



Building a Better World
for All of Us®

February 17, 2020

RE: City of La Crosse
River Point District
SEH No. WIRRN 148437 45.00

Jason Gilman
Director of Planning, Development and Assessment
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

We recommend completing a geotechnical exploration of the River Point District Site. To this end, we sent the attached request for proposals to geotechnical engineering firms.

We received four (4) proposals which are attached and summarized below:

- Chosen Valley Testing (Onalaska, WI) – \$7,635 (estimated).
- Intertek Professional Service Industries (Chippewa Falls, WI) – \$8,585 (lump sum).
- American Engineering Testing (Chippewa Falls, WI) – informal \$10,500 (estimated).
- Braun Intertec (La Crosse, WI) - \$13,650 (lump sum).

It is our opinion that all of these firms can perform capably for the City of La Crosse.

Please review the proposals, select one and return their executed contract to me. We told proposers that authorization could be expected by February 28, 2020 and that work would need to be done within 6 weeks thereafter.

Sincerely,
SHORT ELLIOTT HENDRICKSON INC.

David Schofield, PE
Sr. Professional Engineer

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Request for Proposals



Building a Better World
for All of Us®

February 3, 2020

RE: City of La Crosse
River Point District
SEH No. WIRRN 148437 45.00

To Whom It May Concern:

I am requesting on behalf of the City of La Crosse a proposal for the geotechnical exploration and report as described herein. The work will consist of the following:

1. Coordinate utility locates and adjust preliminary locations (marked by SEH) to avoid conflicts.
2. Complete a total of fifteen (15) soil borings to a depth of 20-feet (or refusal). See attached map.
3. All borings will require the use of an off-road drill rig.
4. Two borings (B-9 and B-12) will require clearing & grubbing.
5. Sampling and testing sufficient to make recommendations outlined below.
6. Abandonment of all bore holes in accordance with all applicable laws.
7. Prepare report certified and stamped by a Wisconsin PE summarizing the drilling, sampling and testing, and providing recommendations regarding: excavation, backfill & compaction, groundwater levels, utility construction utilizing trenching and backfilling (ie. open cut) and, for B-12, B-13, B-14 and B-15 only, recommendations for design infiltration rate.
8. Submit electronic copy of the signed and sealed report in .pdf format.

If you are interested in this work, **please submit your proposal by e-mail to dschofield@sehinc.com**, but address it to:

Jason Gilman
Director of Planning, Development and Assessment
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

Anticipated Schedule:

- Proposals are due no later than February 14, 2020 to David Schofield at the above e-mail.
- We will review proposals with the City on February 20, 2020.
- Authorization to Proceed is anticipated to be issued on or before February 28, 2020.
- Report shall be submitted no later than six weeks after the Authorization to Proceed.
- Direct all questions to David Schofield at 715.720.6211 or dschofield@sehinc.com.

Sincerely,
SHORT ELLIOTT HENDRICKSON INC.

David Schofield, PE
Sr. Professional Engineer

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Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 10 North Bridge Street, Chippewa Falls, WI 54729-2550
SEH is 100% employee-owned | **sehinc.com** | 715.720.6200 | 800.472.5881 | 888.908.8166 fax

Chosen Valley Testing Proposal

Chosen Valley Testing, Inc.

1019 Second Avenue SW, Onalaska, WI 54650 Phone (608) 782-5505 Fax (608) 785-2818 Email lacrosse@cvtesting.com

Mr. Jason Gilman
Director of Planning, Development and Assessment
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601
C/O: Mr. David Schofield, PE
Sr. Professional Engineer
Short Elliot Hendrickson, INC
dschofield@sehinc.com

February 14, 2020

Re: **Proposal for Design Phase Geotechnical Evaluation
Proposed Roadway, Utilities, and Stormwater Areas
River Point District
Copeland Ave.
La Crosse, Wisconsin
SEH No. WIRRN 148437 45.00d**

Dear Mr. Gilman:

As requested, we have prepared this proposal for geotechnical services for the proposed River Point District on Copeland Ave. in La Crosse, Wisconsin. This proposal summarizes our understanding of the tasks and provides costs for completing our services.

Scope

Depths and Locations: A total of fifteen (15) borings are requested including eleven in roadway areas and four for a stormwater analysis. The borings are requested to be drilled to a depth of 20 feet. CVT intends to drill to the requested depths or until auger refusal, whichever occurs first. The drilling would be performed in accordance with Standard Penetration Test methods as specified within the American Society for Testing and Materials designation D-1586 and D-1587. Samples for the roadway borings will be taken at 2½ to 5-foot intervals while the stormwater borings would be sampled continuously. Water levels will be recorded if encountered during the exploration. The borings would be sealed in accordance with Wisconsin regulations.

Laboratory Testing: We have included costs for pocket penetrometer and moisture content tests to be performed on cohesive samples. We have included costs for 4 gradation tests for aid in stormwater analysis. CVT would contact you for authorization of additional laboratory testing if conditions are suspected, such as organic or expansive soils, which may warrant further tests.

