

**AMENDMENT NO. 2 TO L30164**

Contract Start Date:	2/14/2019	Original Total Amount:	\$130,539.00
Original Completion Date:	7/31/2019	As Previously Amended:	\$166,807.00
Amendment Completion Date:	2/28/2022	Current Amendment:	\$404,185.00
Resolution:	20-0351R	New Total Contract Amount:	\$570,992.00

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This amendment, effective as of the date of attestation by the City Clerk (the "Effective Date"), by and between the City of Duluth, hereinafter referred to as "City", and MSA Professional Services, Inc. located at 332 W. Superior Street, Suite 600, Duluth, MN 55802, hereinafter referred to as "Consultant", for the purpose of rendering services to the City.

WHEREAS, on February 14, 2019, City and Consultant entered into an agreement bearing City of Duluth Contract No. L30164 for professional engineering services for the design of the relocation of Lift Station No. 15, which Contract has not been previously amended, hereinafter referred to as the "Contract"; and

WHEREAS, both parties desire to amend the Contract.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto hereby agree as follows:

In this Amendment changes in the language of the Contract which delete language will be shown as stricken and language added to the contract language will be underlined.

Revision 1. The Payments as described in the Contract Introduction, the Basis of Billing in Section V.A. and the Total Not to Exceed in Section V.E. are hereby changed as follows:

~~One Hundred Sixty-Six Thousand Eight Hundred Seven and no/100ths Dollars (\$166,807.00)~~ Five Hundred Seventy Thousand, Nine Hundred Ninety-Two and 00/100 Dollars (\$570,992.00).

Revision 2. The Construction Administration and Inspection Phase in Section II.G. is changed to be included in this agreement. The construction administration and inspection phase shall be completed by February 28, 2022.

Revision 3. The Special Provisions described in Section VI of the Contract are hereby changed as follows:

The following exhibits are attached to and made part of this agreement:

- 1) Exhibit A, Engineer's Hourly Rates
- 2) Exhibit B, Engineer's Proposal entitled Lift Station 15 Relocation RFP18-19AA, dated November 2, 2018; and Engineer's Proposal dated February 25, 2020 entitled "Proposal for Construction related Engineering Services for Construction of Lift Station No. 15 Relocation"

In all other respects the contract, together with all of its terms, covenants and conditions, is hereby confirmed in its entirety.





February 25, 2020

Mr. Aaron Soderlund, P.E.  
City of Duluth  
411 West First Street, RM 211  
Duluth, MN 55802

Re: Proposal for Construction related Engineering Services for  
Construction of Lift Station No. 15 Relocation

Dear Mr. Soderlund:

MSA Professional Services, Inc. (MSA) is pleased to submit this proposal for construction related services for the proposed relocation of Lift Station 15. The MSA team will provide services limited to technical support during the construction phase.

**SCOPED A/E SERVICES TO BE PROVIDED BY MSA:**

- Attend a pre-construction meeting;
- Review Shop Drawings: A single review of each submitted shop drawing is included within this scope of services;
- Review Operation and Maintenance Submittals;
- Coordinate/respond to contractor questions;
- Provide up to 40 hours of assistance for the contractor with construction staking and layout in 2020. Provide 32 hours of as-built surveying in 2021. Staking will be placed once as requested by contractor;
- Provide up to 996 hours of resident project representative services in 2020. Provide up to 384 hours of resident project representative services in 2021. RPR service are further described in the attached;
- Provide review of up to eight (8) contractor pay applications in 2020, and up to four (4) in 2021;
- Respond to up to twelve (12) RFI/CB in 2020, and up to two (2) in 2021;
- Prepare and implement up to four (4) Change Orders in 2020, and up to one (1) in 2021;
- Attend up to Twelve (12) progress meetings in 2020, and up to two (2) in 2021;
- Provide up to One Hundred and Sixty (160) hours of soil removal oversight in 2020;
- Provide up to sixty-four (64) hours to develop Environmental Reports and up to four (4) hours coordinating with MPCA;
- Witness and document equipment start up and performance tests required to demonstrate compliance with contract documents;

1230 South Boulevard  
Baraboo, WI 53913

**P** (608) 356-2771  
**TF** (800) 362-4505  
**F** (608) 356-2770

[www.msa-ps.com](http://www.msa-ps.com)

Proposal for CRS for Lift Station No.15 Relocation  
Mr. Aaron Soderlund, P.E.  
February 25, 2020

- Provide coordination of geotechnical sub-consultant;
  - Provide up to \$2,500 of quality assurance geotechnical testing and review of construction progress;
  - Provide up to \$2,320 of geotechnical professional services associated with the completion of the project;
- Conduct final walk-through and develop a punch list;
- Conduct site visit to confirm completion of the punch list;
- Complete an 11<sup>th</sup> month warranty review. To be scheduled approximately 11 months after the substantial completion of the project;
- Provide up to 24 hours of operator training and assistance;
- Develop as-built drawings from contractor record drawings depicting the nature of the construction modifications;
- Develop O&M per city standards;
- Provide overall project management

**A/E DELIVERABLES:**

- Punch list;
- Email confirmation that punch list is complete;
- Record drawings conforming to Duluth standards;
- O&M conforming to Duluth standards

Attached is a schedule of estimated time and expenses for the proposed services described above assumed to be provided in 2020 and 2021. The total estimated fee is \$404,185 time and materials (T&M) for the construction services. Our proposal to proceed is based on time and material during the construction phase of the project.

We look forward to working with you to construct the relocation of Lift Station No.15. If you have any questions about our proposal, please call me at (608) 355-8868 or my cell phone at (608) 963-6527.

Sincerely,  
MSA Professional Services, Inc.



