

**PROFESSIONAL SERVICES AGREEMENT FOR GEOTECHNICAL ENGINEERING SERVICES
AND MATERIALS TESTING**

This Agreement is made and entered into by and between the **WILLIS INDEPENDENT SCHOOL DISTRICT** ("District"), an Independent School District and political subdivision of the State of Texas and UES Professional Solutions 44, LLC, by and through its designated officer(s), pursuant to its by-laws, or via a resolution of its Board of Trustees ("**Consultant**"). District or Consultant may be referenced in this Agreement individually as a "Party" or collectively as the "Parties." This Agreement governs Consultant's provision of Geotechnical Engineering Services and Materials Testing for the following project (the "**Project**"):

Willis Independent School District- Willis High School Parking
10005 Highway 75N
Willis, Texas 77378

IN CONSIDERATION of the mutual covenants, terms, conditions, privileges, and obligations herein contained, District and Consultant do hereby agree as follows:

I. PERIOD OF SERVICE

1.1 This Agreement shall take effect upon execution by both Parties and continue in full force and effect for the period required for completion of the duties as set forth in the Scope of Services. Performance for the Project listed above shall commence upon issuance of a Notice to Proceed by District's representative and shall terminate upon substantial completion of Consultant's duties as set forth in the Scope of Services and upon written acceptance by District of the work product or services rendered, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

1.2 Consultant shall not commence work or incur any billable expenses on the Project until establishment of the Scope of Services and the issuance of a Notice to Proceed for the Project.

1.3 If funding of the Project is not appropriated at the time this Agreement is entered into, District retains the right to terminate this Agreement at the expiration of each of District's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

1.4 The Owner is the Board of Trustees of the Willis Independent School District and is referred to throughout this Agreement as if singular in number. The Owner may designate in writing one or more persons to represent the Owner; however, such representatives shall have the authority to bind the Owner only to the extent expressly authorized by the Owner and shall have no implied authority.

1.5 District representative(s) shall be as follows:

Dr. Kimberley James, Superintendent of Schools
612 N. Campbell
St. Willis, TX
77378
Phone: (936) 856-1200

II. SCOPE OF SERVICES

2.1 Consultant, in consideration for the compensation herein provided, shall render investigation, analysis, and services in connection with the above-identified Project. Pursuant to this Agreement, which includes the attached [Willis ISD Geo-technical and Material Testing RFQ] as **Exhibit A-1 and Exhibit A-2**, The Additional Parking is located as referenced on the attached **Exhibit A-3**. These exhibits are incorporated herein by reference for the purpose of setting forth a more detailed version of the work constituting the Scope of Services. To the extent the Scope of Services and/or the Project and/or other terms set for thin **Exhibit A-1** and/or **Exhibit A-2** change, modify, or contradict any term or condition included in the main body of the Agreement or included in the Construction Drawings, Project Manual or Specifications, such provisions shall be deemed to have no effect and will be *void ab initio*

2.2 The Scope of Services relevant to the performance and completion of the Project includes the following:

2.1.1 **Geotechnical Engineering Services:**

- Subsurface soil, rock, and groundwater conditions on the relevant site to depths that would be significantly affected by foundations;
- Engineering characterization of the subsurface materials encountered;
- Typical foundations suitable for support of the Addition/proposed site;
- Data required for design of typical foundation systems for the Addition;
- Pavement recommendations: and
- Recommendations regarding earthwork, including grading and excavation, backfilling and compaction, the treatment of in-place soils for the support of foundations, pavement and possible construction problems reasonably to be expected.

2.2.2 The Geotechnical Study will provide for the exploration of the subsurface soil and/or rock conditions at the site by drilling test borings.

2.2.3 The Geotechnical Study will include laboratory tests to evaluate the classification, gradation, and certain physical characteristics of the subsurface soils.

2.2.4 Consultant shall prepare a written Geotechnical Exploration Report which includes relevant data and recommendations.

