



CONSULTANTS
· ENVIRONMENTAL
· GEOTECHNICAL
· MATERIALS
· FORENSICS

Ms. Barbara Midgarden Marks
City of Marshall
c/o Engan Associates
311 4th Street SW
Willmar, MN 56201

RE: Proposal for Construction Testing Services
Marshall Municipal Building
Marshall, Minnesota
AET #13-20461

Dear Ms. Midgarden Marks:

Thank you for the opportunity to respond to your request for a proposal to perform engineering observations and testing services on the referenced project. American Engineering Testing, Inc., (AET) is pleased to provide this letter which presents our anticipated scope of services, our unit rates, and an estimated total cost to perform these services.

Geotechnical Information

A geotechnical exploration program and analysis was performed for this project by AET. The results were presented in our Report of Geotechnical Exploration and Review, dated September 3, 2019, (AET #13-20346). It was recommended in the report that the proposed building be supported by spread footings foundations. Reference should be made to the report and letter for more detailed information and recommendations.

Project Information

We understand the proposed construction will consist of remodeling the existing Municipal Building and construct a 16' wide, two-story addition with a basement.

Scope of Services

Based on discussions with you, and our review of the available plans and specifications, our anticipated scope of services is outlined below.

Excavation Observations and Testing

During excavation of the building and parking lots, a Geotechnical Engineer or Engineering Assistant from our firm will make periodic visits to the site to perform the following services:

- Observe the soils exposed in the bottoms of the excavations.
- Perform shallow hand auger borings and hand cone penetrometer probes in the excavations.
- Evaluate the suitability of the soils to support structural loads and pavements.
- Document the elevations at the bottoms of the excavations.
- Document that adequate oversizing of the excavations is provided to support lateral loads from the footings.

During placement of fill in the building excavations, pavement areas, and the utility excavations, an Engineering Technician will visit the site on an intermittent basis to test the fill. The Engineering Technician will perform the following services:

- Compaction tests to evaluate the fill density using the sand cone or the nuclear density method.
- Standard Proctor tests for every different type of fill used.
- Sieve analysis tests of sand fill and Class 5 aggregate base.

Reinforcing Steel Observations

Personnel from AET will observe the reinforcing steel placed in cast-in-place concrete structural elements for the building on a periodic basis, when requested by the Contractor. These observations will be performed by an ICC certified Engineering Technician II. Our services will include the following:

- Review the most recent plans and specifications available at the jobsite.
- Observe that the correct number, size, alignment, and spacing of the bars is provided.
- Observe that the reinforcing steel bars are provided with proper cover from the formwork, ground surface, and future concrete elements.
- Observe that the bars are free of dirt, rust, scale, ice, or other deleterious materials that will reduce adhesion to the concrete.

Any discrepancies or deficiencies that are observed will be brought to the attention of the Contractor and/or their subcontractor.

Daily field reports of our observations will be available to the Contractor. The results of our observations will be provided in a formal report at the completion of our services.

AET does not perform surveying services, therefore, our observations of the reinforcing steel and PT tendons will be based on the positioning of the formwork by the Contractor. We will not be responsible for the exact locations of the formwork or the structural bolts or embedded items.

Concrete Testing

Personnel from AET will perform testing of concrete on an intermittent basis, when requested by the Contractor. These services will be performed by ACI certified Engineering Technicians. On site visits when reinforcing steel is observed, we plan to have the same Engineering Technician also perform testing of the concrete. Our services will include the following:

- Document that the correct mix is delivered to the site by reviewing the delivery slips.
- Test the slump of the concrete.
- Test the air content of the concrete.
- Measure the temperature of the concrete.
- Compare the test results to the requirements of the project specifications.

Any discrepancies from the project specifications will be brought to the attention of the Contractor and/or their subcontractor. Daily field reports of our observations and testing will be available to the Contractor. The results of our observations will be provided in formal reports that are issued periodically.

During placement of the concrete, our Engineering Technicians will also cast test cylinders for compressive strength testing. Project specifications require that one set of cylinders be cast for every 25 cubic yards of each type of concrete placed each day. Each set will consist of five cylinders; one of which will be tested after 7 days and three which will be tested after 28 days. The fifth cylinder will be held in reserve for future testing, if required. AET will also pick up the cylinders from the site and return them to our laboratory for testing. The results of our compressive strength testing will be presented as they become available.

