



LUMPKIN COUNTY
Board of Commissioners
Special Called Meeting Agenda
Commissioners Boardroom
99 Courthouse Hill
Dahlonega, GA 30533

March 7, 2023
4:30 PM

- **CALL TO ORDER**
- **CONSIDERATION OF AGENDA**
- **CONTRACTS**
 1. 2023-017 Mt Olive Church Road Culvert Bid Award (*Special Projects Manager Charles Trammell*)
 2. 2023-018 Contract Proposal for Construction Materials Testing Services and Special Inspections required for the Lumpkin County Recreation Center (*Planning Director Bruce Georgia*)
- **EXECUTIVE SESSION - *Litigation***
- **ADJOURNMENT**



Lumpkin County, Georgia

Public Works

Date:	March 7, 2023
Agenda Item:	2023-017 Mt Olive Church Road Culvert Bid Award (<i>Special Projects Manager Charles Trammell</i>)
Item Description:	Recommendation to award the Mt Olive Church Road Culvert Bid.
Facts & Historical Information:	On February 23, 2023 Lumpkin County received bids for the construction of a triple barrel 7'x6' box culvert on Mt Olive Church Road to replace a bridge that is failing. We had two contractors at the prebid meeting and others that sent in questions about the advertisement in hopes of having multiple bidders. We only had one bidder submit a bid at a bid price of \$493,867.00 from North Ga. Concrete. This bid is \$113,867.00 higher than the estimated cost of \$380,000.00. DOT funds of \$200,000.00 are available to go toward the project leaving \$293,867.00 to be paid by the county out of the TSPLOST funds.
Potential Courses Of Action:	A) Give consideration to the fact that this bridge is failing and award the contract to North Georgia Concrete at the bid price. B) Do not award the contract
Budget Impact:	TSPLOST funds will be used.
Staff Recommendation:	Staff recommends COA (A): Award bid to North Georgia Concrete at the bid amount.

**CONTRACT FOR
MT. OLIVE CHURCH ROAD BRIDGE REMOVAL AND
CULVERT INSTALLATION
Project# 2023-003**

This agreement is made and entered into between the **Lumpkin County Board of Commissioners**, hereinafter referred to as “Lumpkin County”, a political subdivision of the State of Georgia, and **North Georgia Concrete, Inc.**, hereinafter referred to as “Contractor”.

Whereas, in consideration of the mutual benefits accruing to each party, the parties hereby agree as follows:

A. Summary of Work and Payment:

1. Contractor shall provide all necessary labor, material and equipment for bridge removal and installation of a triple 7’x6’x46’ box culvert on a 60-degree skew, including all necessary grading, installation of base and paving, as well as all erosion control items on Mt. Olive Church Road at Bull Creek. All work shall be completed according to the 2021 State of Georgia Standard Specifications, the Georgia Department of Transportation Construction Standards for Reinforced Concrete Triple Box Culvert and Reinforced Concrete Skewed Wingwalls, Toewalls and Parapets for 75°, 60° and 45° Skews, and the Invitation to Bid issued by Lumpkin County dated January 25, 2023, and Addendum 1 issued February 16, 2023.

Lumpkin County personnel will be supervising construction of this project. The project will also be subject to inspections and audits by the Georgia Department of Transportation.

2. Contractor shall be authorized to begin work upon the issuance of a Notice to Proceed from Lumpkin County. All work must be completed no later than 180 days from the day the Notice to Proceed is issued.

3. The Contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The Contractor shall designate one such person as a Project Manager, and the Project Manager shall be deemed to be the Contractor’s authorized representative, who shall be authorized to receive and accept any and all communications from the County. The County shall name a Project Manager who shall be authorized to generate, receive and accept communication as an authorized representative of the County.

4. The Contractor hereby agrees to replace any personnel or sub-contractor, at no cost or penalty to the County, if the County reasonably determines that the performance of any sub- contractor or personnel is unsatisfactory.