2.2.5 The Phase I Geologic Fault Study shall include the following tasks:

- Review the published data on surface faults at or near the relevant site;
- Review of aerial photographs taken during different years and during various conditions in order to identify surface fault activity;
- Conduct limited field reconnaissance of accessible portions of the relevant site and the vicinity to check for physical evidence of surface fault activity; and
- Preparation of a written Phase I Geologic Fault Study Report which includes findings and risk assessment.

2.3 Consultant shall complete all work on the Project in compliance with this Agreement, in compliance with industry standards, and in a timely fashion consistent with Owner's construction schedule. Consultant agrees to staff the Project with sufficient, necessary, and qualified personnel so as not to delay or disrupt the progress of the Project. Consultant shall furnish all instruments, tools, and labor required for performance of Consultant's work and services.

III. COORDINATION WITH DISTRICT

3.1 Consultant shall hold periodic conferences with District's representative, so that the Project, as developed, will have the full benefit of District's experience and knowledge of existing needs and facilities and be consistent with District's current policies and standards. No more than two conferences shall be held, unless otherwise agreed to by Parties. District shall make available, for Consultant's use, all existing plans, maps, field notes, statistics, computations, and other data in its possession relative to existing facilities and to this Project as may be requested by Consultant at no cost to Consultant; however, District does not warrant the accuracy of such documents.

3.2 District's representative shall act on behalf of District with respect to the work performed under this Agreement and shall have complete authority to transmit instructions, receive information, and interpret and define District's policies and decisions with respect to materials, equipment elements, and systems pertinent to Consultant's services.

3.3 District shall provide written notice to Consultant of any errors or omissions discovered in Consultant's services or performance, or of any development that affects the scope or timing of Consultant's services.

3.4 Consultant shall complete all applications and furnish all required data compiled by Consultant for District's use in obtaining any permits or approvals from governmental authorities having jurisdiction over the Project, as may be necessary for completion of the Project. Consultant shall not be obligated to develop

additional data, prepare extensive reports, or appear at hearings in order to obtain said permits or approvals, unless compensated therefore as provided in Article IV, COMPENSATION.

IV. COMPENSATION

4.1 For and in consideration of the services to be rendered by Consultant, District shall pay Consultant a fee not to exceed that set forth in this Article IV, COMPENSATION. Nothing contained in this Agreement shall require District to pay for any unsatisfactory work, as determined by District's representative, or for work that is not in compliance with the terms of this Agreement. District shall not be required to make any payments to Consultant at any time Consultant is in default under this Agreement.

4.2 Basis for Compensation and Invoicing. The lump sum for Engineer's base work as defined in Article II, SCOPE OF SERVICES shall be the sum of **EIGHTY THOUSAND, NINE HUNDRED FOURTY-SEVEN DOLLARS (\$80,947.00)** ("Base Fee"). Consultant may submit invoices monthly for work performed and completed which has not been included on previous invoices.

Payments shall be made to Consultant in accordance with the progress of the Project. The Base Fee consists of the following components:

• Geotechnical Fee	\$0.00
• Utility Locate using GPR Equipment	\$0.00
• TOTAL Fee	\$80,947.00

4.3 Additional Professional Services. All additional services, if any, shall be paid based upon a separate written proposal for such services approved by District representative, or the Board of Trustees if required, prior to the performance of such services. Consultant may be required to perform additional services in connection with this Agreement including, but not limited to, the following:

4.3.1 Acting as an expert witness in any litigation with third parties, arising in connection with the Project, including the preparation of engineering data and reports and providing testimony as necessary.

4.3.2 Services after the completion of the construction phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantee called for in any contract for the Project.

4.3.3 Additional copies of reports, drawings, and specifications over the number specified in this Agreement.

4.3.4 The Geotechnical Exploration Report shall be prepared exclusively for the use by the District and is not intended to be relied upon by any party other than the District. Consultant may agree to extent reliance to additional parties for an additional fee of \$400 per reliance entity.