Logging and Reports: A geotechnical engineering report will be provided for the project. The report will summarize the results of the borings and provide our opinions and recommendations the various geotechnical aspects of the project as requested in the RFP dated 2/3/2020 including asphalt and concrete pavement design parameters and recommendations, utility construction utilizing trenching and backfilling (ie. open cut), and preliminary field verification of suitability for water infiltration information in the form of SBD 10793, etc. An electronic copy of the report will be provided and up to three hard copies can be mailed upon request.

General

Access and Schedule: The proposed boring locations are understood to be located in a generally grassy and lightly wooded around the perimeter of the lot. Therefore, we propose to use a CME 550 Floatation Tire Drill Rig to access and drill the site. This is included in our cost. We understand that SEH, Inc. will be responsible for staking and surveying the boring locations. We have assumed that the borings near any existing utilities, structures, and on extreme slopes could be offset. We have included costs for a combined site visit and utility meet to determine the final accessibility of the site. We have already visited the site for an initial assessment, some brush clearing and light tree removal for accessibility is likely necessary and understood to be included in the scope. We have included up to four hours of site clearing within our costs.

Prior to drilling, we would contact Digger's Hotline to schedule a utility meet to have public utilities marked on site. Any private utilities on site will be the Owner's responsibility for locating prior to our exploration. Otherwise, CVT could subcontract a private locator for a separate additional cost.

It has been indicated that the work must be completed and report delivered within six weeks of authorization. Our current schedule would allow us to initiate drilling services and complete the report within that time period. Based on our current schedule, services could be initiated immediately upon authorization and drill as early as within about 3 weeks of authorization, subject to utility locate requirements, weather, and any other unforeseen conditions that may cause delay. The exploration is expected to be completed in two days. The laboratory testing and report typically require an additional 1 week. CVT should be contacted if a specific schedule or deadlines are desired to be met, so that we may try to accommodate.

Insurance: Our firm carries the normal types of insurances expected to conduct business in our field, at or above the minimums required by law. Certificates of insurance are available on request and can be provided to the client prior to commencement of services.

Costs

We will perform the work in accordance with the unit rates on the cost estimate table on the following page. The total cost for the project is estimated to be \$7,635. We will only charge for the services performed. If additional borings/days are required, the added services would be billed according to the unit rates provided. Private locator, if needed, would also be an extra, and those costs would have to be solicited to obtain a firm estimate from vendors. Standby time for the drill crew is \$150 per hour. The client would be contacted for authorization if conditions are encountered that would warrant additional drilling footage or would require standby time for the drill crew.

Item Description	Quantity	Unit Cost	Cost
Field Services			
Project Management, Utility Clearance, per hour	8	\$50.00	\$400.00
Site Clearing for Access, per hour	4	\$150.00	\$600.00
Trip Charge, per trip	2	\$25.00	\$50.00
Drilling Services			
Drill Rig & Support Vehicle, per day	2	\$400.00	\$800.00
Per Diem, per day	1	\$200.00	\$200.00
Drilling, Sampling, and Sealing, 20' or refusal, per boring	11	\$275.00	\$3,025.00
Drilling, Continuous Sampling, and Sealing, 20' or refusal, per boring	4	\$260.00	\$1,040.00
Additional Drill and Sampling, per foot	0	\$10.00	\$0.00
Additional Borehole abandonment, per foot	0	\$3.00	\$0.00
Laboratory Testing			
Fine Gradation with 270 wash	4	\$80.00	\$320.00
Organic Content, per test	0	\$30.00	\$0.00
Geotechnical Report			
WI DNR Stormwater Forms, per hour	2	\$100.00	\$200.00
Analysis & Report, lump sum	1	\$1,000.00	\$1,000.00
Total Cost for Base Proposal:			\$7,635.00

An invoice will be mailed after the drilling services are completed. Payment for services is expected within 30 days. Interest will be added to invoices over 30 days.

Remarks

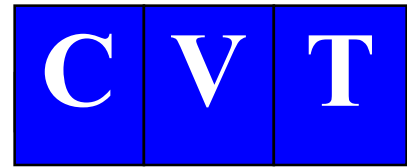
We appreciate the opportunity to propose professional services to you. If you have any questions about our proposal or the arrangements described, please call us at (507) 281-0968.

Sincerely,
Chosen Valley Testing, Inc.



Frederick Schuster, PE
Geotechnical Engineer

Authorization to Proceed



Project: Proposed Roadway, Utilities, and Stormwater Areas
River Point District
Copeland Ave.
La Crosse, Wisconsin
SEH No. WIRRN 148437 45.00d

Proposal for Design Phase Geotechnical Evaluation

Prepared by: Chosen Valley Testing, Inc.

CVT Number: 16290.20.WIL

Commencement of the above Project or Work Package, as outlined in the attached proposal document from Chosen Valley Testing, Inc., is hereby authorized.

