



50 Elk Street
Buffalo, New York 14210

17 Pitkin Street, Suite 200
Rochester, New York 14607

313 East Willow Street, Suite 107
Syracuse, New York 13203

October 1, 2024

Sweet Home Central School District
1901 Sweet Home Road
Amherst, New York, 14228
Attn: Mr. Don Feldmann

Re: Sweet Home CSD Geotechnical Report-Willow Ridge Elementary

Dear Mr. Feldmann,

On behalf of Sweet Home Central School District, Young + Wright Architectural (YWA) has received proposals for the Geotechnical Investigation Reports for the Sweet Home CSD's Willow Ridge Elementary. We received 2 proposals with the third company opting not to provide a proposal.

YWA reviewed the proposals and after reviewing the scope and schedule we recommend to move forward with the following consultant:

- Geotechnical Consultant:

Kenney Geotechnical Engineering Services, PLLC

Base Price	\$5,700
Excavator Test Pits	\$1,000

Final Contract Total	\$6,700.00
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At this time, it is our recommendation that the Board of Education accepts the consultant indicated above and authorizes us to prepare and send a "Notice to Proceed" to **Kenney Geotechnical Engineering Services** for the "Final Contract" amount listed. This will allow the consultant to start work immediately while the contract and other paperwork are being processed.

Please contact us with any questions or concerns.

Sincerely,

Matthew Cummings
Associate

Kenney Geotechnical Engineering Services, PLLC

Office: 6901 Herman Road, Syracuse, NY 13209

Mail: P.O. Box 117 Warners, N.Y. 13164

Phone: (315) 638-2706 Fax: (315) 638-1544



PROPOSAL

October 1, 2024

Sweet Home Central School District
1901 Sweet Home Road
Amherst, NY 14228
c/o Appel Osborne Landscape Architecture
<via email>

Re.: Geotechnical Investigation Services Proposal
2024 Capital Improvement Project
Willow Ridge Elementary School

Dear Ladies and Gentlemen,

Kenney Geotechnical Engineering Services, PLLC is pleased to present this proposal to perform geotechnical investigation services for the referenced project. This proposal will present our scope of services, estimated cost and business terms. The following scope of services was developed following review of your Request For Proposal (RFP) dated September 11, 2024.

Scope of Services

We understand that the purpose of the geotechnical investigation is to determine soil profile, classification, topsoil depth and infiltration locations at four locations around Willow Ridge Elementary School.

1. We will position investigation locations based on the mapping provided with the RFP.
2. We assume testing locations will be accessible concurrently. We assume that truck and trailer parking access will be available on-site for our equipment.
3. We assume no snow removal will be necessary to access locations.
4. We will contact Mr. Steve Rozler, Supervisor of Buildings and Grounds, (716-250-1443) to coordinate our on-site activities.
5. We will clear utilities through DIGSAFE as required by law. We will rely on the Sweet Home Central School District staff to locate and mark private utilities that cannot be located by DIGSAFE representatives and will require written confirmation that testing locations are cleared of utilities prior to mobilization. If you desire, we will retain a third party private utility locator to assist in utility avoidance for an additional cost.

6. We will mobilize a truck mounted drill rig, two-man drilling crew and Field Representative. The Field Representative will observe drilling activities and classify soil samples in conformance with the New York State Building Code.
7. The subsurface investigation will consist of four infiltration tests, four test pit borings, and four topsoil tests.
8. Infiltration tests and the test pit borings will be performed at a depth of five feet. Testing will be performed in accordance with NYSDEC guidelines. A topsoil sample will be obtained from each location for laboratory testing for pH, organic content, and nutrient analysis. The depth of the topsoil layer will be measured at each sampling location.
9. Testing locations will be backfilled with auger cuttings and bentonite chips. If insufficient material is available to backfill the borehole, sand will be added. Asphalt will be capped with cold patch. Sod will be replaced in lawn areas.
10. Findings will be presented in a geotechnical report. The report will provide the information requested in the RFP including boring logs, laboratory testing results, and an analysis of the subsurface conditions encountered. The report will be provided in .pdf format and include the recommendations requested in the RFP.

Fee For Service

We propose to perform the services described above for the **lump sum of \$5,700. Add \$1,000 for Excavator at test pits.-C.S.**

Schedule

We can perform field services within two weeks from authorization to proceed. Our estimate and schedule assume that we may work Monday through Friday between 7 a.m. and 4 p.m. We have not included costs associated with weekend or holiday work, night work, or expedited services in our estimate.

Terms and Conditions

Our standard terms and conditions are attached. Payment is due within 30 days of invoicing. Please note that our estimated cost is premised upon our standard insurance coverage, which is as follows:

- Professional Liability: \$2 Million Per Occurrence/\$2 Million Aggregate
- Comprehensive General Liability: \$1 Million Per Occurrence/\$2 Million Aggregate

Insurance certificates will be provided upon request.

Closing

Thank you for the opportunity to present this proposal. We look forward to answering any questions you may have.

Respectfully submitted,

KENNEY GEOTECHNICAL ENGINEERING SERVICES, PLLC

Christopher Kenney

**Christopher M. Kenney, P.E.
President**

AGREED AND ACCEPTED:

Sweet Home CSD

Date

Terms and Conditions

Kenney Geotechnical Services ("Consultant") will perform the services described in the attached proposal to Sweet Home CSD ("Client") under the following terms and conditions:

STANDARD OF CARE

CONSULTANT and its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors will exercise that degree of care and skill ordinarily practiced under similar circumstances by professionals providing similar services. Client agrees that services provided will be rendered without any warranty, express or implied.

CONSULTANT shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.

