultant shall not be responsible to extensively review the information provided to insure the accuracy thereof. Client agrees to not hold Consultant responsible for errors or omissions in Consultant's work that are directly attributable to errors or incorrect data provided to Consultant by Client or Client's other consultants. Client further acknowledges that any redesign or corrective efforts required by Consultant resulting from incorrect information provided by Client or Client's other consultants will be paid for by the Client as additional services.

**Consultant Retaining Consultants.** In the event Consultant is required by Client to retain other Consultants to perform necessary services related to the project, the Client agrees to defend, indemnify and hold the Consultant harmless from and against all claims, losses, liabilities and damages arising out of the performance of services by such Consultants. In the event Client suffers any

financial loss or expense resulting from or alleged to result from the performance or the failed performance of any Consultant retained by Consultant, the Client agrees to pursue recovery of and assert any claims based upon its losses, expenses and/or damages solely and directly against those Consultants. The Client agrees to waive any claims, losses, liabilities or damages against Consultant arising out of the performance of such Consultants. In consideration of such indemnity and waiver, the Consultant agrees to assign its rights and/or claims against those Consultants pursuant to the Consultants' agreements with the Consultant to the Owner.

**Credit and Financial Obligations.** Prior to commencement of the work, Consultant may require that Client provide reasonable credit information and other documentation to confirm that the Client has made financial arrangements to fulfill the Client's payment obligations under this Agreement. Consultant may also require such information at any time during the performance of Consultant's services should the Client fail to make payments per this Agreement, a change in the scope materially changes the contract sum, or Consultant identifies in writing a reasonable concern regarding the Client's ability to make payment when payment is due. The Client may be required to furnish this information prior to further commencement or continuation of services by Consultant and Consultant shall not be responsible for the cost of any delay occurring as a result of such a request.

**Markup on Expenses.** Unless specified otherwise in our proposal, all sub consultant costs and other project related costs incurred by Consultant will be billed with a 10% markup. Company vehicle mileage and internal reproduction costs will be billed at the Consultant's prevailing rate for those items. Personal vehicle mileage costs incurred on the project by employees of Consultant will be billed at the prevailing IRS mileage rate in effect at the time of travel.