



October 29, 2024

Martin W. Cline, Jr.  
Assistant Superintendent  
Hopkins County Schools  
320 South Seminary Street  
Madisonville, KY 42431

RE: ***Proposal for Geotechnical Services  
Hopkins County Schools  
Madisonville, Kentucky***

Dear Mr. Cline,

Bacon Farmer Workman Engineering & Testing, Inc. (BFW) is pleased to provide you with this proposal for geotechnical services for the above-referenced project. The following proposal outlines our scope of services based on the project information provided. This proposal is based on the following assumptions:

- The site is located on a property readily accessible with an ATV-mounted rotary drilling rig with field crew and support truck.
- Right-of-Entry to conduct the geotechnical exploration will be provided by the Client.
- No evidence of buried debris was made known to BFW in any of the areas to be investigated.
- All known, on site, private utility lines will be located and marked by the Client within the vicinity of the proposed borings. An optional service for private utility designating is provided as part of this proposal.

### **PROJECT INFORMATION**

Improvements are planned for the Hopkins County Board of Education property located at 2135 North Main Street in Madisonville, Kentucky. This project will include a single-story steel framed addition in the courtyard of the existing building, a CMU 3-car garage on the south side of the building, and a new PEMB that partially overlaps the location of an existing barn on site. We anticipate minimal grade changes will be required.

Structural loads were not available at the time of this proposal; however, it is anticipated that the building will be lightly loaded with column loads of less than 100 kips and wall loads of less than 4 kips per lineal foot. If these loads will be exceeded, then BFW should be contacted to review the scope outlined herein.

### **SUSBSURFACE EXPLORATION**

Before starting field activities, we request any knowledge of buried utilities near the proposed drilling area be marked in the field with visible paint or disclosed to BFW. BFW will initiate the One-Call underground utility locating service prior to drilling.

### **Private Utility Locate**

BFW has included optional utility designating services at the proposed subsurface exploration locations. This service attempts to reduce the risk of possibly damaging unmarked or unknown subsurface utilities by designating observed private utilities not marked by the One-Call. BFW designates utilities in general accordance with industry standard subsurface utility engineering (SUE) practices.

BFW is proposing to sweep for utilities within approximately 15 feet of the proposed exploration locations. Observations will be marked on site using spray paint and/or pin flags. Horizontal locations of observations

will be recorded in field notes/sketches. However, surveying our markings is beyond the scope of this proposal.

To perform the utility sweep BFW uses ground penetrating radar (GPR) and an electro-magnetic (EM) line locator using the following steps

- The GPR will be passed over the proposed boring location a minimum of three times in four different orientations to attempt to observe non-tonable utilities.
- The EM line locator will be passed over the proposed boring location in “live-power” mode in four different orientations to attempt to locate buried utilities that may have a 60-Hz signal emission.
- The EM line locator will be directly clamped to any exposed conductive surface features present within approximately 100-feet of the proposed boring.
- The EM line locator will be used to passively induce current in four different orientations to attempt to observe conductive utilities in the area that do not have nearby surface features.

Surface geophysical methods are indirect and as such the possibility exists that existing subsurface features may not be observed and likewise features may be identified as utilities that do not actually exist. Utilities that are below or near surface obstructions, such as parked cars, poles, tanks, etc. may not be observed. Additionally, obstructions below ground surface, such as reinforced concrete, soil type, and shallow groundwater levels, can mask GPR reflections, and scatter EM signals causing utilities to be difficult to observe. BFW strives to perform utility locating using the industry standard techniques and equipment described in ASCE Standard 38-02 “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.”

### **Geotechnical Exploration**

BFW proposes to explore the subsurface conditions by advancing eight borings to depths of 15 feet on the site. We will utilize hollow stem augers to advance the borings to the planned depths unless auger refusal terminates drilling at a shallower depth. We will locate the borings in the field using existing site features or a handheld GPS unit. Elevations at the boring locations will be interpolated using the most recent topographic data made available to us.

Drilling and sampling will be performed in accordance with ASTM Methods D1586 and D1587. Standard Penetration Tests (SPT) samples will be collected at 2.5-foot intervals within the upper 10 feet and 5-foot intervals thereafter. Relatively undisturbed Shelby tubes samples will be collected at select locations in-lieu of SPTS. Groundwater conditions encountered at the time of drilling will be noted on the boring logs. The borings will be backfilled with soil cuttings upon completion. It should be noted that some settlement of backfilled materials in the borings is possible and may occur.