Authorizing Person(s) :

Signed _____

Name / Title _____

Date _____

Interek Professional Service Industries Proposal



Professional Service Industries, Inc.
12839 30th Avenue, Chippewa Falls, WI 54729
Phone: (715) 738-2770
Fax: (715) 738-2771

February 5, 2020

Mr. Jason Gilman
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

RE: Proposal for Subsurface Exploration and Evaluation
Proposed River Point District Development
La Crosse, Wisconsin
PSI Proposal Number: 302008

Dear Mr. Gilman:

In accordance with your request, Professional Service Industries, Inc. (PSI), is pleased to submit this proposal for the performance of a Subsurface Exploration and Evaluation at the subject property. Our present understanding of the site and the services to be provided are included in the following paragraphs.

BACKGROUND

It is understood that the proposed project will consist of roads, utilities and stormwater management areas for a mixed-use development that will be located to the southeast of the intersection of USH 53 and Causeway Boulevard, on the east bank of the Mississippi River, in the City of La Crosse, Wisconsin.

SCOPE

As requested, eleven (11) soil borings to a depth of 20 feet below ground surface will be performed in planned pavement/utility line areas, and four (4) soil borings to a depth of 20 feet below ground surface will be performed in planned stormwater areas. The borings will be advanced to the depths referenced above, or to refusal, whichever is shallower. Rock coring is not included in the scope of this exploration; therefore, the character and continuity of refusal materials, if encountered, can be determined only with a more comprehensive scope of services (which will require an authorization for additional budget).

It is understood that an ATV-mounted drill rig is required to access the borings, and that some clearing of brush and small trees will be necessary to access B-9 and B-12. The borings will be performed using an ATV-mounted drill rig utilizing continuous flight hollow stem auger to advance the boreholes. In the pavement/utility line borings, soil samples will be collected at 2.5-foot intervals to 10 feet and 5-foot intervals thereafter. Samples will be collected at continuous 2-foot intervals throughout the depth of the borings located in stormwater areas. The samples will be secured by employing split-barrel sampling



procedures in general accordance with ASTM D-1586. The borings will be backfilled upon completion. However, once backfilled and surface patched, it is possible that the backfill within the borehole will settle when surface water or groundwater enters the hole, thus causing the surface patch to fail. PSI cannot be responsible for monitoring the condition of said boreholes; therefore, the condition of the boreholes should be monitored by the property owner once PSI has demobilized from the site.

Representative soil samples obtained during the field exploration program will be returned to the laboratory for classification and a limited number of engineering properties tests. The nature and extent of this laboratory testing program will be dependent up on the subsurface conditions encountered during the field exploration program, and may include testing selected samples to evaluate the soils' moisture content, plasticity, grainsize, and relative strength characteristics.

The results of the subsurface exploration and laboratory testing will be utilized in an engineering evaluation and analysis, and presented in a written report which will include the following:

- A determination of soil and groundwater conditions within the depth of the borings.
- Subgrade preparation guidelines for pavements and utility lines, and for the selection and placement of structural fill.
- Construction considerations relating to subgrade preparation, site drainage, groundwater control, and excavations.
- Provide pavement design parameters; including soil support value, regional factor, frost index and design group index.
- Visually classify soil samples obtained at borings located within the planned stormwater management areas in general accordance with requirements of WDNR Standard 1002 "Site Evaluation for Stormwater Infiltration."

SPECIAL INSTRUCTIONS

Some damage to the ground surface may result from the drilling operations near the work areas and along ingress/egress pathways. PSI will attempt to minimize such damage, but no restoration other than backfilling the soil test borings and surface patching is included.

PSI will contact Diggers Hotline for public utility clearance prior to the start of drilling activities. However, this service does not mark the locations of privately owned utilities. PSI's proposal is based on private utility lines and other subsurface appurtenances being located in the field by others prior to our mobilization. The cost of private utility locating is not included in PSI's proposal. If PSI is asked to provide this service, an additional fee will apply.



COST ESTIMATE

It is proposed that the fee for performance of the outlined scope of services be charged on a lump sum basis. Based on the scope of services outlined above, the total fee for the geotechnical services will be \$8,585.00. Any special equipment required for site access, beyond the use of a chainsaw to access B-9 and B-12, and any delays beyond the control of our personnel, will be considered as additional costs.

AUTHORIZATION

PSI will proceed with the work on the basis of written approval. Please provide formal acceptance by having an appropriate party sign in the space below. The return of only the signature page will indicate acceptance of the entire proposal document, including the attached general conditions.

Should you have any questions regarding this proposal, or if we could be of any other assistance, please call at any time. We are looking forward to working with you on this project.

Sincerely,

PROFESSIONAL SERVICE INDUSTRIES, INC.

Electronic Copy

Jeff A. Manninen
Branch Manager

Electronic Copy

James M. Becco, P.E.
Vice President

Attachments: Standard Fee Schedule
 General Conditions

PROPOSAL ACCEPTANCE:

AGREED TO, THIS _____	DAY OF _____	, 2020.
BY (please print): _____		
TITLE: _____		
COMPANY: CITY OF LA CROSSE		
SIGNATURE: _____		

PROFESSIONAL SERVICE INDUSTRIES, INC.

STANDARD FEE SCHEDULE

ENGINEERING SERVICES

Engineering & Technical services for site reconnaissance, boring locations, field supervision, water level measurements & sampling, engineering evaluation, analysis & consultation.