Scott R. Chilson, P.E.  
Senior Project Engineer

SRC:mk

Lift Station No. 15 Relocation 2020-2021 Construction Services - City Project 1803 (RFP Number: 18-19AA)

Phase		2020 TOTAL HOURS	2021 TOTAL HOURS	2020 LABOR COST	2021 LABOR COST	2020 DIRECT EXPENSE	2021 DIRECT EXPENSE	SUB-CONSULTANTS	Notes	TOTAL COST
<b>Phase No.</b>	<b>Task / Deliverable</b>									
<b>100</b>	<b>Construction Administration</b>	<b>767</b>	<b>141</b>	<b>\$ 102,107</b>	<b>\$ 24,560</b>	<b>\$ 1,053</b>	<b>\$ 2,219</b>	<b>\$ -</b>		<b>\$ 129,939</b>
	Preconstruction Conference Meeting	10	0	\$ 1,670	\$ -	\$ 10	\$ -			\$ 1,680
	Project Administration	72	24	\$ 12,640	\$ 4,800	\$ 8	\$ 2			\$ 17,450
	Correspondence	50	24	\$ 8,540	\$ 4,800	\$ 8	\$ 2			\$ 13,350
	Shop Drawing and Submittal Review	304	0	\$ 37,004	\$ -	\$ 1,000	\$ -			\$ 38,004
	O&M Submittal Review	132	0	\$ 15,922	\$ -	\$ 5	\$ 6			\$ 15,933
	Pay Requests	50	20	\$ 6,370	\$ 2,816	\$ 6	\$ 4			\$ 9,196
	RFI's	84	8	\$ 11,164	\$ 1,184	\$ 8	\$ 2			\$ 12,358
	Change Orders	65	7	\$ 8,797	\$ 1,104	\$ 8	\$ 2			\$ 9,911
	Project Closeouts	0	58	\$ -	\$ 9,856	\$ -	\$ 2,200			\$ 12,056
<b>200</b>	<b>Construction Inspection</b>	<b>1240</b>	<b>488</b>	<b>\$ 144,868</b>	<b>\$ 58,240</b>	<b>\$ 11,385</b>	<b>\$ 5,000</b>	<b>\$ -</b>		<b>\$ 219,493</b>
	Staking	80	64	\$ 8,800	\$ 7,584	\$ 4,052	\$ 4,153			\$ 24,589
	Inspection	996	384	\$ 107,204	\$ 43,008	\$ 1,936	\$ 843			\$ 152,991
	Progress Meetings	98	20	\$ 17,004	\$ 3,648	\$ 25	\$ 4			\$ 20,680
	Startup Services	50	20	\$ 9,500	\$ 4,000	\$ 553	\$ -			\$ 14,053
	Coordination of Geotect Sub	16	0	\$ 2,360	\$ -	\$ 4,820	\$ -		*	\$ 7,180
<b>300</b>	<b>Operational Phase</b>	<b>0</b>	<b>188</b>	<b>\$ -</b>	<b>\$ 25,272</b>	<b>\$ 13</b>	<b>\$ 374</b>	<b>\$ -</b>		<b>\$ 25,659</b>
	Operator Training	0	24	\$ -	\$ 3,392	\$ 8	\$ 31			\$ 3,431
	Operation and Maintenance Manual	0	32	\$ -	\$ 4,992	\$ 5	\$ 17			\$ 5,014
	Record Drawings	0	116	\$ -	\$ 14,392	\$ -	\$ 316			\$ 14,708
	11 Month Warranty Review	0	16	\$ -	\$ 2,496	\$ -	\$ 11			\$ 2,507
	Expenses and Consultants	0	0	\$ -	\$ -	\$ -	\$ -			\$ -
<b>400</b>	<b>Environmental Services Phase</b>	<b>160</b>	<b>68</b>	<b>\$ 18,000</b>	<b>\$ 8,200</b>	<b>\$ 55</b>	<b>\$ 2,840</b>	<b>\$ -</b>		<b>\$ 29,094</b>
	Soil Removal Oversight	160	0	\$ 18,000	\$ -	\$ 55	\$ -			\$ 18,055
	Reporting	0	64	\$ -	\$ 7,560	\$ -	\$ 265			\$ 7,825
	MPCA Fee	0	4	\$ -	\$ 640	\$ -	\$ 2,575			\$ 3,215
<b>900</b>	<b>Additional Services</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>		<b>\$ -</b>
	TBD	0	0	\$ -	\$ -	\$ -	\$ -			\$ -
	<b>GRAND TOTAL</b>	<b>2167</b>	<b>885</b>	<b>\$ 264,975</b>	<b>\$ 116,272</b>	<b>\$ 12,505</b>	<b>\$ 10,432</b>	<b>\$ -</b>		<b>\$ 404,185</b>

Lift Station No. 15 Relocation 2020 Construction Services - City Project 1803 (RFP Number: 18-19AA)

Phase	Project Manager / Engineer Chilson	Senior Technician Lockett	Survey Charlie	Lead Enviro. Engineer Anderson	Lead Enviro. Scientist II Davidson	Enviro. Scientist I Kingsfus	Program Manager Miller	Lead Structural Engineer Schinkoeth	Lead Arch. Szymanski	Arch. Project Engineer Vega Phippe	Plumbing and HVAC Engineer Wastlund	Electrical Project Engineer Lutz	Process Mech./Elect. Designer/ Technician Goetz	Admin. Seczko	TOTAL HOURS	LABOR COST	DIRECT EXPENSE	SUB-CONSULTANTS	Notes	TOTAL COST	
Phase No.	Task / Deliverable	Task No.	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours				
100	<b>Construction Administration</b>		220	86	0	22	16	32	4	40	40	62	40	54	54	97	767	\$ 102,107	\$ 1,053	\$ -	\$ 103,160
	Preconstruction Conference Meeting		8												2	10	\$ 1,670	\$ 10		\$ 1,680	
	Project Administration		40			12			4	8	8					72	\$ 12,640	\$ 8		\$ 12,648	
	Correspondence		40								2					8	\$ 50	\$ 8,540	\$ 8	\$ 8,548	
	Shop Drawing and Submittal Review		48	32		4	4	8		24	16	40	24	32	40	304	\$ 37,004	\$ 1,000		\$ 38,004	
	O&M Submittal Review		24	16						2	8	16	10	16	24	132	\$ 15,922	\$ 5		\$ 15,927	
	Pay Requests		16	16			2	8							8	50	\$ 6,370	\$ 6		\$ 6,376	
	RFI's		24	12		4	2	8		4	4	4	4	4	10	84	\$ 11,164	\$ 8		\$ 11,172	
	Change Orders		20	10		2	8	8		2	2	2	2	2	5	65	\$ 8,797	\$ 8		\$ 8,805	
	Project Closeouts															0	\$ -	\$ -		\$ -	
200	<b>Construction Inspection</b>		154	1020	40	6	0	0	0	8	12	0	0	0	0	1240	\$ 144,868	\$ 11,385	\$ -	\$ 156,253	
	Staking			40	40											80	\$ 8,800	\$ 4,052		\$ 12,852	
	Inspection		24	960						4	8					996	\$ 107,204	\$ 1,936		\$ 109,140	
	Progress Meetings		72	12		6				4	4					98	\$ 17,004	\$ 25		\$ 17,029	
	Startup Services		50													50	\$ 9,500	\$ 553		\$ 10,053	
	Coordination of Geotect Sub		8	8												16	\$ 2,360	\$ 4,820	*	\$ 7,180	
300	<b>Operational Phase</b>		0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$ -	\$ 13	\$ -	\$ 13	
	Operator Training															0	\$ -	\$ 8		\$ 8	
	Operation and Maintenance Manual															0	\$ -	\$ 5		\$ 5	
	Record Drawings															0	\$ -	\$ -		\$ -	
	11 Month Warranty Review															0	\$ -	\$ -		\$ -	
	Expenses and Consultants															0	\$ -	\$ -		\$ -	
400	<b>Environmental Services Phase</b>		0	0	0	0	80	80	0	0	0	0	0	0	0	160	\$ 18,000	\$ 55	\$ -	\$ 18,055	
	Soil Removal Oversight						80	80								160	\$ 18,000	\$ 55		\$ 18,055	
	Reporting															0	\$ -	\$ -		\$ -	
	MPCA Fee															0	\$ -	\$ -		\$ -	
900	<b>Additional Services</b>		0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -	
	TBD															0	\$ -	\$ -		\$ -	
	<b>GRAND TOTAL</b>		374	1106	40	28	96	112	4	48	52	62	40	54	54	97	2167	\$ 264,975	\$ 12,505	\$ -	\$ 277,480