Upon the completion of field exploration, the samples will be transported to our laboratory for classification and characterization. Laboratory testing for the project will include:

- Moisture Contents, Atterberg Limits tests, and/or sieve analysis for soil classification and assessing volume change characteristics.
- Unconfined Compression testing on undisturbed soil samples for purposes of obtaining shear strength parameters.



**Engineering Analysis and Reporting**

The field exploration and laboratory testing will be reviewed by our geotechnical engineer. The results of the investigation and associated recommendations will be included in our Geotechnical Exploration Report, which will address the following:

- Allowable bearing pressures and depths for the design of shallow, spread footing foundations.
- Protection of existing adjacent footings.
- Seismic site classification.
- Anticipated settlement based on the results of the subsurface exploration.
- Volume change potential of the foundation soils.
- Floor slab design recommendations.
- Soil subgrade preparation recommendations
- Generalized description of the subsurface conditions on the site, including existing fill materials, groundwater, and bedrock.
- Site preparation, structural fill, and geotechnical construction recommendations.

**FEE AND SCHEDULE**

BFW will provide the geotechnical services detailed in this proposal for the lump sum fee summarized in Table 1.

**Table 1 – Summary of Fees**

<b>Task</b>	<b>Fee (\$)</b>
Field Exploration	4,950.00
Laboratory Testing	950.00
Report Preparation	3,000.00
<b>Total</b>	<b>8,900.00</b>
Private Utility Locate (optional)	3,250.00

We will begin coordinating the field exploration upon your verbal authorization; however, we cannot mobilize the drill rig to the site until formal authorization has been received. We anticipate we will be able to drill the site within three to five weeks of notice to proceed. Weather permitting, subsurface exploration will be completed in one to two days. Laboratory testing and report preparation will require two to three weeks after completion of the field exploration; however, preliminary information will be available beforehand.



If these terms are acceptable, please indicate the desired services below and sign the attached *Professional Services Agreement* and return. Should you have any further questions please, feel free to contact our office at (618) 771-5774.

Sincerely,  
Bacon Farmer Workman Engineering & Testing, Inc.

Christopher L Mathews, PE  
Branch Manager/Geotechnical Engineer

<b>AUTHORIZATION TO PROCEED</b>	
<b>Geotechnical Services – Hopkins County Schools</b>	
<b>Geotechnical Exploration and Reporting - \$8,900.00 □</b>	
<b>Private Utility Locate – \$3,250.00 □</b>	
Signature:	Date:
Printed Name:	
Title:	

Enclosure: Professional Services Agreement

# PROFESSIONAL SERVICES AGREEMENT

PROJECT: Hopkins County Schools

BFW Project #: \_\_\_\_\_

## Client Information

Client: Hopkins County Schools

Address: 320 South Seminary Street, Madisonville, KY 42431

Contact: Martin W. Cline, Jr., Assistant Superintendent

Telephone: 270-825-6000

Fax: \_\_\_\_\_

Billing Contact: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

## Consultant Information

Consultant: Bacon Farmer Workman Engineering & Testing, Inc.

Address: 2301 McCracken Blvd., Paducah, KY 42001

Contact: Chris Mathews

Telephone: 618-771-5774

Fax: \_\_\_\_\_

Project Description: Geotechnical exploration and report for building expansion in Madisonville, Kentucky.

SCOPE OF SERVICES (See Attachment)

SCHEDULE (See Attachment)

## COMPENSATION

LUMP SUM Compensation for these services shall be a Lump Sum as detailed in proposal.

TIME AND MATERIALS Billing will be hourly per our rate schedule. See attached proposal.

BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s Direct Job Wages times a factor of: \_\_\_\_\_

List of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s Hourly Rates.

COST PLUS FIXED FEE. Compensation for these services shall be BACON FARMER WORKMAN ENGINEERING & TESTING, INC. Cost plus a fixed professional fee, including Reimbursable Expenses times a factor of: \_\_\_\_\_ plus Subconsultant Expenses times a factor of: \_\_\_\_\_ and per BACON FARMER WORKMAN ENGINEERING & TESTING, INC. 's attached Definitions. The estimated compensation for services is \$ \_\_\_\_\_ plus a fixed fee of \$ \_\_\_\_\_ for a total of \$ \_\_\_\_\_.