When required as part of its work, CONSULTANT will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by CONSULTANT hereunder will be made on the basis of CONSULTANT's experience and qualifications and will represent CONSULTANT's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that CONSULTANT does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the work

OWNERSHIP OF DOCUMENTS

Plans, specifications, reports, boring logs, calculations, field data, field notes, laboratory test data, estimates, and similar documents and materials (other than samples) prepared by or for Consultant as instruments of professional service are Consultant's property. Consultant shall retain these instruments of professional service for **six** years following submission of final project deliverable, during which period Consultant's instruments of professional service will be made available for Client's review at any reasonable time.

Any reuse or distribution to third parties without such express written permission or project-specific adaptation by CONSULTANT will be at the Client's sole risk and without liability to CONSULTANT or its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors. Client shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless CONSULTANT from and against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized reuse or distribution.

RIGHT OF ENTRY

The Client will provide for right of entry of the employees, agents, or subcontractors of Consultant to perform and complete the work that is the subject of this Agreement.

UTILITY CLEARANCE AND UNDERGROUND STRUCTURES

The Client shall advise Consultant of the presence of any privately owned underground utilities or structures that are on site and potentially in conflict with boring locations. Consultant will bear no responsibility for any damages or losses due to damage caused by subsurface exploration. Client recognizes that failure to notify Consultant of the presence of utilities may cause severe injury, death, and financial loss to Consultant and shall be responsible for compensating Consultant as appropriate.

Private utilities include any underground utility that is not located and marked through UDigNY. Some examples of private utilities include but are not limited to electric/gas laterals, water laterals, stormwater/drainage systems, exterior lighting conduits, septic and irrigation systems, and pet containment systems. Private utility preservation is the responsibility of the landowner. It is the owner's responsibility to locate and mark private utilities in the area where excavation will be performed. Consultant will maintain an appropriate distance from utility markings during excavation.

Consultant will not be responsible for damage to privately owned utilities that are unmarked or inaccurately marked. If damage is recognized while on-site, the property owner and/or The Client will be notified. The property owner is responsible for making repairs to damaged utilities and all costs associated with them. The owner will be responsible for any expenses incurred by Consultant if private utility damage results in the need for emergency response, injury to our personnel, or damages to our equipment. The Property Owner and/or Client hereby agrees to Release and Indemnify Consultant any responsibility for damage to underground utilities associated with our services.

HAZARDOUS WASTES

The Client shall advise Consultant of any hazardous waste existing at or near the site at which Consultant is to perform work. If Consultant discovers hazardous wastes after it undertakes a project, or if Consultant discovers the nature or extent of hazardous waste differs materially from what the Client advised Consultant, the Client and Consultant agree that the scope of services, schedule and estimated fee budget shall be adjusted as needed to complete the work.

If reportable quantities of petroleum product and/or chemical contamination are discovered on the project site during performance of the work tasks described herein, or during any subsequent work completed at the project site, the appropriate local, state, and/or federal agencies will be notified immediately, as required by law.

The ownership of and responsibility for all contaminated materials, hazardous materials, and hazardous substances generated, released, uncovered, transported, and/or collected during the work tasks referred to herein will remain with the Client.

PAYMENT

Payment is due in full within 30 days of receipt of invoice. The Client will be liable for all court costs, disbursements, and reasonable attorney's fees incurred by Consultant in the collection of any outstanding invoices.

INSURANCE

Insurance certificate will be supplied upon request that illustrate Consultant's current policy limits. Requests to maintain insurance limits above Consultant's current limits will only be honored if Client compensates Consultant for the additional cost of the higher policy limits.

TERMINATION

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice.

ASSIGNS

Neither party may delegate, assign, sublet or transfer its duties or interest in this agreement without the written consent of the other party. Any assignee, successor or legal representative of any of the parties to this agreement shall be bound by the terms of this agreement.

INDEMNIFICATIONS

To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Kenney Geotechnical and its officers, directors, partners, members, managers, employee, agents and subconsultants, and any of them, to the Client and anyone claiming by, through or under the Client, for any and all claims, losses, cost or damages of any nature whatsoever arising out of, resulting from or in any way related to the Project or this Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied, of Kenney Geotechnical or its officers, directors, employees, agents or subconsultants, or any of them, shall not exceed the total compensation received by the Kenney Geotechnical under this Agreement.

To the fullest extent permitted by law and subject to this Agreement's limitations on liability and damages Kenney Geotechnical shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against any and all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolutions costs) caused solely by the negligent acts or omissions of Kenney Geotechnical in the performance and furnishing of services under this Agreement as finally determined by a court of competent jurisdiction.

To the fullest extent permitted by law, Client shall indemnify and hold harmless Kenney Geotechnical from and against any and all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolutions costs) caused solely by the negligent acts or omissions of Client with respect to this Agreement or the Project.

To the fullest extent permitted by law and subject to this Agreement's limitations on liability and damages, Kenney Geotechnical's total liability to Client and anyone claiming by, through, or under Client for any costs, losses or damages caused in part by the negligence of Kenney Geotechnical as finally determined by a court of competent jurisdiction and in part by the negligence of a third party other than Client or any other negligent entity or individual shall not exceed the percentage share that Kenney Geotechnical's negligence bears to the total negligence of Kenney Geotechnical, and all other negligent entities and individuals. In the event that the client, its officers, directors, shareholders, partners, members, managers, agents and employees are found to be liable, in whole or in part, for its negligent acts or omissions or willful acts, the client shall not be entitled to be indemnified and held harmless under this provision.

To the fullest extent permitted by law, Client shall indemnify and hold harmless Kenney Geotechnical from and against any and all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolutions costs) arising out of or resulting from a Hazardous Environmental Condition, Sick Building Syndrome and Building Related Illnesses provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing shall obligate Client to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

SAMPLES

CONSULTANT will discard samples upon completion of the work covered under this Agreement, unless the Client instructs otherwise in writing.

CHANGES AND DELAYS

Unless the accompanying Proposal provides otherwise, the proposed fees constitute CONSULTANT's estimate to perform the services required to complete the Project. Required services often are not fully definable in the initial planning; accordingly, developments may dictate a change in the scope of services to be performed. Where this occurs, changes in the Agreement shall be negotiated and an equitable adjustment shall be made.