Staff Engineer or Geologist	\$80.00 Per Hour	Sr. Engineering Technician	\$65.00 Per Hour
Project Engineer or Geologist	\$100.00 Per Hour	Engineering Technician	\$50.00 Per Hour
Principal Engineer or Geologist	\$125.00 Per Hour	Secretarial Services	\$35.00 Per Hour

FIELD SERVICES

Mobilization of Drilling Equip.	\$4.00 Per Mile (\$400.00 Minimum)	Boring Layout	\$150.00 Per Hour
Support Vehicle	\$0.50 Per Mile/Min. \$100.00 Per Day	Standby & Problem Access Time	\$150.00 Per Hour
All-terrain Drill Rig	\$800.00 Per Day	2-Man Crew Per Diem	\$200.00 Per Day

Soil Drilling with Split-spoon (ASTM D-1586) or Shelby Tube (ASTM D-1587) sampling at 5-foot intervals:

Depth Range	Unit Charges Per Foot, 3 1/4", 4 1/4" I.D. Auger		Unit Charges Per Foot 6 1/4" I.D. Auger		Extra SS or ST Samples
	Easy Drilling*	Hard Drilling**	Easy Drilling*	Hard Drilling**	
0 - 25 ft.	\$15.00	\$16.75	\$25.00	\$29.00	\$10.00
25 - 50	\$17.00	\$18.50	\$30.00	\$33.00	\$13.50
50 - 75	\$19.00	\$22.00			\$17.00
75 - 100	\$21.50	\$23.50			\$22.00

* N-count of 40 blows or less, or Qu or Qp less than 4 tsf

** N-count greater than 40 blows, or Qu or Qp greater than 4 tsf

Drilling with 12-1/4" I.D. Auger will be quoted upon request.

Auger Drilling without sampling	\$11.00 Per Foot	Shelby Tubes, 2" diameter	\$25.00 Each
Rock Coring with Diamond Bit	\$60.00 Per Foot	3" diameter	\$30.00 Each
Rock Boring with 3" Roller Bit	\$40.00 Per Foot	Drilling mud as needed	\$2.50 Per Foot
Rock Coring & Boring Set-up Charge	\$175.00 Per Hole	Pavement Cold-Patch at boreholes	\$25.00 Per Hole

LABORATORY TESTING

Visual Engineering Classification	\$2.50 Per Test	Unconfined compression tests,	
Hand Penetrometer Test	\$2.50 Per Test	rimac	\$5.00 Per Test
Moisture Content Test	\$5.00 Per Test	without stress-strain curve	\$25.00 Per Test
Organic Content Test	\$25.00 Per Test	with stress-strain curve	\$40.00 Per Test
Density Determination with Moisture Content	\$35.00 Per Test	California Bearing Ratio (CBR)	\$230.00 Per Test
Atterberg Limits Determination	\$88.00 Per Test	Consolidation Test, Maximum 16 tsf	
Grain Size Analysis, Mechanical	\$85.00 Per Test	Loading	\$300.00 Per Test
Grain Size Analysis, Mechanical & Hydrometer	\$110.00 Per Test	Permeability, Rigid Wall	\$235.00 Per Test
Moisture Density Relationship		Permeability, Flexible Wall	\$245.00 Per Test
Standard Method, ASTM D-698	\$135.00 Per Test	Preparation of Shelby Tube Sample	\$15.00 Per Tube
Modified Method, ASTM D-1557	\$145.00 Per Test	Sample preparation/remolding	\$30.00 Each

REMARKS

Charges for monitoring well installation, analytical testing services, and special equipment or sampling techniques not included herein, will be quoted upon request. Rental equipment & commercial transportation charges will be billed at cost plus 15%. A per diem charge of \$125.00/day per person will be billed as applicable. Invoices will be submitted monthly, with payment due within 30 days of invoice date. Interest will be added at a rate of 1½% per month of delinquency. Proposal estimates will remain valid for 60 days, at which time they may be subject to change or withdrawal.

