



March 27, 2023

Henderson County Board of Education  
C/O: RBS Design Group  
723 Harvard Drive  
Owensboro, Kentucky 42301-6185

**RE: Henderson County Schools  
Sports Facilities Improvements  
Special Inspections**

Dear Mr. Thomas:

Associated Engineers, Inc. (AEI) is pleased to propose services for the referenced project in regard to special inspections and testing as defined in the RFP, project drawings, and the project specifications. The requested services are well within those routinely offered by Associated Engineers, Inc.

We propose to perform these services for the items listed in the design documents for a fixed fee of ***Eight Thousand Nine Hundred and Forty-Nine Dollars (\$8,949.00)***. Our fee includes all required earthwork, concrete, and structural special inspections reference in the provided plans and specifications. In addition to the above fee there is a ***Five Thousand Dollar (\$5,000.00)*** contingency allowance to be used on the owner's behalf and billed hourly. The total fee including the contingency allowance is ***Thirteen Thousand Nine Hundred and Forty-Nine Dollars (\$13,949.00)***.

Due to daily scheduling procedures, Associated Engineers, Inc. requests at least a 24-hour notice be provided from the contractor for work required on the job site. Our Standard Terms and Conditions are attached and shall apply. This proposal will serve as our engagement letter. If you accept this proposal, please execute a copy, and return it to our office. If you have any questions, please contact me.

Sincerely,  
Associated Engineers, Inc.

David A. Lamb, P.E.  
President

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READ AND AGREED TO BY THE UNDERSIGNED this \_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Attachments

### Standard Terms and Conditions

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1. **Standard of Care**  
The standard of care for all professional services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.
2. **Independent Contractor**  
All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either OWNER or ENGINEER. ENGINEER's services under this Agreement are being performed solely for OWNER's benefit, and no other entity shall have any claim against ENGINEER because of this Agreement or the performance or nonperformance of services hereunder. OWNER agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.
3. **Payments to ENGINEER**  
Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER monthly, unless otherwise agreed. Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving 7 days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges.
4. **Insurance**  
ENGINEER will maintain insurance coverage for Workers' Compensation, General Liability, and Automobile Liability and will provide certificates of insurance to OWNER upon request.
5. **Indemnification and Allocation of Risk**
  - a. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and consultants in the performance of ENGINEER's services under this Agreement.
  - b. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and consultants with respect to this Agreement.
  - c. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any injuries, losses, damages and expenses caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.
  - d. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's officers, directors, partners, employees, and consultants from and against injuries, losses, damages and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other disputes resolution costs) caused by, arising out of, or resulting from Hazardous Environmental Condition, provided that (i) any such injuries, losses, damages, and expenses are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (ii) nothing in this paragraph B.6.01.B.5.d shall obligate OWNER to indemnify any individual or entity to the extent of that individual or entity's own negligence or willful misconduct.
6. **LIMIT OF LIABILITY**  
TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS, OR ANY OF THEM TO OWNER AND ANYONE CLAIMING BY, THROUGH, OR UNDER OWNER, FOR ANY AND ALL INJURIES, LOSSES, DAMAGES AND EXPENSES, WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR WARRANTY, EXPRESS OR IMPLIED, OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS, OR ANY OF THEM, SHALL NOT EXCEED THE TOTAL AMOUNT OF THE PROJECT FEE OR \$50,000.00, WHICHEVER IS GREATER.
7. **Dispute Resolution**
  - a. OWNER and ENGINEER agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes") to mediation.

- b. If a party alleges a dispute or controversy with the other party arising out of or relating to the performance of services under this Agreement, then either party shall have the right to request mediation within 20 days after the claiming party has provided the other party with written notice describing the dispute and the claiming party's position with reference to the resolution of the dispute.
- c. Except as otherwise agreed, mediation will proceed pursuant to the Construction Industry Mediation Rules of the American Arbitration Association in effect on the Effective Date of the Agreement. A mediator will be appointed within 30 days of receipt of a written request. The mediator will endeavor to complete the mediation within 30 days thereafter.
- d. No performance obligation under or related to this Agreement shall be interrupted or delayed during any mediation proceeding except upon written agreement of both parties.
- e. The mediator shall not be a witness in any legal proceedings related to this Agreement.
8. Termination of Contract  
Either party may at any time, upon 7 days prior written notice to the other party, terminate this Agreement. Upon such termination, OWNER shall pay to ENGINEER all amounts owing to ENGINEER under this Agreement, for all work performed up to the effective date of termination, plus reasonable termination costs.
9. Access  
OWNER shall arrange for safe access to and make all provisions for ENGINEER and ENGINEER's Consultants to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
10. Hazardous Environmental Conditions  
It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a "Hazardous Environmental Condition," i.e. the presence at the site of asbestos, PCBs, petroleum, hazardous waste, or radioactive materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Assignment. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Assignment affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site is in full compliance with applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the site in connection with ENGINEER's activities under this Agreement.
11. Ownership and Reuse of Documents  
All documents prepared or furnished by ENGINEER pursuant to this Agreement are instruments of service, and ENGINEER shall retain an ownership and property interest therein. Reuse of any such documents by OWNER shall be at OWNER's sole risk; and OWNER agrees to indemnify, and hold ENGINEER harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by OWNER or by others acting through OWNER.
12. Use of Electronic Media  
a. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.  
b. When transferring documents in electronic media format, ENGINEER makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Assignment.  
c. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.  
d. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.
13. Force Majeure  
ENGINEER shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond ENGINEER's reasonable control.
14. Assignment  
Neither party shall assign its rights, interests, or obligations under this Agreement without the express written consent of the other party.
15. Binding Effect  
This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.
16. Severability and Waiver of Provisions  
Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision

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that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

17. **Survival**  
All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.
18. **Headings**  
The headings used in this Agreement are for general reference only and do not have special significance.
19. **Controlling Law**  
This Agreement is to be governed by the law of the state in which the ENGINEER's principal office is located.
20. **Notices**  
Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.