Lift Station No. 15 Relocation 2021 Construction Services - City Project 1803 (RFP Number: 18-19AA)

Phase	Project Manager / Engineer Chilson	Senior Technician Lockett	Survey Charlie	Lead Enviro. Engineer Anderson	Lead Enviro. Scientist II Davidson	Enviro. Scientist I Kingsfus	Program Manager Miller	Lead Structural Engineer Schinkoeth	Lead Arch. Szymanski	Arch. Project Engineer Vega Phippe	Plumbing and HVAC Engineer Wastlund	Electrical Project Engineer Lutz	Process Mech./Elect. Designer/ Technician Goetz	Admin. Seczko	TOTAL HOURS	LABOR COST	DIRECT EXPENSE	SUB-CONSULTANTS	Notes	TOTAL COST		
Phase No.	Task / Deliverable	Task No.	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours	Estimated Hours		
100	Construction Administration		104	20	0	2	0	0	0	0	0	0	0	0	15	141	\$ 24,560	\$ 2,219	\$ -		\$ 26,779	
	Preconstruction Conference Meeting															0	\$ -	\$ -			\$ -	
	Project Administration		24													24	\$ 4,800	\$ 2.20			\$ 4,802	
	Correspondence		24													24	\$ 4,800	\$ 2.20			\$ 4,802	
	Shop Drawing and Submittal Review															0	\$ -	\$ -			\$ -	
	O&M Submittal Review															0	\$ -	\$ 5.50			\$ 6	
	Pay Requests		8	8											4	20	\$ 2,816	\$ 4.40			\$ 2,820	
	RFI's		4	2											2	8	\$ 1,184	\$ 2.20			\$ 1,186	
	Change Orders		4	2											1	7	\$ 1,104	\$ 2.20			\$ 1,106	
	Project Closeouts		40	8		2									8	58	\$ 9,856	\$ 2,200.00			\$ 12,056	
200	Construction Inspection		36	420	32	0	0	0	0	0	0	0	0	0	0	488	\$ 58,240	\$ 5,000	\$ -		\$ 63,240	
	Staking			32	32											64	\$ 7,584	\$ 4,153			\$ 11,737	
	Inspection			384												384	\$ 43,008	\$ 843			\$ 43,851	
	Progress Meetings		16	4												20	\$ 3,648	\$ 3.61			\$ 3,652	
	Startup Services		20													20	\$ 4,000	\$ -			\$ 4,000	
	Coordination of Geotect Sub															0	\$ -	\$ -			\$ -	
300	Operational Phase		40	56	0	0	0	0	0	20	4	16	16	16	16	4	188	\$ 25,272	\$ 374	\$ -		\$ 25,646
	Operator Training		8	16												24	\$ 3,392	\$ 31			\$ 3,423	
	Operation and Maintenance Manual		16	16												32	\$ 4,992	\$ 17			\$ 5,009	
	Record Drawings		8	16					20	4	16	16	16	16	4	116	\$ 14,392	\$ 316			\$ 14,708	
	11 Month Warranty Review		8	8												16	\$ 2,496	\$ 11			\$ 2,507	
	Expenses and Consultants															0	\$ -	\$ -			\$ -	
400	Envornmenal Services Phase		0	0	0	12	16	40	0	0	0	0	0	0	0	68	\$ 8,200	\$ 2,840	\$ -		\$ 11,040	
	Soil Removal Oversight															0	\$ -	\$ -			\$ -	
	Reporting					8	16	40								64	\$ 7,560	\$ 265			\$ 7,825	
	MPCA Fee					4										4	\$ 640	\$ 2,575			\$ 3,215	
900	Additional Services		0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -		\$ -	
	TBD															0	\$ -	\$ -			\$ -	
	GRAND TOTAL		180	496	32	14	16	40	0	20	4	16	16	16	19	885	\$ 116,272	\$ 10,432	\$ -		\$ 126,704	