**Direct Job Wages or Hourly Rates for Time and Materials or Cost-Plus Fixed Fee contracts are subject to change to reflect adjustments in BACON FARMER WORKMAN ENGINEERING & TESTING, INC. salary levels.**

In the event services beyond those specified in the Scope of Services and not included in the compensation above are required, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall submit a fee estimate for such services and a contract modification shall be negotiated and approved by the Client prior to any effort being expended on such services.

Project Name: \_\_\_\_\_

BFW Project #: \_\_\_\_\_

**SCHEDULE OF PAYMENTS:** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall be paid monthly on the basis of invoices submitted. These invoices will be for the portion of the agreed upon compensation earned by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. during that month. (Cost plus Fixed Fee will be for costs incurred during the invoice period plus the portion of the agreed upon fixed fee earned by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. during that month. **(Lump Sum will be based on percent of effort completed as estimated by BACON FARMER WORKMAN ENGINEERING & TESTING, INC.)** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall be paid for all invoices within 30 days of submittal. In the event the Client disputes the invoice or any portion thereof, the undisputed portion shall be paid to BACON FARMER WORKMAN ENGINEERING & TESTING, INC. based on contractual terms. Invoices not in dispute and unpaid after 30 days shall accrue interest at the rate of 1.5% per month (or the maximum percentage allowed by law, whichever is the lesser). See Standard Conditions for invoices unpaid after 60 days.

**EXECUTION:** Execution of this document by duly authorized representatives of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and Client, including BACON FARMER WORKMAN ENGINEERING & TESTING, INC. 's Standard Conditions (reverse side) and any attachments, Additional Provisions as indicated, and addenda, represents the entire Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified by written instrument, but such instrument is valid only upon signature by both parties. Neither BACON FARMER WORKMAN ENGINEERING & TESTING, INC. nor Client shall assign, transfer, or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the other.

**Client:**

By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Consultant:**

\_\_\_\_\_ BACON FARMER WORKMAN ENGINEERING & TESTING, INC.  
By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



## BACON FARMER WORKMAN ENGINEERING & TESTING, INC. STANDARD CONDITIONS

**1. SERVICES.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall provide professional services in accordance with the agreed upon scope of work.

**2. EXECUTION.** This Agreement becomes effective upon signatures by authorized representatives of the Client and BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and upon receipt by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. of a signed original or facsimile transmittal. If facsimile transmittal is initially sent to BACON FARMER WORKMAN ENGINEERING & TESTING, INC., Client will provide BACON FARMER WORKMAN ENGINEERING & TESTING, INC. with a signed original for record as soon as practicable.

**3. INITIATION.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is authorized to proceed with services upon receipt of an executed Agreement or written Notice to Proceed.

**4. COMPLETION/TERMINATION.** This Agreement shall remain in force until completion and acceptance of the services or until terminated by mutual agreement. This contract may be terminated by the Client and/or BACON FARMER WORKMAN ENGINEERING & TESTING, INC. upon 10 days written notice. In the event of such termination, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will be paid the portion of the compensation (and fixed fee, if applicable) for services performed in accordance with this Agreement and/or the Scope of Services under the terms of this Agreement to the date of termination together with all costs arising out of such termination.

Continuing Service Agreements shall be reviewed annually for rates and shall remain in force until terminated in writing by either party, or otherwise stipulated contractually.

**5. STANDARD OF CARE.** Services provided by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. makes no warranty or guaranty, either express or implied.

Further, Client recognizes that conditions may vary from those observed at locations where borings, surveys, observations, or explorations are made and that site conditions may change with time. Data, interpretations, and recommendations by BACON FARMER WORKMAN ENGINEERING & TESTING, INC., will be based solely on information available to BACON FARMER WORKMAN ENGINEERING & TESTING, INC. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is responsible for those data, interpretations, and recommendations but will not be responsible for other parties' interpretations or use of the information developed.

BACON FARMER WORKMAN ENGINEERING & TESTING, INC. offers various levels of services to suit the desires and needs of different clients. Although the possibility of an error can never be eliminated, more detailed and extensive services yield more information and reduce the probability of error, but at an increased cost. Client has reviewed the scope of services and has determined that it does not need or want a greater level of service than that described in this Agreement and/or the Scope of Services. Further, Client hereby agrees that BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall not be responsible or liable for any problems which may occur during the implementation of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s plans, specifications, or recommendations if BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is not retained to observe such implementation.