Costs and schedule commitments shall be subject to renegotiation for unreasonable delays caused by the Client's failure to provide specified facilities, direction, or information, or if CONSULTANT's failure to perform is due to any act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure, or interruption or any other cause beyond the reasonable control of CONSULTANT. Temporary work stoppage caused by any of the above may result in additional cost beyond that outlined in the accompanying Proposal.

CONFLICT OF INTEREST

This assignment may involve parties with adverse interests to clients with whom CONSULTANT has current or past relationships. It is CONSULTANT policy to make reasonable attempts to identify such relationships prior to acceptance of a professional assignment, but CONSULTANT cannot assure that conflicts or perceived conflicts will not arise, and CONSULTANT does not accept responsibility for such occurrences.

ADDITIONAL TERMS AND CONDITIONS

The laws of the state in which the CONSULTANT office executing this Agreement is located shall govern the validity and interpretation of this Agreement.

In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provision will be stricken. Striking such a Contract Provision shall have no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable Contract Provision were never included in the Agreement.

CONSULTANT shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.

CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT's having to certify, guaranty, or warrant the existence of conditions that CONSULTANT cannot ascertain.

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or CONSULTANT. CONSULTANT's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against CONSULTANT because of this Agreement or CONSULTANT's performance of services hereunder.

Neither the Client nor the CONSULTANT shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.



6035 Corporate Drive
East Syracuse, New York 13057
(315) 701-0522
(315) 701-0526 (Fax)

www.cmeassociates.com

ARTICLE 4 ATTACHMENT TO REQUEST FOR PROPOSAL (AIA C202 - 2015)

Project: Willow Ridge Elementary School – CIP 2024
Amherst, New York

Owner: Sweet Home Central School District

Landscape Architect: Appel Osborne Landscape Architecture
Attn: Timothy C. Lobczowski, RLA, LEED AP, ASLA
Via email: tlobczowski@appelosborne.com

Geotechnical Engineer: CME Associates, Inc. CME Proposal No.: 05.7719

Proposal Date: September 19, 2024 Page 1 of 2

FEE PROPOSAL:

CME's Scope of Basic Geotechnical Services includes conducting four (4) infiltration tests (and adjacent soil profile borings), providing drill rig supervision, extracting four (4) topsoil samples, and providing a Soils Investigation Data Report. The above services will be billed as noted below:

<u>Service Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Fee</u>	<u>Estimated Cost</u>
Mobilization/Demobilization of a Truck-Mounted Drill				
Rig & Crew and UDIG Notification.....	1	Each	\$1,500.00	\$1,500.00
Exploration Layout.....	1	Job	\$800.00	\$800.00
Private Utility Clearing at Boreholes with GPR.....	1	Day	\$2,500.00	\$2,500.00
Soil Profile Boring (7 ft depth).....	4	Each	\$300.00	\$1,200.00
Infiltration Test at 5 ft depth (install casing & run test).....	4	Test	\$700.00	\$2,800.00
Extract 4 Topsoil Samples & Combine into 1 Bulk Sample	1	Job	\$300.00	\$300.00
Nutrient Analysis & PH Analysis.....	1	Test	\$135.00	\$135.00
Gradation Analysis	1	Test	\$120.00	\$120.00
Atterberg Limits Test	1	Test	\$95.00	\$95.00
Natural Moisture Content Test	1	Test	\$25.00	\$25.00
Project Manager/Professional Geologist	5	Hour	\$95.00	\$475.00
Soils Investigation Data Report.....	1	Report	\$950.00	\$950.00
Administrative & Reporting Fee	1	Job	\$600.00	\$600.00

CME's estimated cost for conducting the Scope of Basic Services outlined herein is Eleven-Thousand, Five-Hundred Dollars (\$11,500.00).

Notes:

1. If sales tax applies to any portion of this work, it will be applied on our invoice to you.
2. Please note, if the scope changes or the quantities differ from those presented herein, then CME will be compensated for additional work.
3. Private Utility Clearance is required and will be by CME. **If accurate private utility plans and indemnification are provided, the private clearing may not be required.**



SCHEDULE:

CME estimates that we can commence with drilling services within about 25-30 business days of notice to proceed, if proposal authorization is given by 9/30/24, and complete the Soil Investigation Data Report within about 7 - 10 business days following completion of the field and laboratory work.

INSURANCE:

Our Schedule of Insurance is attached to this proposal.

NOTES:

- Rutting of site soil may occur as a result of our investigation. CME will work with the onsite facilities staff to minimize any damage as best as possible during the fieldwork. However, if work areas are excessively soft or wet CME may not be able to access these areas without causing damage. As a result, work schedules may be delayed until conditions are better for conducting the work to avoid these issues.
- Any “excessive” damage (deep rutting or permanent tracking) will be evaluated by CME, Owner or Owners Facilities Representative and/or Architect prior to CME leaving the site and agreement made on the need for repairs, if any. CME will repair “excessive” damage by filling ruts with topsoil and/or seeding. Please note that this may not be possible initially if heavy equipment is required as this would also cause damage. Repairs will be made, if needed, and as practical. The owner will be responsible for fixing soils that are not excessively rutted or tracked and have tire or track impressions that would rebound over time. We understand that boring locations are Truck accessible. Any access required to get to the exploration locations (i.e., removing fence, removing rubble, removing trees, etc.) will be provided by the Client.
- CME understands that this work is considered public work and the payment of prevailing wages to the CME drill crew is required.
- CME’s Standard Terms and Conditions for Subsurface Exploration Services Agreement is attached and is considered part of this agreement. Please have Client carefully review these terms to establish their understanding of the services, their responsibilities, and the general conditions of our Agreement.
- In lieu of a Test Pit advanced at the location of the Infiltration Tests, CME will advance a 7-foot deep soil profile boring.