2020 Direct Cost Details										
			Prints / Copies	Mileage	Plots	Postage	Survey GPS	Survey Truck	Misc (Postage, survey supplies)	TOTAL EXPENSE
Phase	Unit Cost		\$0.10	\$0.545	\$10.00	\$1.00	\$40.00	\$0.70	\$1.00	
Phase No.	Task / Deliverable	Unit Task	Each	Miles	Each	Dollars	Hours	Miles	Dollars	
		<i>Subtasks/Task notes &amp; details</i>								
<b>100</b>	<b>Construction Administration</b>		<b>10,530</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 1,053</b>
	Preconstruction Conference Meeting		100							\$ 10.00
	Project Administration		80							\$ 8.00
	Correspondence		80							\$ 8.00
	Shop Drawing and Submittal Review		10,000							\$ 1,000.00
	O&M Submittal Review		50							\$ 5.00
	Pay Requests		60							\$ 6.00
	RFI's		80							\$ 8.00
	Change Orders		80							\$ 8.00
	Project Closeouts		-							\$ -
<b>200</b>	<b>Construction Inspection</b>		<b>70</b>	<b>4,500</b>	<b>6</b>	<b>0</b>	<b>100</b>	<b>65</b>	<b>\$ -</b>	<b>\$ 11,385</b>
	Staking		40		2		100	40		\$ 4,052.00
	Inspection		10	3,500	2			10		\$ 1,935.50
	Progress Meetings		10		2			5		\$ 24.50
	Startup Services		10	1,000				10		\$ 553.00
	Geotechnical Sub-Firm (AET) Testing Allowance									\$ 2,500.00
	Geotechnical Sub-Firm (AET) Professional Services Allowance									\$ 2,320.00
<b>300</b>	<b>Operational Phase</b>		<b>75</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 13</b>
	Operator Training		25	10						\$ 7.95
	Operation and Maintenance Manual		50							\$ 5.00
	Record Drawings									\$ -
	11 Month Warranty Review									\$ -
	Expenses and Consultants									\$ -
<b>400</b>	<b>Environmental Services Phase</b>		<b>-</b>	<b>100</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 55</b>
	Soil Removal Oversight			100						\$ 54.50
	Reporting									\$ -
	MPCA Fee									\$ -
<b>900</b>	<b>Additional Services</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>
	TBD									\$ -
<b>GRAND TOTAL</b>			<b>10,675</b>	<b>4,610</b>	<b>6</b>	<b>-</b>	<b>100</b>	<b>65</b>	<b>\$ -</b>	<b>\$ 12,505</b>

2021 Direct Cost Details										
			Prints / Copies	Mileage	Plots	Postage	Survey GPS	Survey Truck	Misc (Postage, survey supplies)	TOTAL EXPENSE
Phase			Unit Cost	\$0.11	\$0.562	\$10.30	\$1.03	\$41.20	\$0.72	\$1.03
Phase No.	Task / Deliverable	Unit Task	Each	Miles	Each	Dollars	Hours	Miles	Dollars	
Subtasks/Task notes & details		Unit Task	Each	Miles	Each	Dollars	Hours	Miles	Dollars	
<b>100</b>	<b>Construction Administration</b>		<b>20,170</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 2,219</b>
	Preconstruction Conference Meeting									\$ -
	Project Administration		20							\$ 2.20
	Correspondence		20							\$ 2.20
	Shop Drawing and Submittal Review									\$ -
	O&M Submittal Review		50							\$ 5.50
	Pay Requests		40							\$ 4.40
	RFI's		20							\$ 2.20
	Change Orders		20							\$ 2.20
	Project Closeouts		20,000							\$ 2,200.00
<b>200</b>	<b>Construction Inspection</b>		<b>40</b>	<b>1,500</b>	<b>0</b>	<b>0</b>	<b>100</b>	<b>45</b>	<b>\$ -</b>	<b>\$ 5,000</b>
	Staking		40				100	40		\$ 4,153.24
	Inspection			1500						\$ 843.00
	Progress Meetings							5		\$ 3.61
	Startup Services									\$ -
	Geotechnical Sub-Firm (AET) Testing Allowance									\$ -
	Geotechnical Sub-Firm (AET) Profesional Services Allowance									\$ -
<b>300</b>	<b>Operational Phase</b>		<b>1,275</b>	<b>50</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 374</b>
	Operator Training		75	40						\$ 30.73
	Operation and Maintenance Manual		150							\$ 16.50
	Record Drawings		1,000		20					\$ 316.00
	11 Month Warrenty Review		50	10						\$ 11.12
	Expenses and Consultants									\$ -
<b>400</b>	<b>Envornmenal Services Phase</b>		<b>1,000</b>	<b>0</b>	<b>10</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>\$ 2,500.00</b>	<b>\$ 2,840</b>
	Soil Removal Oversite									\$ -
	Reporting		1,000		10	50				\$ 264.50
	MPCA Fee								2,500	\$ 2,575.00
<b>900</b>	<b>Additional Services</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>
	TBD									\$ -
<b>GRAND TOTAL</b>			<b>22,485</b>	<b>1,550</b>	<b>30</b>	<b>50</b>	<b>100</b>	<b>45</b>	<b>\$ 2,500.00</b>	<b>\$ 10,432</b>



CONSULTANTS  
· ENVIRONMENTAL  
· GEOTECHNICAL  
· MATERIALS  
· FORENSICS

February 17, 2020

Mr. Scott Chilson, PE  
MSA Professional Services, Inc.  
332 West Superior Street  
Duluth, MN 55802  
[schilson@msa-ps.com](mailto:schilson@msa-ps.com)

**Acknowledgment and Agreement of Services**

AET Job #07-20517

In response to your request for proposal on February 12, 2020 for the referenced project, American Engineering Testing, Inc., (AET) is proposing project unit rates for Construction Materials Testing and Professional Engineer support/consultation time.

Understood information from requesting party includes the following:

**Project Name:** Lift Station 15 Relocation  
**Project Address:** 2114 West Michigan Street, Duluth, MN 55806

**Service Extent/Communication:** AET's services will be provided on a will-call basis when requested by Client or authorized representative. To ensure a technician is available for your project we kindly request at least 24 hours' notice for scheduling work. This provides us with the opportunity to meet your needs as requested.

**Understood Scope of Services (Actual services to be determined by requirements of construction documents or at direction of Client or authorized representative) may include the following:**

- Perform Construction Materials Testing as required by specifications and as requested by client.
- Provide a Staff Engineer II (Professional Engineer) to support shop drawing review.
- Provide Staff Engineer II (Professional Engineer) for consultation
- Other services as requested by the client for this project.

**Fees:** Our services will be provided on a unit cost basis according to the unit rates provided in the attached Fee Schedule tabulation and the 2020 Unit Rate Sheet.

**Terms and Conditions:** All AET Services are provided subject to the Terms and Conditions set forth in the enclosed Service Agreement-Terms and Conditions, which, upon acceptance of this proposal, are binding upon you as the Client requesting Services, and your successors, assignees, joint venturers and third-party beneficiaries. Please be advised that additional insured status is granted upon acceptance of the proposal.

**Acceptance:** AET requests written acceptance of this proposal in the Proposal Acceptance box below, but the following actions shall constitute your acceptance of this proposal together with the Terms and Conditions and Amendments: 1) issuing an authorizing purchase order for any of the Services described above, 2) authorizing AET's presence on site or 3) written or electronic notification for AET to proceed with any of the Services described in this proposal. Please indicate your acceptance of this proposal by signing below and returning a copy to us. When you accept this proposal, you represent that you are authorized to accept on behalf of the Client.