GENERAL CONDITIONS

1. **PARTIES AND SCOPE OF WORK:** Professional Service Industries Inc. ("PSI") shall include said company or its particular division, subsidiary or affiliate performing the work. "Work" means the specific service to be performed by PSI as set forth in PSI's proposal, Client's acceptance thereof and these General Conditions. Additional work ordered by Client shall also be subject to these General Conditions. "Client" refers to the person or business entity ordering the work to be done by PSI. If Client is ordering the work on behalf of another, Client represents and warrants that it is the duly authorized agent of said party for the purpose of ordering and directing said work. Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the work ordered by the client is adequate and sufficient for Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom Client transmits any part of PSI's work. PSI shall have no duty or obligation to any third party greater than that set forth in PSI's proposal, Client's acceptance thereof and these General Conditions. The ordering of work from PSI, or the reliance on any of PSI's work, shall constitute acceptance of the terms of PSI's proposal and these General Conditions, regardless of the terms of any subsequently issued document.
2. **TESTS AND INSPECTIONS:** Client shall cause all tests and inspections of the site, materials and work performed by PSI or others to be timely and properly performed in accordance with the plans, specifications and contract documents and PSI's recommendations. No claims for loss, damage or injury shall be brought against PSI by Client or any third party unless all tests and inspections have been so performed and unless PSI's recommendations have been followed. Client agrees to indemnify, defend and hold PSI, its officers, employees and agents harmless from any and all claims, suits, losses, costs and expenses, including, but not limited to, court costs and reasonable attorney's fees in the event that all such tests and inspections are not so performed or PSI's recommendations are not so followed.
3. **PREVAILING WAGES:** This proposal specifically excludes compliance with any project labor agreement, labor agreement, or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the body of this proposal, this proposal specifically excludes compliance with any state or federal prevailing wage law or associated requirements, including the Davis Bacon Act. It is agreed that no applicable prevailing wage classification or wage rate has been provided to PSI, and that all wages and cost estimates contained herein are based solely upon standard, non-prevailing wage rates. Should it later be determined by the Owner or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. Client will reimburse, defend, indemnify and hold harmless PSI from and against any liability resulting from a subsequent determination that prevailing wage regulations cover the Project, including all costs, fines and attorney's fees.
4. **SCHEDULING OF WORK:** The services set forth in PSI's proposal and Client's acceptance will be accomplished by PSI personnel at the prices quoted. If PSI is required to delay commencement of the work or if, upon embarking upon its work, PSI is required to stop or interrupt the progress of its work as a result of changes in the scope of the work requested by Client, to fulfill the requirements of third parties, interruptions in the progress of construction, or other causes beyond the direct reasonable control of PSI, additional charges will be applicable and payable by Client.
5. **ACCESS TO SITE:** Client will arrange and provide such access to the site and work as is necessary for PSI to perform the work. PSI shall take reasonable measures and precautions to minimize damage to the site and any improvements located thereon as the result of its work or the use of its equipment.
6. **CLIENT'S DUTY TO NOTIFY ENGINEER:** Client warrants that it has advised PSI of any known or suspected hazardous materials, utility lines and pollutants at any site at which PSI is to do work, and unless PSI has assumed in writing the responsibility of locating subsurface objects, structures, lines or conduits, Client agrees to defend, indemnify and save PSI harmless from all claims, suits, losses, costs and expenses, including reasonable attorney's fees as a result of personal injury, death or property damage occurring with respect to PSI's performance of its work and resulting to or caused by contact with subsurface or latent objects, structures, lines or conduits where the actual or potential presence and location thereof were not revealed to PSI by Client.
7. **RESPONSIBILITY:** PSI's work shall not include determining, supervising or implementing the means, methods, techniques, sequences or procedures of construction. PSI shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. PSI's work or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents. Client agrees that it shall require subrogation to be waived against PSI and for PSI to be added as an Additional Insured on all policies of insurance, including any policies required of Client's contractors or subcontractors, covering any construction or development activities to be performed on the project site. PSI has no right or duty to stop the contractor's work.
8. **SAMPLE DISPOSAL:** Test specimens will be disposed immediately upon completion of the test. All drilling samples will be disposed sixty (60) days after submission of PSI's report.
9. **PAYMENT:** The quantities and fees provided in this proposal are PSI's estimate based on information provided by Client and PSI's experience on similar projects. The actual total amount due to PSI shall be based on the actual final quantities provided by PSI at the unit rates provided herein. Where Client directs or requests additional work beyond the contract price it will be deemed a change order and PSI will be paid according to the fee schedule. Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause in writing within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law), until paid. Client agrees to pay PSI's cost of collection of all amounts due and unpaid after thirty (30) days, including court costs and reasonable attorney's fees. PSI shall not be bound by any provision or agreement requiring or providing for arbitration of disputes or controversies arising out of this agreement, any provision wherein PSI waives any rights to a mechanics' lien, or any provision conditioning PSI's right to receive payment for its work upon payment to Client by any third party. These General Conditions are notice, where required, that PSI shall file a lien whenever necessary to collect past due amounts. Failure to make payment within 30 days of invoice shall constitute a release of PSI from any and all claims which Client may have, whether in tort, contract or otherwise, and whether known or unknown at the time.

GENERAL CONDITIONS

10. **ALLOCATION OF RISK:** CLIENT AGREES THAT PSI'S SERVICES WILL NOT SUBJECT PSI'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LIABILITY, AND THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CLIENT AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY SHALL BE TO DIRECT OR ASSERT ANY CLAIM, DEMAND, OR SUIT ONLY AGAINST PSI.