Mark J. Schumacher

By: Mark J. Schumacher, PG
Drilling Division Manager

September 19, 2024
Date

MS:rmc

Attachments: AIA Document C202-2015 (7 pages)
Schedule of Insurance Maintained by CME Associates, Inc. (1 page)
CME’s Terms and Conditions for Subsurface Exploration Services (3 pages)

DRAFT AIA® Document C202™ – 2015

Standard Form of Consultant's Services: Geotechnical Engineering

for the following **PROJECT**:
(Name and location or address)

«Sweet Home Central School District »
«Willow Ridge Elementary School»
«CIP-2024 »

THE OWNER:
(Name, legal status, and address)

«Sweet Home Central School District»
«1901 Sweet Home Road »
«Amherst, NY 14228 »

THE GEOTECHNICAL ENGINEER:
(Name, legal status, and address)

« »
« »

THE AGREEMENT

This Standard Form of Consultant's Services is part of the accompanying C103™-2015, Standard Form of Agreement between Owner and Consultant without a Predefined Scope of Consultant's Services dated the «11» day of «September» in the year «2024» (In words, indicate day, month and year of the accompanying C103-2015.)

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GEOTECHNICAL ENGINEER'S SERVICES
- 3 ADDITIONAL SERVICES

ARTICLE 1 INITIAL INFORMATION

§ 1.1 The Geotechnical Engineer's performance of the services set forth in this document is based upon the information contained in this Article 1 and the Initial Information in C103-2015. If this information changes materially, the Owner and Geotechnical Engineer shall appropriately adjust the schedule, the Geotechnical Engineer's services, and the Geotechnical Engineer's compensation.

(List below information, including conditions or assumptions, which will affect the Geotechnical Engineer's performance.)

« »

§ 1.2 Property Information

§ 1.2.1 Legal or other description of the Property upon, or for which, the Geotechnical Engineer's services will be performed.

(Insert legal description of the Property, if known. Otherwise, describe the Property.)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Consultant's scope of services only and should be attached as an exhibit to AIA Document C103™-2015, Standard Form of Agreement Between Owner and Consultant without a Predefined Scope of Consultant's Services.

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§ 1.2.2 Site access is provided by the arrangement checked below:

[☒] The Owner has title to the Property and the right of entry for the Geotechnical Engineer to perform its services.

[☐] The Owner has secured permission for entry to the Property for the Geotechnical Engineer to perform its services from the following parties subject to the conditions identified below.

Permission for entry provided by:

(Insert names, addresses, and telephone numbers of the present owner or tenant who has given permission for entry to the Property.)

« »

Conditions:

(Insert conditions pertaining to the Geotechnical Engineer's access to the Property, such as time, noise, and equipment limitations.)

« »

§ 1.2.3 The Geotechnical Engineer shall contact the following person(s) to schedule and make necessary arrangements for access to the Property.

(Insert names, addresses, and telephone numbers.)

«Steve Rozler, Sweet Home CSD Supervisor of Building and Grounds
716-250-1443 »

§ 1.2.4 The Owner shall provide the Geotechnical Engineer with documents in the Owner's possession, such as geotechnical reports and surveys, that contain relevant information about the existing condition of the Property, including information regarding boundary lines, topography, means of access to the site, utilities, encumbrances, and locations of structures that may be affected by the Project.

§ 1.3 Project Information

The Owner shall provide the following Project information, to the extent known, to the Geotechnical Engineer:

§ 1.3.1 The Owner's objectives for the Project, including a general description and anticipated design loads of the buildings and other improvements being considered.

§ 1.3.2 A site plan showing grades and locations of proposed building or other improvements being considered.

§ 1.3.3 Other: *(Specify)*

«- Attachment A- Location Map, with address.
- Attachment B – Test Location Map »

ARTICLE 2 GEOTECHNICAL ENGINEER'S SERVICES

§ 2.1.1 The Geotechnical Engineer's services shall be performed by qualified personnel under the supervision of a licensed professional permitted to practice geotechnical engineering in the jurisdiction in which the Project is located.

§ 2.1.2 The Geotechnical Engineer shall review the information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Geotechnical Engineer's services. The requirements of this Agreement shall be in addition to such laws, codes, and regulations. If a conflict exists between the requirements of the jurisdiction in

which the Project is located and the requirements of this Agreement, the Geotechnical Engineer shall notify and consult with the Owner prior to proceeding with the services impacted by the conflict.

§ 2.1.3 The Geotechnical Engineer shall identify a benchmark at the site, record it in the Geotechnical Report, and reference field explorations to it as appropriate.

§ 2.2 Explorations and Testing

§ 2.2.1 The Geotechnical Engineer shall perform field explorations, including soils sampling and field testing, necessary for the planning and design of the Project and for preparation of the Geotechnical Report. The Geotechnical Engineer's explorations shall be consistent with the scope of the Project as determined through consultation with the Owner and Architect, and review of the Initial Information and any attached exhibits.

§ 2.2.2 The Geotechnical Engineer shall prepare a detailed plan for the Owner's approval, in consultation with the Owner and Architect, indicating the nature and location of all proposed field explorations. The Geotechnical Engineer's plan shall include, at a minimum, information regarding the type, number, location, and depth of proposed soil borings and other explorations. If the Geotechnical Engineer finds it necessary to change the location or depth of any of these proposed borings, the Geotechnical Engineer shall notify the Owner and Architect and a new location or depth shall be agreed upon between the Owner and Geotechnical Engineer, in consultation with the Architect.

§ 2.2.3 The Geotechnical Engineer shall perform laboratory tests necessary for the planning and design of the Project and for preparation of the Geotechnical Report. The Geotechnical Engineer shall provide a detailed plan, for the Owner's review and approval, of the Geotechnical Engineer's proposed laboratory tests.