5. Contractor shall be paid according to the terms set forth in the Invitation to Bid for work performed under this Contract on a unit price basis as follows:

LINE NO	ITEM DESCRIPTION	UNITS	UNIT PRICE DOLLARS/CENTS
0005	150-3110 Traffic Control	Lump Sum	\$6,985.00
0010	210-Grading Complete	Lump Sum	\$202,306.20
0015	207-Foundation Backfill Material TP II	Cu. Yds	\$113.00
0020	500-Class AA Concrete	Cu. Yds	\$1,250.00
0025	511- Reinforcement Steel	Pounds	\$0.95
0030	310-Graded Aggregate Base	Tons	\$68.00
0035	402-Recycled Asphalt Conc. 19 mm Incl. Bitum. Material and H Lime	Tons	\$160.00
0040	402-Recycled Asphalt Conc.12.5 mm Incl. Bitum. Material and H Lime	Tons	\$160.00
0045	163-Erosion Control Incl. Permanent Grassing	Lump Sum	\$18,767.00
0050	643-Barrier Fence (orange) 4'	LF	\$3.50

B. Bonds:

Contractor shall, prior to commencing work, provide and shall maintain, during the continuance of all work under the Contract, all Bonds required in the Invitation to Bid.

C. Liability:

Contractor shall be responsible for his work and every part thereof, and for all materials, tools, equipment, appliances, and properties of any and all description used in connection with this Contract.

Contractor assumes all risks of direct and indirect damage or injury to the property of persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

Contractor shall be liable for any collateral damage (such as broken curbs, crushed sidewalks, broken water meters, etc.) caused as a result of its work under this Contract. Contractor shall restore and/or repair, at Contractor's cost, any and all collateral damage, including, but not limited to, damage to infrastructure, back to its pre-existing condition if the damage was caused by Contractor's activities.

D. Insurance:

The Contractor shall, during the continuance of all work under the Contract, provide and maintain all insurance policies required by the Invitation to Bid.

E. Assignment of Contractual Rights and Subcontracting:

It is agreed that the Contractor will not assign, transfer, convey, or otherwise dispose of this contract or its right, title, or interest in or to the same, or any part thereof, without written consent of the County.

Contractor shall not subcontract any work without the express written consent of the County. The County must approve all subcontractors.

F. Indemnity:

To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold Lumpkin County harmless from and against any and all claims, damages, losses, and expenses, including, but not limited to, fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the negligent acts, negligent omissions, willful misconduct, or reckless misconduct of the Contractor or anyone for whom the Contractor is responsible.

G. Documents Deemed Part of Contract:

Unless otherwise modified by this Contract, the 2021 State of Georgia Standard Specifications, the Georgia Department of Transportation Construction Standards for Reinforced Concrete Triple Box Culvert and Reinforced Concrete Skewed Wingwalls, Toewalls and Parapets for 75°, 60° and 45° Skews, and the Invitation to Bid issued by Lumpkin

County dated January 25, 2023, and Addendum 1 issued February 16, 2023, shall be deemed part of the contract. No documentation or information provided by the Contractor shall be deemed part of the contract unless expressly incorporated herein.

H. Severability:

It is understood and agreed by the parties hereto that if any part, term, or provision of this Contract is held illegal or in conflict with any law of the State of Georgia, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provisions held to be invalid.

I. Dispute Resolution:

Lumpkin County and the Contractor agree to resolve through negotiation or mediation prior to filing any cause of action. The venue for any litigation arising from this contract shall be Lumpkin County, Georgia.

J. Cancellation:

Lumpkin County reserves the right to terminate the contract immediately in the event that the Contractor discontinues or abandons operations, is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

Failure of the Contractor to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by the County without penalty to Lumpkin County. Lumpkin County shall pay for services rendered up to the point of termination.

Notwithstanding anything to the contrary contained herein, the County may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the Contractor.

If the termination clause is used by the County, the Contractor will be paid by the County for all scheduled work completed satisfactorily by the Contractor up to the termination date set forth in the written termination notice.

K. Safe Working Environment and Drug Free Workplace

Contractor shall provide a safe working environment.

Contractor certifies that the provisions of Code Sections 5024-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-free Workplace Act", have been complied with in full. The Contractor further certifies that:

1. A drug-free workplace will be provided for the Contractor's employees during performance of the contract; and

2. If Contractor hires a Sub Contractor to work in a drug-free work place, Contractor shall secure from that Sub Contractor the following written certification:

As part of the subcontracting agreement with (Contractor's name), (Sub Contractor's name) certifies to the Contractor that a drug-free workplace will be provided for the Sub Contractor's employees during the performance of this Contract pursuant to Paragraph (7) of Sub-section (b) of Code Section 50-24-3".

The Contractor further certifies that it will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

L. Amendments or Modifications:

All contract amendments or modifications must be in writing and signed by all parties.