**6. SITE ACCESS AND SITE CONDITIONS.** Client will grant or obtain right of entry to the site for all necessary equipment and employees necessary for BACON FARMER WORKMAN ENGINEERING & TESTING, INC. to perform the services as set forth in this Agreement and the Scope of Services. Client will notify any and all possessors of the project site that Client has granted BACON FARMER WORKMAN ENGINEERING & TESTING, INC. free access to the site. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will take reasonable precautions to reduce damage to the site, but it is understood by Client that, in the normal course of the services, some damage and disturbance to the site may occur and the correction is not included in this Agreement.

If the Client desires BACON FARMER WORKMAN ENGINEERING & TESTING, INC. to restore the site to its former condition, upon written request, we will perform such additional work as is necessary and Client agrees to pay all cost incurred for performing restoration of the site.

Unless otherwise indicated in this Agreement and/or the Scope of Services, Client is responsible for accurately the type and location of all subterranean structures and utility lines. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will take reasonable precautions to avoid known subterranean structures and utilities not identified or accurately located.

**7. CHANGED CONDITIONS.** If, during the performance of this Agreement, conditions or circumstances are discovered which were not contemplated by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. at the commencement of this Agreement, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall notify Client in writing of the newly discovered conditions or circumstances, and Client and BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall renegotiate, in good faith, the terms and conditions of this Agreement.

**8. SAMPLES.** Soil, rock, water, or other samples obtained from the project site are your property. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall preserve such samples for no longer than thirty (30) calendar days after the issuance of any document that includes data obtained from them, unless other mutually agreed arrangements are documented.

Concrete test specimens will be discarded after testing. If project specification strengths are met, "hold" cylinders will be discarded at that time.

If in BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s opinion any of the samples collected may be affected by regulated contaminants, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall package such samples in accordance with applicable law and client shall arrange for lawful disposal procedures. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall not arrange for or be responsible for the disposal of substances affected by regulated contaminants. Furthermore, unless detailed in a specific work scope, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is not responsible for any soil cuttings or produced groundwater generated for the purpose of sample collection that may be affected by regulated contaminants that are left at a job site and were generated for the collection of soil and groundwater samples. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will, at the client's request, help the client identify appropriate alternatives for the off-site treatment, storage, or disposal of these materials for additional fees.

**9. INDEPENDENT CONSULTANT.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is and shall be at all times during the term of this Agreement an independent consultant and not an employee or agent of the Client.

**10. COMPLIANCE WITH LAWS.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will endeavor to comply with Federal, State, and local laws and ordinances applicable to the services to be provided under this Agreement.

**11. COLLECTION COSTS.** In the event legal action is necessary to enforce the payment provisions of this Agreement if Client fails to make payment within sixty (60) days of the invoice date, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. in connection therewith and, in addition, the reasonable value of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s time and expenses spent in connection with such collection action, computed at BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s prevailing fee schedule and expense policies.

**12. OWNERSHIP OF DOCUMENTS.** Drawings, specifications, reports, programs, manuals, or other documents, including all documents on electronic media, prepared under this Agreement are instruments of service and are, and shall remain, the property of BACON FARMER WORKMAN ENGINEERING & TESTING,

INC. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will retain all common law, statutory, and other reserved rights, including the copyright thereto. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall not be held liable for reuse of documents or modifications thereof by the Client or its representatives for any purpose other than the original intent of this Agreement, without written authorization of and appropriate compensation to BACON FARMER WORKMAN ENGINEERING & TESTING, INC.

All Documents are prepared solely for use by Client (and owner, if applicable) and shall not be provided to or relied upon by any other person or entity without BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s written consent to the same. Client shall defend, indemnify, and hold harmless BACON FARMER WORKMAN ENGINEERING & TESTING, INC., its officers, shareholders, and employees, from and against any action or proceeding brought by any person or entity, published, disclosed, or referred to without BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s written consent.

**13. SITE VISITS/OBSERVATION/SAFETY.** If included in the Scope of Work, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall visit the project and/or construction site at appropriate intervals to become generally familiar with the progress, quality of work (contractors' work), and to determine if the work is proceeding in general accordance with the Contract Documents. Visits to the project site and observations made by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. as part of services during construction under Agreement shall not make BACON FARMER WORKMAN ENGINEERING & TESTING, INC. responsible for, nor relieve the construction contractor(s) of the obligation to conduct comprehensive monitoring of the work sufficient to ensure conformance with the intent of the Contract Documents, and shall not make BACON FARMER WORKMAN ENGINEERING & TESTING, INC. responsible for, nor relieve the Client/Owners/Construction Contractor(s) of the full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s).