§ 2.2.4 If the Geotechnical Engineer encounters unusual and unanticipated conditions, including materials which cannot be penetrated by standard sampling equipment, the Geotechnical Engineer shall immediately consult with the Owner and Architect.

§ 2.2.5 The Geotechnical Engineer shall advise the Owner and Architect as to any additional explorations and tests necessary for the Geotechnical Engineer to assess the conditions at the Property. The Geotechnical Engineer shall perform such additional work only as authorized by the Owner and after consultation with the Architect.

§ 2.2.6 The Geotechnical Engineer shall perform all field explorations and lab tests in accordance with current applicable ASTM International (ASTM) standards or other standards approved in advance by the Owner. The Geotechnical Engineer shall record all data in the field and reference it to the appropriate exploration point numbers. When collecting soil samples, the Geotechnical Engineer shall classify soils in field logs in accordance with applicable ASTM standards or other standards, including ASTM D2488 Standard Practice for Description and Identification of Soils. The classification for final logs shall be based on field information, plus results of tests and further inspection of samples in the laboratory by the Geotechnical Engineer preparing the reports in accordance with ASTM D2487 Standard Practice for Classification of Soils for Engineering Purposes or other Owner-approved standards.

§ 2.2.7 All samples collected by the Geotechnical Engineer are the Owner's property and shall be preserved according to Section 2.4. All field logs shall be prepared by the Geotechnical Engineer or by an experienced soils technician or experienced driller acting under the supervision of the Geotechnical Engineer.

§ 2.2.8 The Geotechnical Engineer shall take reasonable precautions to prevent damage to the Property, both visible and concealed, and shall reasonably restore the Property to the condition existing prior to the Geotechnical Engineer's entry. Such restoration includes backfilling of borings, patching of slabs and pavements, and repair of lawns and plantings. Each boring shall be capped pending additional groundwater readings. At the completion of the groundwater readings, the borings shall be permanently plugged, including patching of slabs and pavements.

§ 2.2.9 Prior to starting any field explorations, the Geotechnical Engineer shall contact the Owner and the appropriate public utility location service for information regarding buried utilities and structures. If requested by the Geotechnical Engineer and agreed to by the Owner, the Owner shall provide the services of a utility location firm to locate utilities not identified by a public utility location service.

§ 2.3 Geotechnical Report

§ 2.3.1 The Geotechnical Engineer shall analyze the information gathered from the field explorations and lab tests performed under Section 2.2 and consult with the Owner and Architect regarding the design and engineering requirements of the Project. Based on such analysis, the Geotechnical Engineer shall provide a written Geotechnical Report to the Owner. The Geotechnical Engineer shall provide the Geotechnical Report and any related documents to the Owner in a medium and format determined by the Owner and as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall sign and seal the Geotechnical Report as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall consult with the Owner and Architect regarding the information presented in the Geotechnical Report. The Geotechnical Report shall contain the following information:

§ 2.3.2 Background Information

§ 2.3.2.1 General description of the Project.

§ 2.3.2.2 List of all resources used in evaluation of the Property and preparation of the Geotechnical Report, including existing surveys and geotechnical reports.

§ 2.3.2.3 Narrative description of the history, existing features, and geology of the Property.

§ 2.3.3 Exploration and Test Results

§ 2.3.3.1 Record of the date and time of each field exploration.

§ 2.3.3.2 Plan showing dimensioned locations of each field exploration and equipment used.

§ 2.3.3.3 Identification of ASTM standards or other Owner-approved standard sampling and test methods used.

§ 2.3.3.4 All data as required by the ASTM standards or other Owner-approved standard sampling and test methods used.

§ 2.3.3.5 Chart illustrating the soil classification criteria, and defining the terminology and symbols used on the boring logs.

§ 2.3.3.6 Vertical sections for each boring, plotted and graphically presented to show (1) number of borings, (2) sampling method used, (3) date of start and finish, (4) surface elevations, (5) description of soil and thickness of each layer, (6) depth to loss or gain of drilling fluid, and (7) hydraulic pressure required or number of blows per foot (Standard Penetration Test N value for each sample). Where applicable, show depth to wet cave-in, depth to artesian head, groundwater elevation and time when water reading was made, and presence of gases. Note the location of strata containing organic materials, wet materials, or other inconsistencies that might affect engineering conclusions.

§ 2.3.3.7 Description of the existing surface conditions and a summary of the subsurface conditions.

§ 2.3.3.8 Subsurface profiles of rock or other bearing stratum.

§ 2.3.3.9 Estimate of potential variations in elevation and movements of subsurface water due to seasonal influences.

§ 2.3.3.10 Description of laboratory testing performed, and a report of all results, including laboratory determinations of soil properties.

§ 2.3.3.11 Results of any percolation tests performed.

§ 2.3.3.12 Other: (*Specify*)

«- Attachment C- Testing Notes and General Descriptions »

§ 2.3.4 Foundation Evaluation and Recommendations

As part of the Geotechnical Report, the Geotechnical Engineer shall prepare an evaluation and recommendations for the necessary areas of consideration pertaining to existing or proposed foundations, including the following:

§ 2.3.4.1 Foundation support of the structure and slabs, including bearing pressures, bearing elevations, foundation design recommendations, anticipated settlement, and need for ground improvement to mitigate against settlement, liquefaction, and other conditions encountered on the Property.

§ 2.3.4.2 Anticipation and management of groundwater for design of structures and pavements.

§ 2.3.4.3 Lateral earth pressures and requirements for design of below grade walls and trenches, including backfill, compaction, and subdrainage.

§ 2.3.4.4 Soil material and compaction requirements for the support of structures and pavements, and for site fill, construction backfill, and grading.

§ 2.3.4.5 Subgrade moduli for design of pavements or slabs.

§ 2.3.4.6 Temporary excavation and temporary protection, such as excavation sheeting, underpinning, and temporary dewatering systems.