M. Notices:

Any notice, order, instruction, claim, or other written communication required or permitted under this contract shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, which delivery may be accomplished by in person hand delivery, via bona fide overnight express service or telephonic facsimile transmission; or

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, with return receipt requested, addressed to the Contractor at the following address:

North Georgia Concrete, Inc.
Attn: Craig Weatherly, Vice President
85 Chestatee Industrial Park Dr.
Dahlonega, GA 30533

and to Lumpkin County at the following address:

Lumpkin County Board of Commissioners
Attn: County Manager
99 Courthouse Hill, Ste A
Dahlonega, Georgia 30533

This Contract is made and entered into this 7th day of March, 2023.

Lumpkin County:

Contractor:

North Georgia Concrete, Inc.

By:

Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Craig Weatherly, Vice President

Attest:

Melissa Z. Witcher
Lumpkin County Clerk



Lumpkin County, Georgia

Planning

Date:	March 7, 2023
Agenda Item:	2023-018 Contract Proposal for Construction Materials Testing Services and Special Inspections required for the Lumpkin County Recreation Center (Planning Director Bruce Georgia)
Item Description:	Consideration of Southern Geotechnical Consultants (SGC) special inspection contract proposal.
Facts & Historical Information:	Currently, the county is under contract with Charles Abbot & Associates (CAA) to perform commercial plan review and inspections for this project. However, CAA does not perform the Special Inspections required. Southern Geotechnical Consultants (SGC) performs these services, in fact they conducted the special inspections for the school currently under construction on the site. SGC also performed the special inspections for the new hospital. The new recreation center project follows under the guidelines of "Special Inspections." As such site grading/earthwork testing, structural steel evaluations, concrete verification, masonry verification and confirmation of reinforcing steel will be performed. Southern Geotechnical Consultants proposal is based upon the drawings and project specifications and the preliminary construction schedule provided by Carroll Daniel Construction.
Potential Courses Of Action:	N/A
Budget Impact:	The current proposed pricing for the performance of special inspections is \$73,435. The proposed budget pricing is a "Not to Exceed" price.
Staff Recommendation:	



February 14, 2023

Lumpkin County Planning and Development
99 Courthouse Hill
Dahlonega, GA 30533

Attention: Mr. Bruce Georgia

Subject: Construction Materials Testing Services and Special Inspections
Lumpkin County Recreation Center
Dahlonega, Georgia
SGC Proposal No. GP-2601

Dear Bruce:

Southern Geotechnical Consultants (SGC), LLC appreciates the opportunity to submit our proposal for providing construction engineering testing services for the referenced project. This proposal briefly describes our understanding of the project, outlines the scope of services requested, and presents corresponding fee information.

PROJECT INFORMATION

The project involves the site development and construction of the new Lumpkin County Recreation Center located in Dahlonega, Georgia.

We understand that the project does follow under the guidelines of "Special Inspections." As such structural steel evaluations, concrete verification, masonry verification and confirmation of reinforcing steel will be performed.

SCOPE OF SERVICES

Our proposal is based upon reviewing the drawings and project specifications and the preliminary construction schedule provided by Carroll Daniel Construction. We note that in putting together the anticipated scope of services for building construction we have relied upon our past experience with similar projects.

NPDES

Southern Geotechnical Consultants, LLC will collect storm water samples by hand after a specified qualifying event for the duration of the project and the samples will be analyzed according to the requirements of the permit. SGC will provide a brief report, which should be included in your monthly storm water monitoring report that must be submitted to the EPD. SGC's personnel will also conduct weekly inspections of the BMP's and after every qualifying rainfall event. All of SGC's personnel that will be performing the inspections are Level 1B certified by the Georgia Soil and Water Conservation Commission. Field reports outlining our findings will be provided to you in the field and/or the next business day as required.

Site Grading/Earthwork

- Provide a representative during any undercutting within the building footprint and to observe undercutting of any existing fill required after reaching planned subgrade elevation.
- Provide a representative to observe proofrolling of the exposed subsoil prior to beginning fill placement to check for stability of the exposed subgrade and provide recommendations as needed for mitigation.
- Conduct laboratory standard Proctor tests (ASTM D-698) to determine the moisture/density relationship of representative soil samples.
- Have a field technician present as needed to conduct in-place field density tests to document the percent compaction achieved by the contractor and provide recommendations for earthwork activities as needed.