4.4 Compensation for Additional Professional Services. Compensation for such additional services shall be subject to prior approval of District and approval of the Board of Trustees if additional funds not provided for in the initial budget are required to cover such services. Should Consultant be directed in writing by District's representative to perform these services, compensation shall be paid by District to Consultant as authorized in writing by District's representative. Compensation may be based upon rates to be negotiated by the Parties or based upon a lump sum to be negotiated by the Parties.

V. OWNERSHIP AND RETENTION OF DOCUMENTS AND ACCESS TO LAB RESULTS

5.1 Upon completion or termination of the Project, or upon request by District, all documents and information, in whatever form, given to, prepared or assembled by Consultant in connection with its performance of its duties under this Agreement shall become the sole property of District and shall be delivered at no cost to District without restriction on future use. Documents and information covered by this paragraph shall include, but not be limited to, reports, test results, field notes, and other data. District shall have free and immediate access to all such information at all times during the term of this Agreement with the right to make and retain copies of documents, notes, and data, whether or not the Project has been completed. Prior to surrender of the documents and information, Consultant may make copies of any and all documents for its files, at its sole cost and expense. Consultant shall not be liable for any unauthorized reuse or modification of its documents, reports or other work products. Notwithstanding the foregoing, **DISTRICT UNDERSTANDS THAT THE DOCUMENTS AND INFORMATION ADDRESSED IN THIS PARAGRAPH 5.1 ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATION, OR ADAPTATIONS OF THE PROJECT AND ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY CONSULTANT FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT DISTRICT'S OWN RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO CONSULTANT.**

5.2 At any time during the Project, upon reasonable notice and during normal business hours, District shall have the right to unrestrained direct access laboratories and testing facilities used by Consultant for work performed by Consultant under this Agreement; and District shall have the unrestricted right to obtain original or duplicate copies of reports and testing results directly from the lab or testing facility used by Consultant.

5.3 Consultant agrees to maintain all books, records and reports required under this Agreement for a period of not less than three (3) years after final payment is made and all pending matters are closed. In addition, Consultant shall maintain an acceptable cost accounting system during the term of this Agreement. Consultant agrees to provide District, or any of the Parties' duly authorized representatives, access to any books, documents, papers, and records of Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

5.4 Consultant shall notify District, immediately, in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that District will process and handle all such requests.

VI. TERMINATION OF AGREEMENT

6.1 Termination Without Cause.

6.1.1 This Agreement may be terminated by District without cause, prior to District's representative giving Consultant written Notice to Proceed, should District's representative, in its sole discretion, determine that it is not in District's best interest to proceed with this Agreement. Such notice shall be provided in accordance with the notice provisions contained in this Agreement and shall be effective immediately upon delivery to Consultant.

6.1.2 This Agreement may be terminated by District at any time after issuance of District's representative's Notice to Proceed, either for District's convenience or because of Consultant's failure to fulfill the Agreement obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Agreement, whether completed or in progress, delivered to District.

6.1.3 If the termination is for the convenience of District, and following inspection and acceptance of Consultant's services properly performed prior to the effective date of termination, an equitable adjustment in the Fee shall be made. Consultant shall not, however, be entitled to lost or anticipated profit on unperformed services should District choose to exercise its option to terminate, nor shall Consultant be entitled to compensation for any unnecessary or unapproved work performed during time between the issuance of District's notice of termination and the actual termination date.

6.1.4 If the termination is due to Consultant's failure to fulfill its obligations, District may take over the work and prosecute the same to completion by contract or otherwise. In such case, Consultant shall be liable to District for any additional cost occasioned to District thereby.

6.1.5 If, after notice of termination for failure to fulfill contract obligations, it is determined that Consultant had not so failed, the termination shall be deemed to have been effectuated for the convenience of District. In such event, an equitable adjustment in the Fee shall be made as provided in Section 6.1.3 of this Agreement.