§ 2.3.4.7 Site stability, including slope stability and settlement.

§ 2.3.4.8 Site seismic activity and seismic design information with references to current applicable building code.

§ 2.3.4.9 Frost penetration depth and effect.

§ 2.3.4.10 Effect of weather or construction equipment or both on soil conditions during construction.

§ 2.3.4.11 Presence of potentially expansive soils; deleterious, chemically active, or corrosive materials or conditions; or the presence of gas. The analysis shall not require the Geotechnical Engineer to provide environmental assessment services for the Project unless otherwise agreed to by the Geotechnical Engineer and Owner.

§ 2.3.4.12 Depth of material requiring rock or other difficult soil excavation and suggested methods of removal.

§ 2.3.4.13 Potential sustainable design elements and low-impact development.

§ 2.3.4.14 Other: *(Specify)*

« - Attachment C – Testing Notes and General Descriptions »

§ 2.4 Samples

The Geotechnical Engineer shall dispose of samples as indicated below after all laboratory tests have been completed:

[☐] Discard

[☒] Retain at the Geotechnical Engineer's office, and remain open to inspection until

[☐] the end of the Project's Bidding or Negotiation Phase.

[☒] the Project's foundation installation is complete.

[☐] Substantial Completion.

[☐] Other: *(Specify)*

« »

§ 2.5 Design Phase Services

§ 2.5.1 During the design phase of the Project, the Geotechnical Engineer shall consult with the Owner and the Owner's other consultants regarding geotechnical aspects of the Project.

§ 2.5.2 The Geotechnical Engineer shall review, and provide written comments on, geotechnical aspects of drawings, specifications, and other design submittals prepared by the Owner and the Owner's other consultants.

§ 2.6 Construction Phase Services

During construction of the Project, the Geotechnical Engineer shall consult with the Owner and the Owner's other consultants regarding geotechnical aspects of the Project. If required, site visits shall be performed as an Additional Service in accordance with Article 3.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Geotechnical Engineer shall provide the listed Additional Services only if specifically designated in the table below as the Geotechnical Engineer's responsibility.

(Designate the Additional Services the Geotechnical Engineer shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility (Geotechnical Engineer, Owner or Not Provided)	Location of Service Description (Section 3.2 below or an exhibit attached to this document and identified below)
§ 3.1.1 Ground Motion Studies		
§ 3.1.2 Bidding or Negotiation related Services		
§ 3.1.3 Ground Water Control		
§ 3.1.4 Earth Structures and Retention Systems		
§ 3.1.5 Preparation of Specifications		
§ 3.1.6 Geologic Mapping		
§ 3.1.7 Site Visits during Construction		
§ 3.1.8 Construction Phase Testing and Inspections		
§ 3.1.9 Ground Improvement		
§ 3.1.10 Other:		

§ 3.2 Insert a description of each Additional Service designated in Section 3.1 as the Geotechnical Engineer's responsibility, if not further described in an exhibit attached to this document.

ARTICLE 4 ATTACHMENTS BY GEOTECHNICAL ENGINEER

4.1 This is a prevailing wage rate project.

4.2 Proposal dated September 19, 2024.

4.3.1 Provide a fee for geotechnical services for Sweet Home Central School District to be completed within 30 days after authorization to proceed.

4.3.2 Provide hourly rate schedule for all personnel to be used for any additional work.

4.3.3 Provide unit prices for all tests/analysis noted in Attachment C in case additional studies are requested.

4.4 Provide a copy of liability insurance (min. \$1,000,000 coverage) rider naming the following on the policy as additionally insured:

CURRENT SCHEDULE OF INSURANCE MAINTAINED
CME Associates, Inc.
(for use with Proposal Submission)
Date January 1, 2024

COMPANIES AFFORDING COVERAGE

Insurer Co. Letter: A The Charter Oak Fire Insurance Company
Insurer Co. Letter: B Phoenix Insurance Company
Insurer Co. Letter: C The Travelers Indemnity Company
Insurer Co. Letter: D Crum & Forster Specialty Insurance Company

Coverages

Ins Co. Ltr	Type Of Insurance	Policy Number	Policy Effective Date	Policy Expiration Date	Limits	
A	General Liability Commercial General Liability Occurrence Form Blanket Contractual Per Project Aggregate	P-660-3P449549-COF-24	01/01/24	01/01/25	Each Occurrence	\$1,000,000
					Damage to Rented Premises (Ea Occurrence)	\$300,000
					Medical Expense (Any one person)	\$15,000
					PERSONAL & ADV INJURY	\$1,000,000
					GENERAL AGGREGATE	\$2,000,000
					PRODUCTS – COMP/OP AGG	\$2,000,000
B	Automobile Liability Any Auto	810-3P449851-24-43-G	01/01/24	01/01/25	Combined Single Limit (Each Accident)	\$1,000,000
C	Umbrella Liability Excludes Prof. Liability Occurrence Retention \$10,000	CUP-4P082770-24-43	01/01/24	01/01/25	Each Occurrence	\$5,000,000
					Aggregate	\$5,000,000
C	Worker's Compensation And Employers' Liability	UB-3P44888A-24-43-G	01/01/24	01/01/25	NY Statutory Limits Each Accident Disease-Policy Limit Disease-Each Employee	\$1,000,000 \$1,000,000 \$1,000,000
A	Commercial Property Building & Equipment Floater Deductible \$1,000	P-660-3P449549-COF-24	01/01/24	01/01/25	Blanket Limits	\$ Per Sch.
D	Professional / Pollution Liability	PKC-114259 PKC-114259	05/15/23 05/15/23	05/15/24 05/15/24	Occurrence \$5,000,000 Aggregate \$5,000,000	

TERMS AND CONDITIONS FOR SUBSURFACE EXPLORATION SERVICES AGREEMENT

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1.0 SERVICES

1.1 CME Associates, Inc. (hereinafter called "CME") will provide services to Client in accordance with these Terms and Conditions, the attached CME Proposal and any exhibits noted in said Proposal, for the Project Site which is the subject of this Agreement. Services may include, but shall not be limited to, subsurface exploration, test excavation, exploratory drilling, sampling and testing.