MSA  
Lift Station 15 Relocation  
AET Proposal No. 07-20517  
February 17, 2020  
Page 2 of 2

Sincerely,  
**American Engineering Testing, Inc.**



Tom Woerdeman  
Senior Engineering Technician  
218-628-1518  
[TWoerdeman@amengtest.com](mailto:TWoerdeman@amengtest.com)



Benjamin Mattson, PE  
Senior Geotechnical Engineer  
715-359-3534  
[bmattson@amengtest.com](mailto:bmattson@amengtest.com)

Enclosures:  
Estimated Fee Tabulation  
AET Terms and Conditions

<b>AET PROPOSAL No. 07-20517</b>	<b>ACCEPTANCE AND AUTHORIZATION</b>
Signature: _____	Date: _____
Typed/Printed Name: _____	
Title: _____	
Representing: _____	

FEE SCHEDULE TABULATION  
 PROJECT TESTING SERVICES  
 LIFT STATION 15 RELOCATION  
 2114 WEST MICHIGAN STREET  
 DULUTH, MN 55806  
 AET PROPOSAL No. 07-20517



SERVICE DESCRIPTION	PROJECT BUDGET		
	ESTIMATED UNITS	UNIT RATE	BUDGET AMOUNT
<i>Project Management &amp; Coordination</i>			
1. Staff Engineer II (Professional Engineer) to support Shop Drawing Review.	8 hours	\$145.00	\$1,160.00
2. Staff Engineer II (Professional Engineer) for consultation.	8 hours	\$145.00	\$1,160.00
	<b>ESTIMATED BUDGET</b>		<b>\$2,320.00</b>



## 2020 MATERIALS FEE SCHEDULE

### I. Engineering/Technical Personnel Rates

A. Administrative Assistant	65.00/hr
B. Engineering Technician	70.00/hr
C. Engineering Technician II	85.00/hr
D. NDT Technician	98.00/hr
E. ICC/CWI Tech/Engr Tech III	98.00/hr
F. Engineering Assistant	115.00/hr
G. Engineer I	125.00/hr
H. Engineer II	145.00/hr
I. Senior Engineer/Specialist	155.00/hr
J. Principal Engineer	175.00/hr

### II. Vehicle Mileage

A. Vehicle Mileage	.75/mile
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### III. Soils/Earthwork

A. Excavation Observations	See I & II
B. Nuclear Density Tests	16.00/test
C. Nuclear gauge use fee during full time observation	65.00/day
D. CP/DCP Non-MnDOT	25.00/test
E. MnDOT DCP	60.00/test
F. Proctor	150.00/test
G. Wet preparation for Proctor	75.00/sample
H. Sieve Analysis	100.00/test
I. 635 Wash thru .02mm	35.00/test
J. Atterberg Limits	115.00/test
K. Hydrometer	210.00/test
L. Specific Gravity	140.00/test
M. Topsoil analysis	
1. Method A	295.00/test
2. Method B (nutrient content)	330.00/test
N. Organic Content	70.00/test
O. CBR (excludes proctor)	
1. Granular Soil	675.00/test
2. Cohesive Soil	750.00/test
P. Permeability Tests	
1. Rigid Wall	275.00/test
2. Flexible Wall	395.00/test

### IV. Plastic/Hardened Concrete

A. Cylinder Compressions	27.00/test
B. WisDOT Cylinder Break Reporting	25.00/cyl
C. Curing/Handling Spares	27.00/test
D. Cylinder Molds	3.00/mold
E. Saw Trimming Ends	10.00/end
F. Beam Flexure	60.00/test
G. Beam Mold Prep	50.00/mold
H. Equipment Rental (beyond personnel)	
1. Schmidt Hammer	65.00/day
2. Rebar Locator	125.00/day
3. Generator	50.00/day
I. Coring	
1. Coring Crew	146.00/hr
2. Bit Wear	7.00/inch
3. Patch	10.00/core
J. Density & Compressions of Cores	
1. Density & Absorption	60.00/test
2. Compression	70.00/test
3. Saw Trimming Ends	16.00/core

K. Shotcrete	
1. Panel Coring (6 cores)	245.00/panel
2. Compression Test	60.00/test
L. Floor Flatness (ASTM:E1155)	Per Quote
1. Profilograph Rental	165.00/day
M. Air Content ASTM:C457	525.00/test
N. Petrographic ASTM:C856	1750.00/test

### V. Masonry

A. Sampling/ICC Inspection	See I & II
B. Compression Mortar/Grout	
1. Cylinders or Cubes	72.00/set
2. C1019 Grout Box Prism	60.00/test
3. C1314 Masonry Prism	240.00/set of 3
4. Molds	
1. Cylinders & Cubes	3.00/mold
2. Grout Sample Box® (GSB)	5.00/mold

### VI. Bituminous

A. Field Sampling	See I & II
B. Laboratory Tests	
1. Marshall Air Voids	210.00/test
2. Superpave Gyrotory Air Voids	210.00/test
3. Stability & Flow	57.00/test
4. Density & Thickness	45.00/core
5. Chemical Extraction	220.00/test
6. Extraction & Gradation	100.00/test
7. Fabricate TSR Specimen	
1. Marshall	75.00/test
2. Gyrotory	85.00/test
8. TSR Test	35.00/test
9. Saw Trimming Lifts	20.00/core
10. Gyrotory Mix Properties	550.00/test
11. Marshall Mix Properties	550.00/test
12. CAA	125.00/test
13. FAA	120.00/test

### VII. Equipment

A. Seismograph	75.00/day
1. Engineering Services	See I & II
B. Ground Penetrating Radar (GPR)	450.00/day
1. Engineering Services	See I & II

### VIII. Expenses

A. Direct Project Expenses: includes out-of-town per diem; special materials & supplies; subcontracted services, and miscellaneous costs	Cost + 15%
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The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.

Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$25.00 per person per shift.

A minimum charge of \$100.00 per job may be assessed to cover administrative costs.



CONSULTANTS  
· ENVIRONMENTAL  
· GEOTECHNICAL  
· MATERIALS  
· FORENSICS

Dear Client,

The following paperwork is enclosed:

1. AET's Proposal with Terms and Conditions (Please sign and return to your AET contact)
2. Proof of Insurance (Please give to your accounting department)
3. W9 (Please give to your accounting department)

**\*\*\*If your company is South Dakota or Iowa Sales Tax exempt, please send your tax exempt certificate back with your signed proposal.**

Please let me know if you have any questions and thank you for choosing AET!