Masonry Observations and Testing

Before construction, testing of the masonry block units is required by the project specifications. This testing will be performed according to ASTM: C90 on one set of 6 block units which are to be delivered to our laboratory. Our services will include the following:

- Dimensional measurements.
- Compressive strength testing.
- Moisture and density testing.
- Absorption testing.
- Unit weight testing.
- Calculation of the percentage of voids.
- Presentation of the test results in a formal report.

During construction, AET personnel will perform intermittent observations of the masonry wall construction, as well as testing of mortar and grout when required. Our observations and testing will be performed by an experienced Engineering Technician II on an intermittent basis, and will include the following services:

- Observe that the proper size units are used, and that the units are clean and sound and dry.
- Observe that the masonry bearing surfaces are clean.
- Observe the placement and alignment of vertical bars and dowels, measure bar sizes and lengths of bar lap splices, and observe the clearance between bars and clearance from masonry units.
- Observe the horizontal joint reinforcement, the placement and alignment of reinforcing bars and dowels, measure bar sizes and lengths of bar lap splices, and observe the clearance between bars and clearance masonry units.
- Observe the general construction practices, including compliance with proper cold or hot weather protection as required by the project specifications.

Any discrepancies from the project specifications will be brought to the attention of the Contractor and/or their subcontractor. Daily field reports of our observations and testing will be available to the Contractor.

While at the site the Engineering Technician will also sample the mortar and grout. The grout "prism" specimens will be cast for compressive strength testing according to ICC guidelines. These specimens will have dimensions of about 3" by 3" by 6". One set of three grout "prisms" will be cast during each trip to the site if grout is being placed. One of the "prisms" will be tested for compressive strength after 7 days and one will be tested after 28 days. The third specimen will be held for future testing, if required.

AET personnel will cast 2" by 4" test cylinders of the mortar being used. Each set will consist of three cylinders. One cylinder will be tested after 7 days, and one will be tested after 28 days. The third cylinder will be held for future testing, if required.

The results of our masonry observations and testing will be presented in final reports as they become available.

Observations of Welded and Bolted Connections

During erection of the structural steel frame, steel joists, and metal decking, AET will provide an ASNT certified Level II NDT Technician to perform periodic observations of the welded and bolted connections. These services will include the following:

- Observe bolted connections for compliance with Section 9a of the "Specification for Structural Joints using ASTM: A325 or ASTM: A490 Bolts" approved by the Research Council on Structural Connections.
- Observe welded connections for compliance with the requirements of Section 6 (steel frame) of the AWS "Structural Welding Code" D1.1 - 2010. Fillet welds will be visually observed for suitability. Full or partial penetration welds will be tested by ultrasonic or magnetic particle methods. Any nondestructive tests will be performed by ASNT Level II certified technicians.
- Observe roof deck welds and lap screw placement of the sheet steel roof decking for general compliance with the requirements of AWS D1.3 – 2008.

Any deficiencies or deviations which are observed will be reported to personnel from the Contractor and/or their subcontractor. The results of our observations will be presented in a written report at the completion of the work.

Estimated Fees

Our services will be provided on a unit cost basis according to the unit rates provided in the attached Fee Schedule tabulation. Our monthly invoices will be determined by multiplying the number of personnel hours or tests by their respective unit rates. We have also estimated a total cost which we anticipate will be required to complete the previously described observations and testing services, are based on our past experience with similar projects. Our estimated total cost will be \$11,995.00. We refer you to the attached Fee Schedule tabulation for an itemization of how we arrived at this estimated cost.

We caution that this is only an estimated cost. Often, variations in the overall cost of the services occur due to reasons beyond our control, such as weather delays, changes in the contractor's schedule, unforeseen conditions or retesting of services. These variations will affect the actual invoice totals, either increasing or decreasing our total costs for the project from those estimated in this proposal. If more time or tests are required, additional fees may be needed to complete the project testing services. If less time or tests are needed, a cost savings will be realized. We will not, however, exceed the estimated total cost for the project without first obtaining your authorization.

Terms and Conditions

All AET Services are provided subject to the Terms and Conditions set forth in the enclosed Master Service Agreement.

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.

General Remarks

If you have any questions regarding this proposal, or if we can be of further assistance, please call me at (507) 532-0771.