6.1.6 The rights and remedies of District provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

6.1.7 This Agreement may be terminated by Consultant, at any time after issuance of District's representative's Notice to Proceed, upon ninety (90) days written notice provided in accordance with the Notice provisions contained in this Agreement.

6.2 Defaults with Opportunity for Cure. Should Consultant fail, as determined by District's representative, to satisfactorily perform the duties set out in Article II. SCOPE OF SERVICES or comply with any covenant herein required, such failure shall be considered an Event of Default. In such event, District shall deliver written notice of said default(s), in accordance with the notice provisions contained in this Agreement, specifying the specific Event(s) of Default and the action necessary to cure such default(s). Consultant shall have ten (10) days after receipt of the written notice to cure such default(s). If Consultant fails to cure the default(s) within such cure period, or take steps reasonably calculated to cure such default(s), District shall have the right, without further notice, to terminate this Agreement in whole or in part as District deems appropriate, and to contract with another Consultant to complete the work required by this Agreement. District shall also have the right to offset the cost of said new agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to any statutory or legal duty, if any, on the part of District to mitigate its losses.

6.3 Termination for Cause. Upon the occurrence of one (1) or more of the following events, and following written notice to Consultant given in accordance with the notice provisions contained in this Agreement, District may immediately terminate this Agreement, in whole or in part, "for cause":

6.3.1 Consultant makes, directly or indirectly through its employees or representatives, any material misrepresentation or provides any materially misleading information to District in connection with this Agreement or its performance hereunder; or

6.3.2 Consultant violates or materially fails to perform any covenant, provision, obligation, term, or condition of a material nature contained in this Agreement, except those events of default for which an opportunity to cure is provided herein; or

6.3.3 Consultant fails to cure, or initiate steps reasonably calculated to cure, a default as required by this Agreement, within the time period required for cure; or

6.3.4 Consultant violates any rule, regulation, or law to which Consultant is bound or shall be bound under the terms of this Agreement; or

6.3.5 Consultant attempts the sale, transfer, pledge, conveyance, or assignment of this Agreement contrary to the terms of this Agreement.

6.3.6 Consultant ceases to do business as a going concern; makes an assignment for the benefit of creditors; admits in writing its inability to pay debts as they become due; files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such Party is continued and performance of all its obligations under this Agreement shall continue) and such petition is not dismissed within forty-five (45) days of filing; or if a receiver, trustee or liquidator is appointed for it, or its joint venture entity, or any substantial part of Consultant's assets or properties.

6.4 Termination by Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

6.5 Orderly Transfer Following Termination. Regardless of how this Agreement is terminated, Consultant shall effectuate an orderly transfer to District or to such person(s) or firm(s) as District may designate, at no additional cost to District. Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant, or any of its subcontractors, pursuant to this Agreement. All completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced, or provided to Consultant, in connection with the services rendered by Consultant under this Agreement, regardless of storage medium, shall be transferred to District. Such record transfer shall be completed within thirty (30) days of the termination date and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents.

6.6 Claims for Outstanding Fees. Within forty-five (45) days of the effective date of completion, or termination, or expiration of this Agreement, Consultant shall submit to District its claims, in detail, for the monies owed by District for services performed under this Agreement through the effective date of termination. **Failure by Consultant to submit its claims within said forty-five (45) days shall negate any liability on the part of District and constitute a waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.**

6.7 Termination Not Sole Remedy. In no event shall District's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of District's remedies, nor shall such termination limit, in any way, at law or at equity, District's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

VII. SUSPENSION OF WORK UNDER AGREEMENT

7.1 Right of District to Suspend. District may suspend this Agreement for any reason, with or without cause, upon the issuance of written Notice of Suspension in accordance with the Notice provisions contained in this Agreement. Such suspension shall take effect upon the date specified in such notice; provided, however, such date shall not be earlier than the tenth (10th) day following receipt by Consultant of said notice. The Notice of Suspension will set out the reason(s) for the suspension and the anticipated duration of the suspension but will in no way guarantee the total number of days of suspension.