With respect to project site safety, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall be responsible only for the on-site activities of its employees and subcontractors, and this responsibility shall not be construed to relieve Client/Owner/Contractor from their obligation to maintain a safe project site. Neither the professional activities of BACON FARMER WORKMAN ENGINEERING & TESTING, INC., nor the presence of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s employees or subcontractors shall be construed to imply that BACON FARMER WORKMAN ENGINEERING & TESTING, INC. has any responsibility for any methods of work performance, procedures, sequencing of operations, or safety in, on, or about the project site other than BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s employees and subcontractors. Client agrees BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is not responsible for overall or project-wide site safety.

**14. HAZARDOUS MATERIALS; NOTIFICATION OF AND DISCOVERY OF.** When hazardous materials are known, assumed, or suspected to exist at a site, BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is required to take appropriate precautions to protect the health and safety of its employees, to comply with applicable laws and regulations, and to follow procedures that BACON FARMER WORKMAN ENGINEERING & TESTING, INC. deems prudent to help minimize physical risk to employees and the public. Client warrants they have provided to BACON FARMER WORKMAN ENGINEERING & TESTING, INC. all available information about type and location of known and suspected hazardous materials on, under, or adjacent to the project site.

The discovery of unanticipated hazardous or suspected hazardous materials will constitute a changed condition mandating termination of services if BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and Client are unable to renegotiate the Scope of Services in a timely manner. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will notify Client as soon as practicable should BACON FARMER WORKMAN ENGINEERING & TESTING, INC. encounter unanticipated hazardous or suspected hazardous materials.

The discovery of unanticipated hazardous or suspected hazardous materials may make it necessary for BACON FARMER WORKMAN ENGINEERING & TESTING, INC. to take measures that, in BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s professional opinion, are needed to help preserve and protect the health and safety of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s personnel, the public,

and/or to preserve and/or protect the environment. As a condition precedent to the provision of service for this project, Client agrees to compensate BACON FARMER WORKMAN ENGINEERING & TESTING, INC. for the additional fees and costs associated with any such measures and further agrees to defend, indemnify, and hold BACON FARMER WORKMAN ENGINEERING & TESTING, INC., its directors, agents, employees, anyone else who could be jointly liable with BACON FARMER WORKMAN ENGINEERING & TESTING, INC., harmless from any claim or liability for injury or loss arising from BACON FARMER WORKMAN ENGINEERING & TESTING, INC. encountering unanticipated hazardous or suspected hazardous materials.

**15. EQUAL OPPORTUNITY EMPLOYMENT.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will comply with federal regulations pertaining to Equal Opportunity Employment. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. is in compliance with applicable local, state, and federal regulations concerning minority hiring. It is BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s policy to ensure that applicants and employees are treated equally without regard to race, creed, sex, age, color, religion, veteran status, ancestry, citizenship status, national origin, marital status, sexual orientation, or disability. BACON FARMER WORKMAN ENGINEERING & TESTING, INC. expressly assures all employees, applicants for employment, and the community of its continuous commitment to equal opportunity and fair employment practices.

BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s equal opportunity employment policy applies to all phases of employment, including recruiting, hiring, job assignment, supervision, training, upgrading, transfer, compensation, benefits, promotion, education, recreation, layoff, and termination.

**16. DEFECTS IN SERVICE.** Client shall promptly report, in writing, any defects or suspected defects in BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s work, so that BACON FARMER WORKMAN ENGINEERING & TESTING, INC. may take prompt measures which, in BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s opinion, will minimize the consequences of any such defect.

**17. INSURANCE.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. will provide a certificate of insurance upon request.

**18. INDEMNIFICATION/HOLD HARMLESS.** BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall indemnify and hold harmless the Client and its employees from any liability, settlements, loss, or costs (including reasonable attorneys' fees and costs of defense) to the extent caused by BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s negligent acts, errors, or omissions in services provided pursuant to this Agreement. Provided, however, that if any such liability, settlements, loss, or costs result from the concurrent negligence of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and the Client, this indemnification applies only to the extent of the negligence of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.

Client shall indemnify and hold harmless BACON FARMER WORKMAN ENGINEERING & TESTING, INC., its agents, subcontractors, directors, officers, and employees, from any and all claims, suits, liability, damages, injunctive or equitable relief, expenses, including reasonable attorney's fees or other loss arising from damage to subterranean structures or utilities which were not identified or located by Client to BACON FARMER WORKMAN ENGINEERING & TESTING, INC. in advance of our work or the discovery unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any costs associated with possible reduction of the property's value.