Sincerely,



Tom James
Manager – Marshall
Phone: (507) 532-0771
Fax: (651) 659-1379
tjames@amengtest.com

Attachments:
Fee Schedule Tabulation
Master Service Agreement

CC: Sharon Hanson and Glenn Olson, City of Marshall

PROPOSAL ACCEPTED BY:

Signature: _____

Typed Name: _____

Company: _____

Date:

**FEE SCHEDULE
PROJECT TESTING SERVICES
MARSHALL MUNICIPAL BUILDING
MARSHALL, MINNESOTA
AET PROPOSAL No. 13-20461**



| SERVICE DESCRIPTION | PROJECT BUDGET | | |
|--|-----------------|-----------|--------------------|
| | ESTIMATED UNITS | UNIT RATE | BUDGET AMOUNT |
| <i>Excavation Observations and Compaction Testing</i> | | | |
| 1. Project Manager/Engineering Assistant | 5 hours | \$119.00 | \$595.00 |
| 2. Excavation observation (soil bearing) | 5 hours | \$74.00 | \$370.00 |
| 3. Soil compaction tests (nuclear density gauge). | 20 tests | \$30.00 | \$600.00 |
| 4. Standard Proctor tests (Methods A or B). | 2 tests | \$135.00 | \$270.00 |
| 5. Sieve tests of granular fill and Class 5 aggregate base. | 2 tests | \$105.00 | \$210.00 |
| <i>Reinforcing Steel Observations and Concrete Testing</i> | | | |
| 1. Engineering Technician II for observations of reinforcing steel and testing of concrete | 50 hours | \$74.00 | \$3,700.00 |
| 2. Curing, handling and compressive strength testing of 4" x 8" or 6" x 12" concrete test cylinders | 100 cyls. | \$25.00 | \$2,500.00 |
| 3. Hold Cylinder | 25 cyls. | \$22.00 | \$550.00 |
| 4. Cylinder mold | 125 each | \$3.00 | \$375.00 |
| <i>Masonry Testing</i> | | | |
| 1. Grout compression test | 8 each | \$25.00 | \$200.00 |
| 2. Mortar compression test | 6 cyls. | \$25.00 | \$150.00 |
| 3. Block (1 set of 6) | 1 each | \$255.00 | \$255.00 |
| 4. Engineering Technician II | 10 hours | \$74.00 | \$740.00 |
| <i>Welded & Bolted Connection Observations</i> | | | |
| 1. Engineering Technician for observations of field welded and bolted connections, consultation and report preparation | 20 hours | \$74.00 | \$1,480.00 |
| ESTIMATED BUDGET | | | \$11,995.00 |
| *Cost estimate may not include some required special inspections, such as fire proofing and fire stopping | | | |

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
The CITY OF MARSHALL and AMERICAN ENGINEERING TESTING, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the City of Marshall, Minnesota ("CLIENT") and American Engineering Testing, Inc., St. Paul, Minnesota ("AET").

TERM

This Agreement will become effective upon signature of both CLIENT and AET. Unless terminated earlier in accordance with Section IV.C, this Agreement will terminate on December 31, 2020, but may be extended for additional one-year terms upon mutual agreement by CLIENT and AET.

RECITALS

- A. CLIENT has need from time to time for various services offered by AET, including environmental services, geotechnical engineering, subsurface exploration, materials engineering, testing, forensic services and laboratory services ("Services").
- B. CLIENT and AET mutually desire to enter into this Agreement, setting forth the standard terms and conditions pursuant to which AET will perform Services for CLIENT, upon request of the CLIENT.

NOW THEREFORE in consideration of the foregoing, and the covenants contained herein, CLIENT and AET hereby mutually agree as follows:

SECTION I - SERVICES TO BE PERFORMED BY AET

A. Basic Services

1. When CLIENT requests Services for a specific project ("Project"), AET will issue a letter proposal ("Letter Proposal") setting forth additional terms and conditions for such Project pursuant to which AET will perform the Services, including but not limited to the scope of Services, estimated fees, project schedule and additional or alternate payment provisions. The Letter Proposal, the terms and conditions set forth in this Agreement and any appendices attached hereto shall comprise the complete Agreement between AET and CLIENT for Services for a Project and are binding upon the CLIENT, its successors, assignees, joint venturers and third-party beneficiaries.
2. Billing rates and invoicing for the Services will be in accordance with Section III of this Agreement—Payment to AET.
3. AET requests written acceptance of the Letter Proposal(s), but the following actions shall also constitute CLIENT's acceptance of the Letter Proposal for a Project: 1) issuing an authorizing purchase order 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.
4. The scope of Services may include, but shall not be limited to environmental services, geotechnical engineering, subsurface exploration, materials engineering, testing, forensics, and laboratory services.
5. AET shall perform its Services as an independent contractor. Except where otherwise provided in this Agreement, AET shall be responsible for the means and methods used in performing Services under this Agreement, and is not in a joint-venture with CLIENT. CLIENT or its designated representative shall coordinate AET's Services and shall facilitate the exchange of information among AET and the independent professional associates and consultants engaged by CLIENT.
6. AET will perform Services consistent with the level of care and skill normally performed by other firms in its profession at the time of the Services and in the same geographic area, under similar budgetary constraints.
7. AET shall request and obtain from CLIENT the data and information considered important for the performance of AET's Services. Documents prepared by AET and the Services will conform to applicable Federal, State, and

local laws, rules, regulations, ordinances, codes, orders, and other legal requirements. AET's communications to or with CLIENT's other independent professional associates and consultants will be through or with the knowledge of CLIENT.

8. AET will inform CLIENT when AET is unable to perform exploration Services in the event private underground improvements cannot be located. CLIENT agrees that in such case, CLIENT, at its sole expense, will locate private underground improvements or arrange for location of such improvements, including arranging for hand excavation (potholing) for openings to substantiate utility locations. CLIENT releases and holds AET harmless from all liability for damages, costs, repairs or injury to person or property due to contact with non-located improvements (collectively, "Claims"). Further, CLIENT agrees, as a condition of requesting AET to perform exploration Services in such case, to execute a written waiver in form satisfactory to AET in its discretion, of all liability for such Claims.
9. AET shall contact State notification centers, where available, or individual utility owners where a State notification center is not available, to request location of public underground utilities.
10. AET shall locate borings, excavations, or other penetrations such that they maintain a safe distance from known and marked underground improvements.
11. CLIENT acknowledges that, in the normal course of fieldwork, some damage to the site may occur. AET shall take reasonable precautions to minimize such damage and shall patch bore holes placed through pavement or slab areas after performance of borings. Except for the foregoing, restoration of the site shall be the responsibility of CLIENT.
12. To the extent required by law, AET shall report to CLIENT any contamination detected or of which AET becomes aware during the course of providing Services on a Project. Discovery of actual or suspected hazardous materials shall entitle AET to take immediate measures it deems necessary in its sole discretion, including regulatory notification, to protect human health and safety, and/or the environment. Further, discovery of such materials constitutes a changed condition for which CLIENT agrees to pay associated additional costs and/or which entitle AET to terminate Services on the Project.
13. Known or suspected hazardous material samples obtained by AET shall remain the property of CLIENT. AET reserves the right to return such samples to CLIENT.
14. AET shall only be responsible for safety of AET employees at the site.

B. Additional Services

Any additional Services requested by CLIENT for a Project shall be subject to the terms and conditions of this Agreement. A supplemental Letter Proposal may set forth the nature of the additional Services to be performed, the schedule, if appropriate, in which the Services must be completed, any variance in the amount or terms for payment for the Services from such amounts or terms set forth in an initial Letter Proposal and such other terms and conditions and appendices upon which the parties may mutually agree.

SECTION II - CLIENT'S RESPONSIBILITIES

A. CLIENT shall:

1. Make available to AET drawings, specifications, schedules, and other information, interpretation, and data which were prepared for or by CLIENT, or its consultants, and which CLIENT and AET consider pertinent to AET's responsibilities hereunder, all of which AET may rely upon in performing Services hereunder except as may be specifically provided in writing.
2. Provide AET information known by CLIENT concerning possible site contamination.
3. Make arrangements for safe and legal access to and make necessary provisions for AET to enter upon public and private property as required for AET to perform Services under this Agreement.