Foundation Testing

- Provide a representative to evaluate all shallow foundation excavations, and/or grade beams for compliance with the project plans including a check that the footing dimensions match that as shown on the project plans. Also, use a dynamic cone penetrometer (DCP) to check the consistency of the bearing soils for consistency with those encountered in our borings.

Floor Slab Evaluations

- Provide a representative to evaluate slab areas prior to concrete placement. Evaluation will include random probing of soil subgrade and if possible, observing a proofroll of the area.

Reinforcing Steel

- Provide a representative to observe placement of reinforcing steel in foundations and other structural members.
- Document that the size, spacing, support and layout of reinforcing steel conform to project drawings.

Concrete

- Provide a field technician to observe the concrete placement.
- Take samples and perform tests on plastic concrete in the field, including slump, air content, temperature, and other tests required by the project specifications.
- Make four, 4-inch by 8-inch concrete cylinder specimens per set for compressive strength testing.
- Cure, test, and report concrete cylinder test specimens as required by the specifications.

Masonry

- Provide a field technician to observe the masonry block, grout and masonry cell reinforcement placement.
- Take samples and perform tests on plastic block fill grout in the field, including slump, air content, temperature, and other tests required by the project specifications.
- Sample, masonry unit specimens for compressive strength testing.
- Make four, masonry grout test specimens per set for compressive strength testing.
- Make six, 2-inch by 2-inch mortar test specimens per set for compressive strength testing.
- Cure, test, and report masonry grout and mortar test specimens as required by the specifications.

Bolt & Weld Evaluations

- Provide a certified welding inspector to visually evaluate the bolt torque and welded connections per specifications. Also, we will provide all non-destructive evaluations of moment weld connections as the specifications dictate.

Asphalt Paving

- In-place density testing of the base course for planned asphalt pavements, along with an associated modified Proctor test.
- Evaluation of exposed base course by observing a proofroll of the area to be paved.
- Observe placement of asphalt to measure temperature, thickness and compaction methods.
- Coring asphalt to verify thickness and compaction.

COST BASIS

We propose that the fees for our services be determined on a unit rate basis in accordance with the attached Fee Schedules. We have prepared an attached budget for your use. We note that the proposed budget pricing is a “Not to Exceed” price.

RESPONSIBILITIES

Our personnel will be experienced in the types of testing being performed and will perform the tests in accordance with project specifications and applicable standards of the industry in the Atlanta area. We do not have the authority to direct the contractor in the performance of their work or to authorize changes in the construction contract. We will bring to your attention any test results that indicate noncompliance, but the contractor is ultimately responsible for performing the work in accordance with the construction documents. Much of the testing is performed on a periodic and random basis and is not a guarantee of the overall work product. SGC accepts no responsibility for job-site safety, which is the sole responsibility of the contractor.

ACKNOWLEDGMENT

Thank you again for the opportunity to submit this proposal. Please contact us if you wish to discuss any aspect of this proposal or if we can be of assistance to you in any capacity.

Respectfully submitted,

Southern Geotechnical Consultants, LLC



Rodney Clark
Project Manager



A. Glenn Motes III, P.G. /P.E.
Senior Project Manager

JRC/AGM

Enclosures

SCHEDULE A

UNIT RATE FEE SUMMARY

Soil Density Testing, per hour	\$	58.00
Site Concrete Testing, per hour	\$	48.00
Footing, Subgrade Evaluation, per hour	\$	69.00
Reinforcing Steel Evaluation, per hour	\$	69.00
Visual Weld, Bolt Torque Evaluation, per hour	\$	77.00
Ultrasonic Weld Evaluation, per hour	\$	89.00
Standard Proctor Compaction Test, per sample	\$	250.00
Base Course Proctor Compaction Test, per sample	\$	300.00
Concrete Cylinder Compression Test, per set*	\$	150.00
Masonry Grout Prism Compression Test, per set	\$	165.00
Mortar Cube Compression Test, per set	\$	135.00
NPDES Services, per month	\$	950.00
Project Manager, per hour	\$	125.00
Senior Project Manager, per hour	\$	185.00
Trip Charge	\$	N/A

Expenses and reimbursable items will be charged at actual cost plus 25 percent.