Limitations on liability, waivers and indemnities in this Agreement are business understandings between the parties and shall apply to all legal theories of recovery, including breach of contract or warranty, breach of fiduciary duty, tort (including negligence)

**19. LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the project to both the Client and BACON FARMER WORKMAN ENGINEERING & TESTING, INC., the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and its subconsultants to the Client and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. and its subconsultants to all those named shall not exceed



Project Name: \_\_\_\_\_

BFW Project #: \_\_\_\_\_

\$50,000 or the amount of BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s total fee paid by the Client for services under this Agreement, whichever is the greater. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

Neither party shall have any liability to the other for loss of product, loss of profit, loss of use, business interruption, or any other indirect, incidental, special or consequential damages incurred by the other party.

Limitations on liability, waivers and indemnities in this Agreement are business understandings between the parties and shall apply to all legal theories of recovery, including breach of contract or warranty, breach of fiduciary duty, tort (including negligence), strict or statutory liability, or any other cause of action. You agree that you will not seek damages in excess of the contractually agreed-upon limitation directly or indirectly through suits against other parties who may join BACON FARMER WORKMAN ENGINEERING & TESTING, INC. as a third-party defendant. None of the insurance or indemnity obligations under this Agreement shall be deemed to be a waiver of this limitation of liability provision.

**20. FORCE MAJEURE.** Any delays or failure of performance by BACON FARMER WORKMAN ENGINEERING & TESTING, INC. shall not constitute a default under this Agreement, if such delays or failures of performance are caused by occurrences beyond the reasonable control of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. Performance under this Agreement shall resume promptly once the cause or delay or failure ceases and BACON FARMER WORKMAN ENGINEERING & TESTING, INC.'s schedule for performance shall be extended to the extent of such excused delay. Each party shall take reasonable steps to mitigate the impact of any such delay or failures.

**21. NON-SOLICITATION OF EMPLOYEES.** Client recognizes that BACON FARMER WORKMAN ENGINEERING & TESTING, INC., as a part of the services covered by this Agreement, may provide one or more of its employees to collaborate with members of Client's project staff or specifically on a Client's project. For purposes of this Agreement, an employee of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. may be a permanent or temporary employee assigned to provide services to Client. Client hereby agrees that Client will not hire, either directly or indirectly, or provide inducement to hire an employees of BACON FARMER WORKMAN ENGINEERING & TESTING, INC. either as an employee of Client, its affiliated companies or subsidiaries, or as employee of a subcontractor or supplier to Client, such suppliers to include providers of contract labor, during the term of this Agreement and for a period of six months after the termination of this Agreement. Anything or inducement to hire any BACON FARMER WORKMAN ENGINEERING & TESTING, INC. employee during the term of this Agreement and for a period of six months after termination of this Agreement will be subject to a fee equal to 25% of the total fee for services generated by that employee during a nominal 12-month period.

**22. PREVAILING WAGE AND UNION MEMBERSHIP.** Unless client specifically informs BACON FARMER WORKMAN ENGINEERING & TESTING, INC. in writing or it is specifically identified in our Proposal and or Work Authorization that prevailing wage regulations or union membership are required for the Project and Scope of Services identifies it as covered, Client will reimburse, defend, indemnify and hold harmless BACON FARMER WORKMAN ENGINEERING & TESTING, INC. from and against any liability resulting from a subsequent determination that prevailing wage regulations or union membership cover the Project including all additional costs, fines and attorneys' fees.

**23. DISPUTES.** Any action for claims arising out of or relating to this Agreement and/or respective services shall be governed by the laws of the State of Kentucky. Venue shall be in McCracken County Circuit Court. Mediation is an express condition precedent to the filing of any legal action. Unless the parties agree otherwise, the mediation shall be conducted pursuant to the Construction Mediation Rules of the American Arbitration Association.

**24. ATTORNEY FEES.** Should there be any suit or action instituted to enforce any right granted in this contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party. The party who is awarded a net recovery against the other shall be deemed the substantially prevailing party unless such other party has previously made a bona fide offer of payment in settlement and the amount of recovery is the same or less than the amount offered in settlement. Reasonable attorney fees may be recovered regardless of the forum in which the dispute is heard, including an appeal.