4. Give prompt written notice to AET whenever CLIENT observes or otherwise becomes aware of any development that in CLIENT's determination may affect the scope or timing of AET Services or any defect or non-conformance in the work of AET that may in CLIENT's determination affect the Project.
5. Advise AET of the identity of other independent professional associates or consultants participating in the design or construction administration of this part of the Project and the scope of such third party services.
6. Be responsible for the safety of CLIENT's employees at the work site.

SECTION III - PAYMENT TO AET

A. General (Annual Fee Schedule)

Except as described in Paragraph B of this Section III, CLIENT shall compensate AET for all Services at rates set forth in the Fee Schedule attached as Exhibit A to this Agreement. AET shall submit an updated Fee Schedule for approval by CLIENT on an annual basis for the subsequent calendar year (January to December).

B. Specific Projects

Any variance from AET's current Fee Schedule or terms of payment shall be as set forth in the Letter Proposal attached hereto or any additional or supplemental Letter Proposal issued by AET and accepted by CLIENT.

C. General

1. If CLIENT disputes any matter or information contained in an AET invoice for the Services, CLIENT shall so notify AET within fifteen (15) days of receipt of the AET invoice. If CLIENT fails to notify AET of any dispute to an invoice within fifteen (15) days, invoices will be deemed accepted by CLIENT, and no longer subject to dispute.
2. Invoices for Services will be processed and payments made by CLIENT to AET within thirty (30) days of the date of receipt of invoice.
3. Service charges for unpaid invoices shall be imposed at the rate of 1.5% per month or the highest rate permissible by law, whichever is less.
4. CLIENT shall indemnify and hold AET harmless for all costs of collection of unpaid invoices, including reasonable attorneys' fees.

SECTION IV - GENERAL CONSIDERATIONS

A. Personnel and Timing

1. AET has, or will secure, qualified personnel, equipment, and facilities to complete the Services it agrees to provide pursuant to this Agreement.
2. No Services will commence until written notice to proceed is given to AET by CLIENT.
3. The Services shall be commenced and carried out in accordance with a schedule which AET and CLIENT shall agree upon. The time and compensation within which AET shall perform its services shall be extended and/or adjusted for delays caused by acts of God or other circumstances beyond the control of AET.

B. Project and Agreement Changes

The terms of this Agreement or a Letter Proposal may be changed only by the written mutual consent of CLIENT and AET.

C. Termination

Either CLIENT or AET may terminate this Agreement without cause by giving thirty (30) days' prior written notice to the other party of such termination and specifying the effective date of termination. In such event, copies of documents, data, reports, work papers, studies, drawings, maps, models, and photographs prepared by AET shall become the property of CLIENT. AET retains the right to maintain a complete file in its archiving system. This Agreement may be terminated by either party for material breach, including without limitation, failure by CLIENT to pay invoices, upon seven (7) days written notice to the other party. Regardless of the reasons for termination or the party electing termination, CLIENT shall pay AET for all work performed pursuant to this Agreement and any

Letter Proposals prior to the effective date of termination and for costs incurred as a result of any early termination, including demobilization and reporting costs to complete the file. CLIENT's use of AET's work for any purpose other than that set forth in a Letter Proposal shall be unauthorized by AET, at CLIENT's sole risk and shall constitute CLIENT's waiver of any obligation by AET to indemnify CLIENT pursuant to Section IV, paragraph H, following.

D. Records

1. Fiscal records of AET pertinent to AET's compensation and payments under this Agreement will be kept in accordance with standard accounting practices.
2. AET shall maintain all original records (fiscal and other) and design calculations on file in legible form for a period of not less than two (2) years.
3. AET's records and design calculations will be available at AET's office at reasonable business hours upon reasonable notification for examination and audit if required.

E. Insurance

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

2. AET maintains the following insurance coverage and limits of liability:

| | |
|---|--|
| 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 Liability Insurance | \$1,000,000 per claim \$1,000,000 aggregate |

3. Commercial General Liability insurance will include coverage for Products/Completed Operations extending one (1) year after final acceptance of the Project by Owner, Property Damage including Completed Operations, Personal Injury, and Contractual Liability Insurance applicable to AET's Indemnity obligations under this Agreement.
4. Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.
5. Professional Liability Insurance is written on a claims-made basis and coverage will be maintained for one (1) year after final acceptance of the Project by Owner. Renewal policies during this period shall maintain the same retroactive date.
6. To the extent permitted by applicable state law, and only upon CLIENT's signing of the Letter Proposal and return of the same to AET, CLIENT and Owner shall be named an "additional insured" on AET's Commercial General Liability Policy (Form CG D4 14 04 08, which includes blanket coverage for Products/Completed Operations and on a Primary and Non-Contributory basis). Any other endorsement, coverage or policy requirement may result in additional charges.
7. AET will maintain in effect all insurance coverage required by this Service 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.