Hourly personnel rates apply to job activities such as review of drawings, specifications and test results; consultation with project personnel; mobilization; travel time portal to portal; demobilization; and report preparation. An overtime multiplier of 1.5 will be applied to all work outside the hours of 8:00 AM to 5:00 PM, more than 8 hours in one day, Saturdays, Sundays and holidays.

*Surcharge of \$2.00 per cylinder if made by others

**FEE ESTIMATE FOR CONSTRUCTION MATERIALS TESTING
AND SPECIAL INSPECTIONS
LUMPKIN COUNTY RECREATION CENTER
DAHLONEGA, GEORGIA
SGC PROPOSAL NO. GP-2601**

SITE GRADING/EARTHWORK*

Site Observations and Fill Compaction Testing (Part-time Service)*

Estimate	21	Trips @	\$385.00 /Per Trip	\$8,085.00
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Proctors

Estimate	4	Proctors @	\$250.00 /Per Test	\$1,000.00
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SITE GRADING/EARTHWORK SUBTOTAL:

\$9,085.00

NPDES SERVICES

Estimate	12	Months @	\$950.00 /Per Month	\$11,400.00
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NPDES SERVICES SUBTOTAL:

\$11,400.00

SUBGRADE & OTHER ENGINEERING EVALUATIONS*

Estimate	4	Trips @	\$450.00 /Per Trip	\$1,800.00
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SLAB ON GRADE EVALUATIONS SUBTOTAL:

\$1,800.00

BUILDING FOUNDATIONS/REINFORCING STEEL EVALUATIONS*

Estimate	26	Trips @	\$450.00 /Per Trip	\$11,700.00
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BUILDING FOUNDATIONS/REINFORCING STEEL EVALUATIONS SUBTOTAL:

\$11,700.00

SLAB ON GRADE SUBGRADE EVALUATIONS*

Estimate	4	Trips @	\$450.00 /Per Trip	\$1,800.00
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SLAB ON GRADE EVALUATIONS SUBTOTAL:

\$1,800.00

CONCRETE TESTING SERVICES *

Footings*

Estimate	18	Trips @	\$325.00 /Per Trip	\$5,850.00
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Slabs*

Estimate	4	Trips @	\$795.00 /Per Trip	\$3,180.00
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Cylinder Testing

Estimate	28	Sets @	\$150.00 /Per Set	\$4,200.00
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**FEE ESTIMATE FOR CONSTRUCTION MATERIALS TESTING
AND SPECIAL INSPECTIONS
LUMPKIN COUNTY RECREATION CENTER
DAHLONEGA, GEORGIA
SGC PROPOSAL NO. GP-2601**

Cylinder Pick-Up*

Estimate 22 Trips @ \$145.00 /Per Trip \$3,190.00

CONCRETE TESTING SERVICES SUBTOTAL:

\$16,420.00

MASONRY TESTING SERVICES *

Masonry Inspections*

Estimate 20 Trips @ \$325.00 /Per Trip \$6,500.00

Grout Prism Testing

Estimate 9 Sets @ \$185.00 /Per Set \$1,665.00

Mortar Cube Testing

Estimate 9 Sets @ \$135.00 /Per Set \$1,215.00

Cylinder Pick-Up*

Estimate 6 Trips @ \$145.00 /Per Trip \$870.00

MASONRY TESTING SERVICES SUBTOTAL:

\$10,250.00

STRUCTURAL STEEL EVALUATIONS

Visual Bolt Torque and Weld Evaluations*

Estimate 6 Trips @ \$585.00 /Per Trip \$3,510.00

Ultrasonic Weld Evaluations*

Estimate 2 Trips @ \$735.00 /Per Trip \$1,470.00

STRUCTURAL STEEL EVALUATIONS SUBTOTAL:

\$4,980.00

**FEE ESTIMATE FOR CONSTRUCTION MATERIALS TESTING
AND SPECIAL INSPECTIONS
LUMPKIN COUNTY RECREATION CENTER
DAHLONEGA, GEORGIA
SGC PROPOSAL NO. GP-2601**

ASPHALT*

Pavement Subgrade Evaluation (Proofroll)*

Estimate	5	Trips @	\$450.00 /Per Trip	\$2,250.00
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Asphalt Placement Testing*

Estimate	6	Trips @	\$425.00 /Per Trip	\$2,550.00
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ASPHALT SUBTOTAL:

\$4,800.00

FINAL SPECIAL INSPECTION SUMMARY REPORT

Estimate		\$1,200.00	\$1,200.00
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FINAL SPECIAL INSPECTION REPORT SUBTOTAL:

\$1,200.00

TESTING BUDGET TOTAL:

\$73,435.00

*Note: Assumes work performed during Monday - Friday between the hours of 8:00 am and 5:00 pm. For any work outside that time or scope will be billed at 1.5 times the applicable unit rate.