1.2 CME will prepare and submit exploratory logs and test reports of services performed. Both parties shall consider reports to be confidential instruments of service and the property of CME. CME will distribute reports only to those persons specifically designated by the Client in writing. CME may provide reports in an electronic format; however, the paper original prepared by CME shall remain the final product of CME's services. CME will retain pertinent records relating to service reports for a period of three years following submission of the report.

1.3 When included in CME's work scope, CME will layout and mark the test and exploration locations at the project site using Client furnished information.

1.4 After layout, CME will contact UFPO-Dig Safely New York, wait the required time, confirm utility response, respect field marks, and conduct exploration or digging with care. Upon proper notice and authorization and at Client's expense, CME will arrange for locating and clearing field test and exploration locations of privately-owned utilities and obscure and man-made objects which do not fall under the jurisdiction of the Public Utility Companies and will not be marked by UFPO-Dig Safely New York.

1.5 After CME receives all utility clearance confirmations, CME will commence subsurface exploration, sampling and testing. CME will endeavor to reduce alteration and damage to the project site as a result of the subsurface exploration services but makes no guarantee to restore the site to its previous condition.

2.0 CLIENT'S RESPONSIBILITIES

2.1 Client will furnish right of entry of the employees, agents and subcontractors of CME and all CME equipment needed to perform the services on the project. While CME will endeavor to reduce alteration and damage to the project site as a result of intrusive exploration methods, the Client understands and agrees that in the normal course of the services, some damage will occur, the correction of which is not part of this agreement.

2.2 Client will disclose the identity, presence and location of all privately owned, hidden or obscure utilities and man-made objects known to Client relative to the field test and project exploration locations. Client agrees to hold CME harmless and pay for any damages to privately owned, hidden or obscure utilities and man-made objects which were not disclosed or accurately shown on Client furnished documents, or disclosed and marked accurately by Client or by UFPO-Dig Safely New York.

2.3 Client will designate the person to act as the Client's Representative with respect to CME's services. Client's Representative shall have complete authority to schedule services, transmit instructions, receive information and data, interpret and define the Client's policies and decisions with respect to the Project; to bind Client with respect to decisions made in connection herewith; to contemporaneously orally authorize and direct changes to CME's scope of services; and to contemporaneously orally order, at the Client's expense, CME's services.

3.0 GENERAL CONDITIONS

3.1 **STANDARD OF CARE**-CME will endeavor to conduct services identified herein in a manner consistent with that level of care and skill ordinarily exercised by members of the industry currently practicing in the same locality and under similar conditions as this project. No warranty, either express or implied, is made or intended by CME's proposal, contract, and written and oral reports, all of which warranties are hereby expressly disclaimed. CME shall not be responsible for the acts or omissions of Client, its contractors, agents and consultants. CME may rely upon information supplied by Client, its contractors, agents and consultants or information available from generally accepted reputable sources, without independent verification, and CME assumes no responsibility for the accuracy thereof.

3.1.1 In accepting CME's reports of subsurface exploration and tests performed pursuant to this agreement, the Client agrees that the extent of CME's obligation with respect thereto is limited to the furnishing of such data. The Client recognizes that subsurface conditions may vary from those encountered at the locations where sampling, testing, borings, surveys, or explorations were made by CME. CME will be responsible for those data, and the reporting thereof but shall not be responsible for the interpretation or use by others of the information developed by CME. Client agrees to indemnify and hold CME harmless from and against all claims, losses and expenses arising from the interpretation or use by others of the data and reports provided by CME.

Client: Sweet Home Central School District c/o Appel Osborne
CME Proposal/Agreement No.: 05.7719



TERMS AND CONDITIONS FOR SUBSURFACE EXPLORATION SERVICES AGREEMENT

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3.2 INSURANCE-CME shall secure and maintain, throughout the full period of this Agreement; insurance required by statute to protect it from claims under applicable Workers' Compensation Acts and such other coverage as CME deems necessary to protect it from claims for bodily injury, death or property damage as may arise from the performance of services under this Agreement. CME will, upon request, file certification of such insurance coverage with Client, prior to the commencement of services hereunder. CME's proposal and fees are based on CME's insurance coverage, limits and endorsements in existence as of the date of the Proposal. Client agrees that the cost of any additional insurance coverage, limits and endorsements required by Client for the Project will be paid for by Client.

3.3 LIMITATION OF LIABILITY-CME and Client mutually agree that the services to be provided pursuant to this Agreement involve risks of economic liability which cannot be adequately compensated for by the payments Client will make under this Agreement. Client further acknowledges that CME is not an insurer and CME's fees for its services to be provided hereunder are based solely upon the value of services provided, as determined by CME in its sole discretion. Therefore, to the fullest extent permitted by law, the total cumulative liability of CME, its agents, employees and subcontractors to Client, its agents, employees, suppliers, subcontractors or any third-party claim by, through or under Client, whether in contract, tort, including but not limited to negligence, strict liability or common law, arising out of, connected with, or resulting from the services provided by CME pursuant to this Agreement shall not exceed the total fees paid by Client hereunder as of the date of such claim or Fifty Thousand and 00/100 Dollars (\$50,000), whichever is more. CME's consideration to Client for this limit of liability is specially reflected in CME's fees for services under this Agreement as such fees are less than CME would otherwise charge for similar services under an agreement without a limitation of liability. Notwithstanding the foregoing, at an additional cost defined in Exhibit "1" attached hereto, Client may, prior to CME's commencement of services under this Agreement, obtain protection for full liability arising out of any breach of contract or negligent acts or omissions by CME. For purposes of this Agreement, the phrase "full liability" shall mean either (i) an increase in the dollar amount set forth above to an amount in excess of Fifty Thousand and 00/100 Dollars, or (ii) a removal of the dollar amount(s) set forth above. The parties agree and acknowledge that the additional cost is compensation for CME increasing CME's limit of liability. The additional cost is not an insurance cost. Client is cautioned that if Client chooses not to increase CME's liability exposure hereunder, this is a limited liability Agreement limiting the liability of CME to the fullest extent permitted by law; therefore, Client is advised to carefully review Client's risks of liability related hereto and address such risks through Client's own insurance programs or through other means, as determined by Client. Client expressly consents to the limitation of liability set forth herein.