Thank you,

A handwritten signature in black ink that reads 'Robert Krogsgaard'. The signature is written in a cursive style with a large initial 'R'.

Robert Krogsgaard  
CFO, American Engineering Testing, Inc.



**SECTION 1 - RESPONSIBILITIES**

**1.1** – This Service Agreement – Terms and Conditions (“terms and conditions”) is applicable to all services (“Services”) provided by American Engineering Testing, Inc. (AET). As used herein “Services” refer to the scope of Services described in the proposal submitted by AET to Client. The proposal, these terms and conditions and any appendices attached hereto shall comprise the agreement (“Agreement”) between AET and Client for Services described in the proposal and are binding upon the Client, its successors, assignees, joint ventures and third-party beneficiaries. **AET requests written acceptance of the Agreement, but the following actions shall also constitute Client’s acceptance of the Agreement: 1) issuing an authorizing purchase order, task order or service order for any of the Services, 2) authorizing AET’s presence on site, or 3) written or electronic notification for AET to proceed with any of the Services.** Issuance of a purchase order, task order or service order by Client which contains separate terms and conditions will not take precedence or modify the terms and conditions contained in this Service Agreement.

**1.2** - Prior to AET performing Services, Client will provide AET with all information that may affect the cost, progress, safety and performance of the Services. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and their Client and/or Owner which contain flow-down provisions to AET, site safety plans or other documents which may control or affect AET’s Services. If new information becomes available or changes are made during AET’s Services, Client will provide such information to AET in a timely manner. Earthwork and construction activities are done to support a particular structure (type, size, and shape) or facility at a specific location and elevation. If the type of structure or facility (structural type, size, shape, location, elevation, etc.) changes, the earthwork or construction activities completed may no longer provide suitable structural support or be capable of supporting the intended construction. Additional earthwork or redesign of all or a part of the structure or facility may be needed. Failure of Client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability of AET. Client will provide a representative for timely answers to project-related questions by AET.

**1.3** - AET observes and tests earthwork and other construction operations and materials, and may provide opinions, conclusions and recommendations regarding the same. However, AET’s Services do not relieve the contractors of their contractual responsibility to perform their work in accordance with approved plans, specifications and building code requirements.

**1.4** - AET personnel do not have authority to accept, reject, direct or otherwise approve the work of the contractor. AET cannot stop work or waive or alter the requirements of the project documents. Any authority given to AET by Client must be in writing prior to the start of Services.

**1.5** - AET does not perform construction management, general contracting or surveying services and our involvement with the project does not constitute any assumption of those responsibilities.

**1.6** - Services performed by AET often include sampling at specific locations. Client acknowledges the limitations inherent in sampling. Variations in conditions occur between and beyond sampled/tested locations. The passage of time, natural occurrences and direct or indirect human activities at the site or distant from it may alter the actual conditions. Client assumes all risks associated with such variations.

**1.7** - AET is not responsible for interpretations or modifications of AET’s recommendations by other persons.

**1.8** - Should change in conditions be alleged, Client agrees to notify AET before evidence of alleged change is no longer accessible for evaluation.

**1.9** - Test borings and/or cone penetration test soundings to a proper depth below foundation grade and the base of suitable bearing soils are recommended for projects where supporting soils will be subjected to increased loads to explore the deeper unseen soil and ground water conditions. Judgments made by AET personnel regarding the suitability of materials and ground water conditions below the bottom of an excavation are limited if sufficiently deep test borings/soundings are not provided by the Client prior to our observations and judgments. AET’s opinions, conclusions and recommendations are qualified to that extent.

**1.10** – Pricing in the proposal assumes use of these terms and conditions. AET reserves the right to amend pricing if Client requests modifications to the Agreement or use of Client’s alternate contract format. Any contract amendments made after Client has authorized the Services shall be applicable only to Services performed after the effective date of such amendment. The proposal and these terms and conditions, including terms of payment, shall apply to all Services performed prior to the effective date of such amendment.

**1.11** – The AET proposal accompanying these terms and conditions is valid for ninety (90) days after the proposal issuance date to the Client. Any attempt to authorize Services after the expiration date is subject to AET’s right to revise the proposal as necessary.

**SECTION 2 – ON CALL SERVICES**

**2.1** - If AET’s Services are performed on an on-call basis at the direction of the Client or its authorized representatives, Client acknowledges the inherent limitations associated with performing engineering judgments and testing Services on an on-call basis, including without limitation, the inability to completely evaluate, document or judge work and conditions not directly observed or tested by AET. AET’s opinions, conclusions, and recommendations are qualified to the extent of those limitations.

**2.2** - Density tests of fill soils represent conditions only at the locations and elevations tested and do not necessarily represent conditions laterally or below. AET can only provide judgments regarding the engineered fill system to adequately support the design construction loadings by monitoring the filling process on a continuous basis for consistency of soil type, moisture content, lift thickness, and compaction effort.

**2.3** – AET requires a minimum of 24 hours’ notice of the need for Services. AET will not be liable for claims, damages, or delays related to failure of Client to provide adequate advance notice to AET.

**SECTION 3 - SITE ACCESS, UNDERGROUND FACILITIES AND CONSTRUCTION STAKING**

**3.1** - Client will furnish AET safe and legal site access.

**3.2** – With the exception of public utilities which AET will contact state “call before you dig” notification centers (e.g. Gopher State One call in Minnesota), Client will mark or cause to be marked the location of all other underground utilities and structures (Facilities) that service or are located on the site. AET shall be entitled to rely upon the accuracy of all location information supplied by any source.

**3.3** – Client shall hold harmless, indemnify and defend AET from all claims, damages, losses, fines, penalties and expenses (including attorney’s fees) arising out of or related to the following: a) Facilities that are not shown or vary from the locations shown on any plans or drawings, b) Facilities that are not located by or vary from the locations marked by Client, governmental or quasi-governmental locator programs, or private utility locating services, or c) any other Facilities that are not disclosed or vary from locations provided by the Client. The obligation to defend AET shall be independent of the obligation to indemnify and hold harmless AET and shall be with independent counsel acceptable to AET.

**3.4** - The location and elevation of a proposed structure or facility shall be staked (with offsets) and controlled by surveying or GPS equipment by others. AET's measurements are made in relation to that information. The reliability of any opinions, conclusions, and recommendations based on those measurements is strictly dependent on the accuracy of the staking or GPS information provided by others.

**3.5** - During construction, observations and testing Services are based on the positioning of the formwork by the contractor or its subcontractor. AET will not be responsible for any errors or damages resulting from improper location or positioning of the formwork.