EXHIBIT A

PROPOSAL ACCEPTANCE

Description of Services Construction Materials Testing and Special Inspection Services
Project Name Lumpkin County Recreation Center
Project Location Dahlonega, Georgia
Proposal Date February 14, 2023 / GP-2601 Consultant SGC, LLC

FOR PAYMENT OF CHARGES:

Charge Invoice to the Account of:

Firm _____
Address _____ City _____
State _____ Zip Code _____ Phone Number _____
Attention: _____ Title _____
Email: _____

FOR APPROVAL OF CHARGES:

If the invoice is to be mailed for approval to someone other than the account charges, please indicate where to mail the invoice in the space below.

Firm _____
Address _____ City _____
State _____ Zip Code _____ Phone Number _____
Attention: _____ Title _____
Email: _____

PROPERTY OWNER IDENTIFICATION (If Other Than Above):

Firm _____
Address _____ City _____
State _____ Zip Code _____ Phone Number _____
Attention: _____ Title _____
Email: _____

PROPOSAL ACCEPTANCE:

The Terms and Conditions of this Proposal, including the Terms on this page and the proposal contents are:

Accepted this _____ day of _____, 20_____

Print or type individual, firm or corporate name

Signature of authorized representative

EXHIBIT B

STANDARD TERMS AND CONDITIONS OF CONTRACT FOR PROFESSIONAL SERVICES:

The Client and Southern Geotechnical Consultants, LLC (hereinafter referred to as Southern Geotechnical Consultants) (collectively, the Client and Southern Geotechnical Consultants shall be referred to as the "parties") agree that services covered by this Agreement shall be performed in accordance with the following Standard Terms and Conditions:

1. **Standard of Care.** Southern Geotechnical Consultants will perform the services with the degree of skill and care ordinarily exercised by qualified professionals performing the same type of services at the same time under similar conditions in the same or similar locality. Southern Geotechnical Consultants makes no warranty, express or implied, as to its professional services rendered under this Agreement and specifically excludes any implied warranty that the services contracted for in this Agreement are suitable for the Client's project. Client shall promptly notify Southern Geotechnical Consultants with reasonable specificity of any deficiencies or suspected deficiencies in the services of which Client becomes aware, so that Southern Geotechnical Consultants may take measures to minimize the consequences of such a deficiency. Failure to notify Southern Geotechnical Consultants shall relieve Southern Geotechnical Consultants of the cost of remedying the deficiencies above the sum such remedy would have cost had prompt notification been given. Client acknowledges that the services entail risk of personal injury and property damage (including cross-contamination) that cannot be avoided, even with the exercise of due care. Client also acknowledges that environmental and geotechnical conditions can vary from those encountered at the times and locations of explorations and data collection, and that the limitation on available data may result in some level of uncertainty with respect to the interpretation of these conditions, despite due professional care. Southern Geotechnical Consultants therefore cannot guaranty specific results such as the identification of all contamination or other geotechnical or environmental conditions or problems nor their resolution.

2. **Payment.** The Client agrees to pay Southern Geotechnical Consultants for work completed. Southern Geotechnical Consultants will invoice the Client periodically. Payments to Southern Geotechnical Consultants are due upon receipt of the invoice. Interest will accrue at the rate of 1.5 % per month from the date of the invoice on all payments not made within 30 days of the date of the invoice. If you dispute any portion of an invoice, you will notify Southern Geotechnical Consultants in writing with specificity within 10 days and pay the undisputed portion of the Invoice. Non payment of any invoice within 10 days of the date of the invoice authorizes Southern Geotechnical Consultants to immediately stop work on the Client's project and to withhold all documentation on the project from the Client, without incurring any liability for damages to Client or others. If any unpaid amounts have to be collected by or through litigation or the services of an attorney, the Client shall be liable for the reasonable attorney's fees and expenses of litigation incurred by Southern Geotechnical Consultants. If Client disputes any part of an invoice, Client will notify Southern Geotechnical Consultants in writing within 10 days of receipt of the invoice and shall pay the undisputed portion at the same time. Payments to Southern Geotechnical Consultants can be in the form of cash, check or credit/debit card. Credit card payments are \$2.95 per transaction under \$107 – all other transactions are 2.75% of the total transaction (Visa, MasterCard, American Express, Discover and JCB). Debit card payments are a flat fee of \$3.95 (Visa Debit and MasterCard Debit).