3.4 INDEMNITY-Client shall, to the fullest extent permitted by law, indemnify and hold CME, its officers, directors, shareholders, agents, employees, and representatives harmless from any and all liability costs, damages, attorney's fees and expenses from any claims or causes of action of whatever nature arising from Client's work in connection with the Project, including, without limitation, all claims relating to Client's contractors, subcontractors, suppliers, employees or other agents, or by reason of any claim or dispute by any person or entity for damages from any cause directly or indirectly relating to any action or failure to act by Client, its contractors, subcontractors, suppliers, employees or other agents.

3.5 PAYMENT-Client will pay CME for services and expenses in accordance with the attached Proposal. CME's invoice will be presented at the completion of its work and/or monthly, as agreed upon by the parties, and will be paid within thirty (30) days of receipt by Client or Client's Representative. If written inquiry is not received within ten (10) days of invoice Date, the invoice is deemed to be correct, and if payment in full is not received within the time period set forth above, a finance charge of one and one-half (1.5) percent per month will be applied to the outstanding balance. Client shall pay all expenses incurred by CME for lien or collecting any delinquent amount, including, without limitation, attorney and filing fees and expenses. Client agrees that CME's right to payment shall not be conditioned upon payment by a third party.

3.6 HAZARDOUS ENVIRONMENTAL CONDITIONS-Client shall advise CME of any hazardous environmental conditions and wastes at or near the site at which CME is to perform services. If CME discovers hazardous environmental conditions or wastes after CME commences services, or if CME discovers the nature or extent of hazardous environmental conditions or wastes differs materially from what Client advised CME, both Parties agree that CME's scope of services, schedule and compensation fee shall be adjusted as needed to complete the work without injury or damage, and that all notifications required by law shall be made.

3.7 SAMPLES - Samples collected or tested by CME remain the property of the Client while in the custody of CME. CME will dispose of all unconsumed samples thirty (30) days after submission of test report to Client, in a manner deemed appropriate by CME. Samples consumed in the testing process will be discarded immediately after test completion. CME will return hazardous, acutely toxic, or radioactive samples and sample containers and residues to Client. Client agrees to accept such samples and sample containers.

TERMS AND CONDITIONS FOR SUBSURFACE EXPLORATION SERVICES AGREEMENT

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3.8 ACCEPTANCE WITHOUT SIGNATURE-For purposes of convenience, Client may choose to accept this Agreement orally and to orally authorize CME to initiate services, provided such acceptance is confirmed in writing by CME. In that event, Client specifically agrees that as a material element of the consideration CME requires to execute the services indicated herein, oral acceptance or authorization to initiate services shall be considered by both parties to constitute formal acceptance of all Terms and Conditions of this Agreement. Unilateral modification of this Agreement subsequent to CME's initiation of services is expressly prohibited. Furthermore, all preprinted terms and conditions on Client's purchase order, executed purchase order acknowledgment form, task or work order are inapplicable to this Agreement and CME's involvement in the Project.

3.9 SAFETY-With respect to project site safety, CME shall be responsible solely for the on-site activities of its employees, and this responsibility shall not be construed by any party to relieve the project site's Owner or Client or Contractor from its obligation to provide and maintain a safe project site. Should Client, or third parties, be conducting activities on or about the project site, then each shall have responsibility for their own safety and compliance with applicable safety requirements.

3.10 ADDITIONAL OR INCONSISTENT TERMS-Terms and conditions set forth in any document provided by the Client or Client's designee subsequent to CME's commencement of services which are not noted in CME's Proposal, and which differ from, conflict with, or are not included in this Agreement, shall not become a part of this Agreement unless such terms and conditions are specifically accepted by CME in writing. The ordering of the services from CME shall constitute acceptance of the terms of CME's Proposal and these Terms and Conditions.

3.11 LAW TO APPLY-The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York, excluding any conflicts of law principles thereof.

3.12 SEVERABILITY, NO WAIVER AND SURVIVAL-In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, the remaining terms will be in full effect, and this Agreement will be construed as if the invalid or unenforceable matters were never included. No waiver of any default will be a waiver of any future default. Limitations of liability, indemnities and hold harmless provisions shall survive termination of this Agreement for any cause.

3.13 MUTUAL DISCLAIMER OF CONSEQUENTIAL DAMAGES-In no event shall CME or Client be liable to the other for any special, indirect, incidental, punitive, or consequential loss or damages, including delays, lost profits and loss of use.

3.14 TERMINATION-Client may terminate this Agreement with seven days' prior written notice to CME for convenience or cause. CME may terminate this Agreement for cause with seven days' prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until CME has been paid in full all amounts due for services, expenses, and other related charges. Client shall reimburse CME for any costs incurred as a result of such suspension of services hereunder.

3.15 FORCE MAJEURE-Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

3.16 CAPTIONS AND HEADINGS-The captions and headings throughout these terms are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, modify, or add to the interpretation, construction, or meaning of any provision or scope or intent of this Agreement.

3.17 ENTIRE AGREEMENT- This Agreement shall mean this document as well as CME's Proposal and exhibits, each of which is incorporated herein. This Agreement represents the entire understanding and agreement between the parties hereto relating to the services and supersedes any and all prior negotiations discussions and agreements whether written or oral between the parties regarding same.