8. AET reserves the right to charge CLIENT for AET's costs for additional coverage requirements unknown on the date of the Letter Proposal.

F. Mediation

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, (including costs of collection and reasonable attorneys' fees) 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.
2. Unless CLIENT and AET mutually agreed otherwise, mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. The mediator shall be acceptable to both parties and shall have experience in construction matters.
3. The parties shall share the mediator's fee and any filing fees equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

G. Limitation of Liability

In order to offer AET's Services at a reasonable price, AET limits its liability to CLIENT and anyone claiming through CLIENT for any claims resulting from Services provided pursuant to this Agreement. CLIENT agrees that in no event shall AET or its agents or employees be liable to CLIENT, any holder of any real property interest in the real property on which the project is located, or anyone claiming through CLIENT, for (1) incidental, indirect, special or consequential damages, or (2) any damages whatsoever resulting from personal injury, death, damage to or loss of use of property, or loss of profits, resulting from the performance of or non-performance of the Services, negligent acts, errors or omissions, even if the possibility of such damage was foreseeable. CLIENT agrees that the total liability of AET and its agents and employees hereunder is limited solely to CLIENT's direct damages and in no event shall it exceed the amount of the stated insurance limits listed in Section E – Insurance.

H. Indemnification

1. AET agrees to indemnify CLIENT from and against liability resulting from AET's negligent performance of the Services, subject to any limitations, other indemnifications or other provisions CLIENT and AET have agreed to in writing.
2. CLIENT agrees to indemnify AET from and against liability resulting from CLIENT's, CLIENT's Contractors/Subcontractors or other third parties' negligent conduct, including without limitation the owner of any interest in the real property on which the Project is located, subject to any limitations, other indemnifications or other provisions CLIENT and AET have agreed to in writing.
3. AET's indemnification is limited to costs for loss or damage caused by its failure to meet the standard of care and only to the extent of its negligence.
4. AET will not accept any obligation to defend CLIENT other than to meet the standard of care. If a court of competent jurisdiction rules that defense is implied or if required by law, AET's obligation for the cost of defense is only to the extent due to AET's negligent acts, errors or omissions.

I. Unionization

AET represents that its employees and personnel providing Services under this Agreement are non-union personnel and that the fees to be charged for the Services are calculated accordingly. In the event that AET is required to provide unionized personnel for performance of the Services, AET reserves the right to charge an appropriate fee increase or to terminate this Service Agreement on three (3) days written notice to CLIENT and CLIENT agrees that AET shall not be liable for any penalties or costs charged or incurred by CLIENT, and CLIENT's successors, assignees, joint-venturers, contractors and subcontractors, or any other parties involved with the Project for claims, liabilities, damages or consequential damages directly or indirectly related to AET's fee increase, termination of the Service Agreement or failure to perform the Services. This reservation of right on the part of AET represents only a reflection of additional costs anticipated to be incurred by AET in connection with assigning unionized personnel to the Project and shall not be considered either approval nor disapproval of unions in general or the use of collective bargaining agreements.

J. 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.

K. Severability

Any provisions of this Service Agreement later held to violate a law or regulation shall be deemed of no force and effect, and all remaining provisions shall continue in force; provided, 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.

L. Governing Law

This Agreement, the Letter Proposal(s) and any appendices or amendments to either shall be construed, and the rights of the parties shall be determined, in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, this Agreement is herewith executed effective the date and year first above written by the undersigned, who are authorized representatives of Client and AET.

CLIENT:

American Engineering Testing, Inc.

By: 

By: 

Type or Printed Name: Robert J. Byrnes

Phillip Chvialkowski

Title: Mayor

Contract Manager

Date Signed: 12-12-17

Date Signed: 11/21/17

Address and Phone:

344 W. Main St.
Marshall, MN 56258
507-537-6775

American Engineering Testing, Inc.

550 Cleveland Avenue North
St. Paul, MN 55114
Telephone: 651.659.1330