SHOULD PSI OR ANY OF ITS EMPLOYEES BE FOUND TO HAVE BEEN NEGLIGENT IN THE PERFORMANCE OF ITS WORK, OR TO HAVE MADE AND BREACHED ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION OR CONTRACT, CLIENT, ALL PARTIES CLAIMING THROUGH CLIENT AND ALL PARTIES CLAIMING TO HAVE IN ANY WAY RELIED UPON PSI'S WORK AGREE THAT THE MAXIMUM AGGREGATE AMOUNT OF THE LIABILITY OF PSI, ITS OFFICERS, EMPLOYEES AND AGENTS SHALL BE LIMITED TO \$25,000.00 OR THE TOTAL AMOUNT OF THE FEE PAID TO PSI FOR ITS WORK PERFORMED ON THE PROJECT, WHICHEVER AMOUNT IS GREATER. IN THE EVENT CLIENT IS UNWILLING OR UNABLE TO LIMIT PSI'S LIABILITY IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THIS PARAGRAPH, CLIENT MAY, UPON WRITTEN REQUEST OF CLIENT RECEIVED WITHIN FIVE DAYS OF CLIENT'S ACCEPTANCE HEREOF, INCREASE THE LIMIT OF PSI'S LIABILITY TO \$250,000.00 OR THE AMOUNT OF PSI'S FEE PAID TO PSI FOR ITS WORK ON THE PROJECT, WHICHEVER IS THE GREATER, BY AGREEING TO PAY PSI A SUM EQUIVALENT TO AN ADDITIONAL AMOUNT OF 5% OF THE TOTAL FEE TO BE CHARGED FOR PSI'S SERVICES. THIS CHARGE IS NOT TO BE CONSTRUED AS BEING A CHARGE FOR INSURANCE OF ANY TYPE, BUT IS INCREASED CONSIDERATION FOR THE GREATER LIABILITY INVOLVED. IN ANY EVENT, ATTORNEY'S FEES EXPENDED BY PSI IN CONNECTION WITH ANY CLAIM SHALL REDUCE THE AMOUNT AVAILABLE, AND ONLY ONE SUCH AMOUNT WILL APPLY TO ANY PROJECT.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND BREACH OF STATUTORY DUTY) OR OTHERWISE FOR LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT) OR FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, OR SPECIAL LOSS OR DAMAGE, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, REVENUE, BUSINESS, OR ANTICIPATED SAVINGS (EVEN WHEN ADVISED OF THEIR POSSIBILITY).

NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST PSI, ARISING FROM OR RELATED TO PSI'S WORK, MORE THAN TWO YEARS AFTER THE CESSATION OF PSI'S WORK HEREUNDER, REGARDLESS OF THE DATE OF DISCOVERY OF SUCH CLAIM.

11. **INDEMNITY:** Subject to the above limitations, PSI agrees not to defend but to indemnify and hold Client harmless from and against any and all claims, suits, costs and expenses including reasonable attorney's fees and court costs to the extent arising out of PSI's negligence as finally determined by a court of law. Client shall provide the same protection to the extent of its negligence. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against PSI, the Client and the party initiating such action shall pay to PSI the costs and expenses incurred by PSI to investigate, answer and defend it, including reasonable attorney's and witness fees and court costs to the extent that PSI shall prevail in such suit.
12. **TERMINATION:** This Agreement may be terminated by either party upon seven days' prior written notice. In the event of termination, PSI shall be compensated by Client for all services performed up to and including the termination date, including reimbursable expenses.
13. **EMPLOYEES/WITNESS FEES:** PSI's employees shall not be retained as expert witnesses except by separate, written agreement. Client agrees to pay PSI's legal expenses, administrative costs and fees pursuant to PSI's then current fee schedule for PSI to respond to any subpoena. For a period of one year after the completion of any work performed under this agreement, Client agrees not to solicit, recruit, or hire any PSI employee or person who has been employed by PSI within the previous twelve months. In the event Client desires to hire such an individual, Client agrees that it shall seek the written consent of PSI, and shall pay PSI an amount equal to one-half of the employee's annualized salary, without PSI waiving other remedies it may have.
14. **FIDUCIARY:** PSI is not a financial advisor, does not provide financial advice or analysis of any kind, and nothing in our reports can create a fiduciary relationship between PSI and any other party.
15. **RECORDING:** Photographs or video recordings of the Client's own project may be taken by and used for the Client's own internal purposes. Photographs or video recordings may not be used for marketing or publicity, or distributed to a third party or otherwise published without PSI's prior review and consent in writing. Taking photographs of other Clients' samples, test setups, or facilities, or recording in any manner any test specimen other than the test specimen related to the Client's project is prohibited; and the Client agrees to hold in strict confidence and not use any proprietary information disclosed either advertently or inadvertently. The Client shall defend, hold harmless, and indemnify PSI for any breach of this clause.
16. **CHOICE OF LAW AND EXCLUSIVE VENUE:** All claims or disputes arising or relating to this agreement shall be governed by, construed, and enforced in accordance with the laws of Illinois. The exclusive venue for all actions or proceedings arising in connection with this agreement shall be either the Circuit Court in Cook County, Illinois, or the Federal Court for the Northern District of Illinois.
17. **PROVISIONS SEVERABLE:** The parties have entered into this agreement in good faith, and it is the specific intent of the parties that the terms of these General Conditions be enforced as written. In the event any of the provisions of these General Conditions should be found to be unenforceable, it shall be stricken and the remaining provisions shall be enforceable.
18. **ENTIRE AGREEMENT:** This agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein. This agreement may be amended, modified or terminated only in writing, signed by each of the parties hereto.