3. **Additional Charges.** Only those services specifically listed within this proposal are included. Any future phases or additional services will require additional fees.

Southern Geotechnical Consultants services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Delays caused by acts or conditions outside the control of Southern

Geotechnical Consultants may cause an increase in the project cost. An unanticipated number of meetings between Client and Southern Geotechnical Consultants may cause an increase in Southern Geotechnical Consultants' costs and will be billed to the Client at the hourly rate charged by Southern Geotechnical Consultants.

Unforeseen, adverse field conditions may require an increase in the project schedule and fees charged to Client. Adverse field conditions include, but are not limited to, items such as limited access, extremely dense vegetation, subsurface conditions, storm damaged property, swampy conditions, existing utilities, irate property owners, restricted hours of operation or other field conditions beyond Southern Geotechnical Consultants' control. Southern Geotechnical Consultants will immediately inform the Client in writing when such conditions are encountered. Client and Southern Geotechnical Consultants will agree in writing to any changes in scope and fee before proceeding with the project.

The Client shall be responsible for all governmental fees associated with the work performed under this contract and any other fees not specifically covered by the terms of this contract. The Client shall reimburse Southern Geotechnical Consultants for responding to any subpoena or governmental inquiry or audit related to this Agreement at Southern Geotechnical Consultants' standard rates then in effect.

4. **Confidentiality.** Client agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by Southern Geotechnical Consultants pertaining to Client's project or this Agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Southern Geotechnical Consultants.

5. **Independent Contractor.** Southern Geotechnical Consultants is an independent contractor and not an agent for or employee of Client and Southern Geotechnical Consultants is not empowered under the Agreement to make any binding commitments or contracts on Client's behalf nor to supervise any part of Client's project or other contractor's work for any purpose whatsoever.

6. **Disputes.** Any legal action between Client and Southern Geotechnical Consultants arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in Hall County, Georgia, regardless of who initiates the legal action. The parties agree that any legal action filed by either party shall be sent to mediation. If Southern Geotechnical Consultants is the prevailing party in any lawsuit decided by a judge or jury, Southern Geotechnical Consultants shall also be entitled to judgment for its reasonable expenses of litigation, including attorney's fees. Client agrees to indemnify, hold harmless and defend Southern Geotechnical Consultants from any third party action arising out of or related to this Agreement and to services provided by Southern Geotechnical Consultants.

7. **Limitation of Liability.** In recognition of the relative risks and benefits of the project to both the Client and Southern Geotechnical Consultants, the Client agrees that the liability of Southern Geotechnical Consultants under this Agreement shall be limited to fifty thousand dollars or the total fee for services rendered on this project, whichever is less. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. Southern Geotechnical Consultants shall not be liable for errors or omissions which are not disclosed to Southern Geotechnical Consultants, in writing, within one (1) year of the date of this Agreement. Southern Geotechnical Consultants assumes no liability for damage to others who are not a party to this Agreement and Client agrees to indemnify, hold harmless and defend Southern Geotechnical Consultants from any third party action related to this Agreement and services provided by Southern Geotechnical Consultants.



Southern Geotechnical Consultants shall not be liable for damages resulting from the actions or inactions of governmental agencies. Southern Geotechnical Consultants shall act as an advisor only in all governmental relations.

The Client shall be responsible for disclosing any information and providing any necessary documents related to the property or project necessary to Southern Geotechnical Consultants' performance under this Agreement. Any delays, errors or damages caused by Client's failure to timely provide documents and accurate information is the sole responsibility of Client.