#### **SECTION 4 - SAFETY**

**4.1** - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the site. Client or its authorized representative(s) is responsible for the safety of the jobsite. If, during the course of AET's Services, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate Services. Client shall be responsible for payment of such additional protection costs.

**4.2** - AET shall only be responsible for safety of AET employees at the site; the safety of all others shall be Client's or other persons' responsibility.

#### **SECTION 5 - SAMPLES**

**5.1** - Client shall inform AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by or submitted to AET remain the property of the Client during and after the Services. Any known or suspected hazardous material samples will be returned to the Client at AET's discretion.

**5.2** - Non-hazardous samples will be held for thirty (30) days and then discarded unless, within thirty (30) days of the report date, the Client requests in writing that AET store or ship the samples. Storage and shipping costs shall be borne solely by Client.

#### **SECTION 6 - PROJECT RECORDS**

The original project records prepared by AET will remain the property of AET. AET shall retain these original records for a minimum of three years following submission of the report, during which period the project records can be made available to Client at AET's office at reasonable times.

#### **SECTION 7 - STANDARD OF CARE**

AET performs its Services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints.

#### **SECTION 8 - INSURANCE**

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

**8.1** – AET maintains the following insurance coverage and limits of liability:

Workers' Compensation Employer's Liability	Statutory Limits \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee
Commercial General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Automobile Liability	\$1,000,000 each accident
Professional/Pollution Liability Insurance	\$1,000,000 per claim \$1,000,000 aggregate

**8.2** - Commercial General Liability insurance will include coverage for Products/Completed Operations extending one (1) year after completion of AET's Services, Property Damage including Completed Operations, Personal Injury, and Contractual Liability insurance applicable to AET's indemnity obligations under this Agreement.

**8.3** - Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.

**8.4** - Professional Liability Insurance is written on a claims-made basis and coverage will be maintained for one (1) year after completion of AET's Services. Renewal policies during this period shall maintain the same retroactive date.

**8.5** - **To the extent permitted by applicable state law, and upon Client's signing of the proposal, which includes these Terms and Conditions, and return of the same to AET, or Client provided forms of acceptance as defined in Section 1.1; Client and Owner shall be named an "additional insured" on AET's Commercial General Liability Policy (Form CG D4 14 04 08, which includes blanket coverage for Products/Completed Operations and on a Primary and Non-Contributory basis). Client and Owner shall also be named an "additional insured" on a Primary and Non-contributory basis on AET's Automobile Liability Policy (Form CA T4 74 02 12). Any other endorsement, coverage or policy requirement shall result in additional charges.**

**8.6** - AET will maintain in effect all insurance coverage required by this Agreement at its sole expense, provided such insurance is reasonably available, with insurance carriers licensed to do business in the state in which the project is located and having a current A.M. Best rating of no less than A minus (A-). Such insurance shall provide for thirty (30) days prior written notice to Client for notice of cancellation or material limitations for the policy or ten (10) days' notice for non-payment of premium.

**8.7** - AET reserves the right to charge Client for AET's costs for additional coverage requirements unknown on the date of the proposal, e.g., coverage limits or policy modification including waiver of subrogation, additional insured endorsements and other project specific requirements.

**SECTION 9 - DELAYS**

If delays to AET's Services are caused by Client or Owner, other parties, strikes, natural causes, weather, or other items beyond AET's control, a reasonable time extension for performance of the Services shall be granted, and AET shall receive an equitable fee adjustment.

**SECTION 10 - PAYMENT, INTEREST AND BREACH**

**10.1** - Invoices are due net thirty (30) days from the date of receipt of an undisputed invoice, but not greater than 45 days from the date of the invoice. Client will inform AET of invoice questions or disagreements within fifteen (15) days of invoice date; unless so informed, invoices are deemed correct.

**10.2** - Invoices remaining unpaid for sixty (60) days shall constitute a material breach of this Agreement, permitting AET, in its sole discretion and without limiting any other legal or equitable remedies for such breach, to terminate performance of this Agreement and be relieved of any associated duties to the Client or other persons. Further, AET may withhold from Client data and reports in AET's possession. If Client fails to cure such breach, all reports associated with the unpaid invoices shall immediately upon demand be returned to AET and Client may neither use nor rely upon such reports or the Services.

**10.3** - AET reserves the right to secure any unpaid invoice utilizing available remedies at law. AET explicitly reserves its Mechanic Lien or Bond Claim rights for nonpayment of an undisputed invoice. Client is responsible for paying AET expenses and attorney fees related to collection of past due invoices.

**SECTION 11 - CHANGE ORDERS**

AET's proposal associated with this project provides an estimated cost for the work. If the proposal amount is a time and material estimate, or if changes occur affecting the project scope, estimated quantities, project schedule or other unforeseen conditions, AET will communicate with Client if AET's fees are approaching the proposal amount and request a change order. However, nothing in this agreement shall be construed in any way as a waiver of payment by Client to AET for Services ordered under this agreement. Approval of a change order may be in writing or by electronic communication.

**SECTION 12 - MEDIATION**

**12.1** - Except for enforcement of AET's rights to payment for Services rendered or to assert and/or enforce its lien rights, including without limitation assertion and enforcement of mechanic's lien rights and foreclosure of the same, Client and AET agree that any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party; provided however that if either party fails to respond to a request for mediation within sixty (60) days, the party requesting mediation may without further notice, proceed to arbitration or the institution of legal or equitable proceedings.

**12.2** - Mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equally and each party shall pay their own legal fees. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

**SECTION 13 - LITIGATION REIMBURSEMENT**

Except for matters relating to non-payment of fees, which is governed by Section 10 hereof, payment of attorney's fees and costs associated with lawsuits or arbitration of disputes between AET and Client, which are dismissed or are judged substantially in either party's favor, shall be paid by the non-prevailing party. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and AET costs.

**SECTION 14 - MUTUAL INDEMNIFICATION**

**14.1** - Subject to the limitations contained in Sections 14 and 15, AET agrees to indemnify Client from and against damages and costs to the extent caused by AET's intentional acts or negligent performance of the Services.

**14.2** - Client agrees to indemnify AET from and against damages and costs to the extent caused by the intentional acts or negligence of the Client, Owner, Client's contractors and subcontractors or other third parties.

**14.3** - If Client has an indemnity agreement with other persons or entities relating to the project for which AET's Services are performed, the Client shall include AET as a beneficiary.