American Engineering Testing Proposal



RE: C. of La Crosse, River Point District, RFP for Geotechnical Exploration

Snyder, Blake to: David Schofield

02/14/2020 07:53 AM

From: "Snyder, Blake" <bsnyder@amengtest.com>
To: David Schofield <dschofield@sehinc.com>

Hi Dave,

Sorry for the delay, I've been buried in trainings all week last week and fighting to catch up this week.

For the fifteen borings to 20 feet each in La Crosse and a Geotech report, we would charge an estimated fee of \$10,500. Our current schedule should not be a problem with your anticipated timeline. If we somehow beat our La Crosse competition please let me know and I will get you a formal proposal.

Have a great weekend!

Blake Snyder, P.E.

Assistant Manager | Geotechnical Engineer

bsnyder@amengtest.com

O: 715.861.5045 | C: 320.250.3583



American
Engineering
Testing, Inc.

1837 County
Highway OO
Chippewa
Falls, WI
54729

www.amengtest.com

Please read our email disclaimer at this [link](#) on our website.

From: David Schofield <dschofield@sehinc.com>

Sent: Monday, February 3, 2020 2:05 PM

To: David Schofield <dschofield@sehinc.com>

Subject: C. of La Crosse, River Point District, RFP for Geotechnical Exploration

[Warning - External Source] Please be careful about responding to or opening any attachments or links in this message, a

Please find attached an RFP for geotechnical exploration for the City of La Crosse River Point District project.

Please note that the proposal is due February 14 and should be addressed to the City but sent to me at this e-mail address.

Please do not hesitate to call with questions.

Respectfully Submitted,

David Schofield, PE (WI, MN, IA, IL)
Sr. Professional Engineer

SEH - Building a Better World for All of Us[®]

715.720.6211 direct

715.577.1474 mobile

Braun Intertec Proposal

February 13, 2020

Proposal QTB115425

Mr. Jason Gilman
Director of Planning, Development and Assessment
City of La Crosse
400 La Crosse Street
La Crosse, Wisconsin 54603

Re: Proposal for a Geotechnical Evaluation
Proposed River Point District
Highway 53 and Causeway Boulevard
City of La Crosse, Wisconsin

Dear Mr. Gilman:

We respectfully submit this proposal to complete a geotechnical evaluation for the proposed river Point District located in La Crosse, Wisconsin.

Our Understanding of Project

Based on the information you provided to us, we understand this project includes design and construction of a commercial development that will be located west of Highway 53 and south of Causeway Boulevard. Current plans include development of the site to be sub-divided into lots for commercial development. This will include construction of streets, storm water drainage collection systems and installation of underground utilities.

The parcel was former owned by Mobile Oil. Historically, the site was environmentally impacted with petroleum fuel and metals. After years of planning, the site will be redeveloped for commercial use. Currently the site is vacant, however, some prairie grass, brush and mature trees are located on the site along with numerous walking trails. The La Crosse River is located on the southern boundary of the site and the Black River is located on the western property boundary.

Purpose

The purpose of our geotechnical evaluation will be to characterize subsurface geologic conditions at selected exploration locations, evaluate their impact and provide geotechnical recommendations for the design and construction of the proposed pavements, storm water drainage systems, and underground utilities.

AA/EOE

Scope of Services

The following tasks are proposed to help achieve the stated purpose. If unfavorable or unforeseen conditions are encountered at any point during the completion of the tasks that lead us to recommend an expanded scope of services, we will contact you to discuss the conditions before resuming work.

Tree and Brush Removal and Drill Rig Site Access

Based on the RFP, two prospective boring locations will require tree and brush removal. We propose to utilize a local contractor who can remove the trees and brush. We have used this contractor before and they utilize tree and brush removal equipment.

Based on the RFP, we understand an all-terrain style drill rig will be required to access the prospective boring locations.

Boring Staking

We will stake prospective subsurface exploration locations and obtain surface elevations at those locations using GPS (Global Positioning System) technology. For purposes of linking the GPS data to an appropriate reference, we request that you provide CAD files indicating location/elevation references appropriate for this project, or contact information for the consultant that might have such information.

Utility Clearance

Prior to drilling or excavating, we will contact Digger's Hotline and arrange for notification to the appropriate utility vendors to mark and clear the exploration locations of public underground utilities. You or your authorized representative is responsible to notify us before we begin our work of the presence and location of any underground objects or private utilities that are not the responsibility of public agencies.

Penetration Test Borings

As requested, we will drill 15 standard penetration test borings for the development, extending them to a depth of 20 feet each. Standard penetration tests will be performed at 2 ½-foot vertical intervals to a depth of about 15 feet, and at 5-foot intervals at greater depths.

If existing fill, organic materials or other structurally unfavorable soils are not penetrated above the intended boring termination depths, we will extend the borings to obtain at least five feet of penetration into more competent materials at greater depths. The additional information will help evaluate such issues as excavation depth, consolidation settlement, and foundation alternatives, among others. If

deeper borings (or additional borings) are needed, we will contact you prior to increasing our total estimated drilled footage and submit a Change Order summarizing the anticipated additional effort and the associated cost, for your review and authorization.