Notwithstanding any other provision of this Agreement, Southern Geotechnical Consultants, its officers, directors, partners, employees, contractors or consultants shall not be liable for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that Client may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Client shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

8. Client's Responsibilities. Client will designate to Southern Geotechnical Consultants in writing a person to act as Client's representative who is authorized to receive notices, transmit information and make decisions regarding the project. Except as otherwise agreed, Client will secure the approvals, permits, licenses and consents necessary for performance of the services. Client will provide Southern Geotechnical Consultants with all documents and other information that are pertinent to the services and are reasonably available to Client, including information related to hazardous materials or other environmental or geotechnical conditions at the site. Before Southern Geotechnical Consultants performs any subsurface activities, Client will provide it with all plans and other information available to Client concerning underground services, conduits, pipes, tanks and other facilities and obstructions at the site. Unless otherwise indicated in writing, Southern Geotechnical Consultants will be entitled to rely upon the accuracy and completeness of the documents and information provided by the Client.

9. Termination. Either party may terminate this Agreement at any time by giving written notice to the other. Termination shall be effective when received by the party being terminated. Southern Geotechnical Consultants may terminate this Agreement at anytime without prior notice due to nonpayment by Client. If this Agreement is terminated, Southern Geotechnical Consultants shall be compensated for work actually performed and expenses incurred up to the date of termination. Southern Geotechnical Consultants shall not be liable for any consequential damages, including but not limited to, loss of use and loss of profit, incurred by the Client because of the termination of this Agreement or any subsequent resumption of the project.

10. Reuse of Documents. All documents (including electronic and computer formats) prepared by or furnished by Southern Geotechnical Consultants pursuant to this Agreement are the copyrighted property of Southern Geotechnical Consultants. Designs, reports, data and other work product delivered to Client are for Client's use only, for the limited purposes disclosed to Southern Geotechnical Consultants. They are not intended or represented to be suitable for reuse by Client or others for any purpose other than that specifically agreed to in this Agreement. Any reuse of documents prepared by Southern Geotechnical Consultants without the specific written consent of Southern Geotechnical Consultants is prohibited. If consent to reuse the documents is granted by Southern Geotechnical Consultants, such reuse shall be at user's sole risk and without liability or legal exposure to Southern Geotechnical Consultants and Client agrees to indemnify and defend Southern Geotechnical Consultants against any liabilities resulting therefrom. Any improper use shall entitle Southern Geotechnical Consultants to further compensation at rates then charged by Southern

Geotechnical Consultants. The parties agree that any breach of this paragraph by the Client or others may result in irreparable harm to Southern Geotechnical Consultants and that it is impossible to measure in money the damages that will accrue to Southern Geotechnical Consultants as the result of such a breach. Therefore, the terms and provisions of this paragraph may be specifically enforced by Southern Geotechnical Consultants in equity, and the Client hereby waives the claim or defense that a remedy at law is adequate for a breach of any of the terms and provisions of this paragraph. Any technology, methodology or technical information learned or developed by Southern Geotechnical Consultants shall remain its property.

11. Record Retention. Southern Geotechnical Consultants will retain records for a maximum of three (3) years from completion of project or termination of Southern Geotechnical Consultants duties.

12. Waiver. If one party waives enforcement of any term or provision of this agreement at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this Agreement, that party retains the right to enforce that term or provision at a later time, without further notice to the other party.

13. Assignments. The provisions of this Agreement are binding upon and will inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties. Neither Southern Geotechnical Consultants nor the Client shall assign or transfer its interest in this Agreement without written consent of the other.

14. Modification to Agreement. This Agreement represents the entire agreement between the Client and Southern Geotechnical Consultants and supersedes all prior negotiations, representations or agreements, either written or oral, for this project. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by all parties. These Standard Terms and Conditions shall govern over any inconsistent terms in the Agreement. Unless specifically excluded, all terms and conditions of the original contract shall apply to any modification or addendum. All additional work shall be charged to the Client at the standard hourly rates charged by Southern Geotechnical Consultants, unless priced differently in the modification.

15. Severability. If any provision of this Agreement shall be determined to be invalid or unenforceable in whole or part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform and modify this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision. These terms and conditions of this Agreement shall survive the completion of the services under this Agreement or and the termination of this Agreement for any cause.

16. Governing Law. This Agreement shall be governed in all respects by the laws of the State of Georgia.

17. Notices. All notices must be in writing. A notice may be delivered to a party at the address that follows a party's signature or to a new address that a party designates in writing. A notice may be delivered: (A) In person, (B) By certified mail, (C) By overnight courier, (D) By fax.

18. Counterparts. The parties may sign several identical counterparts of this Agreement. Any fully signed counterpart shall be treated as an original.

19. All limitations of liability, indemnifications, warranties and representations contained in this Agreement shall survive the completion or termination of this Agreement.