**14.4** - AET's indemnification to the Client, including any indemnity required or implied by law, is limited solely to losses or damages caused by its failure to meet the standard of care and only to the extent of its negligence or intentional acts.

**SECTION 15 - NON-SOLICITATION**

Each party to this Agreement (a "Party") agrees that it will not encourage, induce, or actively solicit any employee of the other party to leave their employment for any reason, provided that neither Party is precluded from (a) hiring any such employee who has been terminated by a Party or its subsidiaries prior to commencement of employment discussions between a Party and such employee, or (b) soliciting any such employee by means of a general advertisement or through an employment agency that does not specifically pursue the employee, or (c) hiring employees or former employees of the other Party who contact the Party on its own accord. This Non-Solicitation provision shall be effective and enforceable for six (6) months following termination of this Agreement.

**SECTION 16- MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES**

Except as specifically set forth herein and to the extent permitted by applicable law, Client and AET waive against each other, and each other's officers, directors, members, subcontractor, agents, assigns, successors, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive, or consequential damages arising out of, resulting from, or in any way related to the Services provided by AET under this Agreement. This mutual waiver of consequential damages includes, but is not limited to, the following: loss of profits; loss of revenue; rental costs/expenses incurred; loss of income; loss of use of property, equipment, materials or services; loss of opportunity; loss of rent; loss of good will; loss of financing; loss of credit; diminution of value; loss of business and reputation; loss of management or employee productivity or the services of such persons; increased financing costs; cost of substitute facilities; cost of substitute goods/property/equipment; cost of substitute services; and/or cost of capital. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement in accordance with the provisions of the Agreement and related documents and shall survive any such termination.

**SECTION 17 - LIMITATION OF LIABILITY**

To the fullest extent permitted by applicable law, the total aggregate liability of AET and its officers, directors, partners, employees, subcontractors, agents, and sub-consultants, to Client and/or Client's employees, officers, directors, members, agents, assigns, successors, or partners, or anyone claiming through Client, for any and all injuries, damages, claims, losses, or expenses (including attorney's fees and costs) arising out of, resulting from or in any way related to Services provided by AET from any cause or causes, including, but not limited to, its negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty shall not exceed the total compensation in excess of costs received by AET for Services or \$50,000, whichever is greater. The limitation of liability set forth herein does not apply to claims arising solely out of or related to the willful or intentional acts of AET.

**SECTION 18 – UNIONIZATION**

AET reserves the right to negotiate an appropriate fee increase or to terminate this Agreement on three (3) days written notice to Client without incurring penalties or costs from Client, Owner and their successors, assignees, joint-venturers, contractors and subcontractors, or any other parties involved with the project for claims, liabilities, damages or consequential damages, directly or indirectly related to AET being required to provide unionized personnel on the project. Reservation of this right on the part of AET represents neither approval nor disapproval of unions in general or the use of collective bargaining agreements.

**SECTION 19 - POSTING OF NOTICES ON EMPLOYEE RIGHTS**

Effective June 21, 2010, prime contracts with a value of \$100,000 or more and signed by federal contractors on projects with any agency of the United States government must comply with 29 CFR Part 471, which requires physical posting of a notice to employees of their rights under Federal labor laws. The required notice may be found at [29 Code of Federal Regulations Part 471, Appendix A to Subpart A](#). The regulation also has a "flow-down" requirement for subcontractors under the prime agreement for subcontracts with a value of \$10,000 or more. AET requires strict compliance of its subcontractors working on federal contracts subject to this regulation. The regulation has specific requirements for location of posting and language(s) for the poster.

**SECTION 20 - TERMINATION**

After 7 days' written notice, either party may elect to terminate work for justifiable reasons. In this event, the Client shall pay AET for all Services performed, including demobilization and reporting costs to complete the file.

**SECTION 21 - SEVERABILITY**

Any provisions of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

**SECTION 22 - GOVERNING LAW**

This Agreement shall be construed in accordance with the Laws of the State of Minnesota without regard to its conflicts of law provisions.

**SECTION 23 - ENTIRE AGREEMENT**

This Agreement, including these terms and conditions and attached proposal and appendices, is the entire agreement between AET and Client. Regardless of method of acceptance of this Agreement by the Client, this Agreement supersedes any previous written or oral agreements, including purchase/work orders or other Client agreements submitted to AET after the start of our Services. Any modifications to this Agreement must be mutually acceptable to both parties and accepted in writing. No considerations will be given to revisions to AET's terms and conditions or alternate contract format submitted by the Client as a condition for payment of AET's accrued Services.



# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**American Engineering Testing, Inc.**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

- Individual/sole proprietor or single-member LLC  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_  
 Other (see instructions) ▶ \_\_\_\_\_
- C Corporation  
 S Corporation  
 Partnership  
 Trust/estate
- Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.) See instructions.

**550 Cleveland Ave. N.**

6 City, state, and ZIP code

**St. Paul, MN 55114**

7 List account number(s) here (optional)

Requester's name and address (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
				-				

or

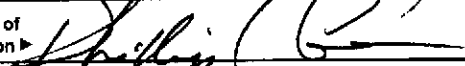
Employer identification number									
4	1	-	0	9	7	7	5	2	1

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶  Date ▶ 1/1/18

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding, later.*

## **Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Agreement is supplemented to include the following agreement of the parties:

### *D1.01 Resident Project Representative*

- A. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.
- B. Through RPR's observations of Contractor’s work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor’s work in progress, supervise, direct, or have control over Contractor’s Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor’s work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor’s performing and furnishing of its work. The Engineer (including RPR) neither guarantee the performances of any contractor nor assumes responsibility for Contractor’s failure to furnish and perform the Work in accordance with the Contract Documents.
- C. The duties and responsibilities of the RPR are as follows:
  1. *General:* RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions. RPR’s dealings in matters pertaining to the Contractor’s work in progress shall in general be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
  3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
  4. *Liaison:*
    - a. Serve as Engineer’s liaison with Contractor. Working principally through Contractor’s authorized representative or designee, assist in providing information regarding the intent of the Contract Documents.
    - b. Assist Engineer in serving as Owner’s liaison with Contractor when Contractor’s operations affect Owner’s on-Site operations.
    - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.
9. *Inspections, Tests, and System Start-ups:*
  - a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
  - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
  - c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed change orders, work change directives, and field orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.

12. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor, and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including “or-equal” items).
2. Exceed limitations of Engineer’s authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor’s work.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept shop drawing or sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.