Groundwater Measurements

If groundwater is encountered in the boreholes during or immediately after drilling, the depth where it is observed will be recorded on the boring logs.

Borehole Abandonment

Wisconsin Administrative Code NR 141.25 requires us to seal any boring greater than 10 feet deep or any boring that intersects the water table. Boreholes greater than 4-inches in diameter that are less than 250 feet deep and have less than 150 feet of standing water may be abandoned using 3/8-inch bentonite chips.

Based on the intended exploration depths, we have made provisions to seal 300 lineal feet of borehole with 3/8-inch bentonite chips, and prepare associated Wisconsin borehole abandonment forms.

Historic Environmental Impact

We are aware that the project is located in an area of known historic soil and groundwater contamination. Boring locations should be cleared by knowledgeable site personnel to avoid known areas of impacted soil. The knowledgeable site personnel may be asked to accompany the Braun Intertec representative during the public utility meet. The potential exists that buried materials and soil may be encountered at the site that require management as solid or hazardous waste. If fill soils, which could include demolition debris and other wastes, are encountered during redevelopment additional evaluation of the fill soils might be required for management and disposal purposes.

Sample Review and Laboratory Testing

Recovered samples will be returned to our laboratory, where they will be visually classified and logged by a geotechnical engineer. To help classify the materials encountered and estimate their engineering properties, we have budgeted to perform 6 moisture content tests, 4 mechanical analyses (through a #200 sieve only), 2 organic content tests, and 1 Atterberg limits tests.

Reporting

Data obtained from the borings and laboratory tests will be used to evaluate the subsurface profile and groundwater conditions, perform engineering analyses related to structure design and performance and prepare a report, including:

- A CAD-generated sketch showing project components, limits, and exploration locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Discussion identifying the site conditions that will impact structure design and performance, qualifying the nature of their impact, and outlining alternatives for mitigating their impact.
- Discussion regarding the reuse of on-site materials during construction and the impact of groundwater on construction.
- Recommendations for preparing structure subgrades, including excavation support, if applicable, and the selection, placement and compaction of excavation backfill and other structural fill.
- Recommendations for pavement subgrade preparation and pavement thicknesses for concrete and gravel surfaced pavements.
- Recommendations for underground utility subgrade preparation and utility trench backfill.
- Provide storm water design infiltration rates for soil horizons encountered per the Wisconsin Department of Natural Resources, Technical Standard 1002.

We will submit, via email, an electronic PDF copy of our final report when it is completed.

Cost

We will furnish the services described in this proposal for a lump sum fee of **\$13,650**. We will not exceed this estimated fee without your authorization through a Change Order.

Our work may extend over multiple invoicing periods. As such, for work that is performed during the course of each invoicing period, we will submit partial progress invoices.

Cost Savings

If Boring B-9 and B-12 can be eliminated from the scope of work, we can reduce our costs by up to \$3,000.

If the boring locations are staked and the surface elevations at the boring locations are measured by others prior to our arrival, we will reduce our lump sum fee by \$480.

Additional Services

We have not included potential costs due to the need for snow plowing, towing, stand-by time or work that is not included in the above Scope of Services. Costs for snow plowing or towing (if necessary) will be charged at a rate of 1.15x the actual cost. Costs for stand-by time (defined as time spent by our field crew due to circumstances that are beyond the control of our field crew or its equipment, or beyond the scope of services indicated above) will be charged at a rate of \$250 per hour.

If borings must be extended beyond their intended termination depths, we will charge an additional \$16.00 per lineal foot beyond the originally intended termination depth plus \$2.00 per lineal foot to abandon with bentonite grout.

Schedule

We anticipate our work can be performed according to the following schedule:

- *Drill rig mobilization* – within 2 weeks following receipt of written authorization;
- *Field exploration* – 2 to 3 days on-site to complete the work;
- *Classification and laboratory testing* – within 2 to 4 days following completion of the field exploration;
- *Preliminary results* – as the samples are obtained and reviewed;
- *Report submittal* – Completed within approximately 3 to 4 weeks following authorization.

If our proposed scope of services cannot be completed according to this schedule due to circumstances beyond our control, we may need to revise this proposal prior to completing the remaining tasks.

General Remarks

We appreciate the opportunity to present this proposal to you. ***If you find this proposal acceptable, please return the signed copy in its entirety.***

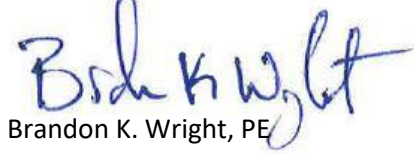
The proposed fee is based on the scope of services described and the assumptions that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule.

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact Brandon Wright at 608.781.7277 or at bwright@braunintertec.com.

Sincerely,

BRAUN INTERTEC CORPORATION



Brandon K. Wright, PE
Senior Engineer



Joseph C. Butler, PE
Business Unit Manager / Senior Engineer

Attachments:
General Conditions (1/1/18)

The proposal is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any damages, claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

3.6 Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

3.7 You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

4.5 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

6.5 *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.