7.2 Consultant's Right to Terminate in Event of Suspension of Agreement. In the event such suspension exceeds one hundred twenty (120) days, Consultant shall have the right to terminate this Agreement. Consultant may exercise this right to terminate by issuing a written Notice of Termination to District, delivered in accordance with the Notice provisions contained in this Agreement after the expiration of one hundred twenty (120) days from the effective date of the suspension. Termination pursuant to this paragraph shall become effective immediately upon receipt of said written notice by District and such termination shall be subject to all the requirements set out in Paragraphs 6.5 and 6.6 above, related to the Orderly Transfer and Fee Payment.

7.3 Procedures Upon Receipt of Notice of Suspension.

7.3.1 Upon receipt of a notice of suspension and prior to the effective date of the suspension, Consultant shall, unless otherwise directed, immediately begin to phase-out and discontinue all services

in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement.

7.3.2 Consultant shall prepare a statement showing in detail the services performed under this Agreement prior to the effective date of suspension.

7.3.3 Copies of all completed or partially completed studies, plans, and other documents prepared under this Agreement, prior to the effective date of suspension, shall be prepared for possible delivery to District but shall be retained by Consultant until such time as Consultant may exercise the right to terminate.

7.3.4 During the period of Suspension, Consultant shall have the option to at any time submit the above-referenced statement to District for payment of any unpaid portion of the prescribed fee for services which have actually been performed to the benefit of District under this Agreement, adjusted for any previous payments of the fee in question.

7.3.5 In the event Consultant exercises its right to terminate this Agreement at any time after the effective Suspension date, Consultant shall submit, within forty-five (45) days after receipt by District of Consultant's notice of termination (if not previously done) the above-referenced statement showing in detail the services performed under this Agreement prior to the effective date of suspension. Failure by Consultant to submit its claims within said forty-five (45) days shall negate any liability on the part of District and constitute a waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.3.6 Upon the above conditions being met, District's review of the submissions and finding the claimed compensation to be appropriate to the terms of this Agreement, District shall pay Consultant that portion of the agreed prescribed fee for those as yet uncompensated services actually performed under this Agreement to the benefit of District, adjusted for any previous payments of the fee in question.

VIII. INSURANCE REQUIREMENTS

8.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish an original completed Certificate of Insurance to District's representative, which shall be clearly labeled with the Project name and which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. District shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to District's representative, and no officer or employee shall have authority to waive this requirement.

8.2 District reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and to modify insurance coverage and limits when deemed necessary and prudent by District based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance will District allow modification whereupon District may incur increased risk.

8.3 Consultant's financial integrity is of interest to District; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by District, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, except for professional liability, by companies authorized, approved or admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to District, in the following types and amounts:

Workers' Compensation:
(Including Waiver of Subrogation Endorsement)

All liability arising out of Consultant's employment of workers and anyone for whom Consultant shall be liable for Worker's Compensation claims. Worker's Compensation is required and no "alternative" form of insurance shall be permitted.

Employer's Liability:

\$1,000,000.00

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Occurrence

\$1,000,000.00

Aggregate

\$2,000,000.00

Personal Injury

\$1,000,000.00 each person

Automobile Liability:

\$1,000,000 combined single limit

Professional Liability:

\$1,000,000 per claim to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any negligent act, malpractice, error or omission in professional services. If written on a claims made basis, Consultant shall provide coverage for an additional 25 months after the completion date of the contract.

8.4 The General Liability and Automobile issued in the name of Consultant shall also name District as an additional insured. The coverage afforded to the additional insured under the policy or policies shall be primary insurance. It is the intent of the Parties to this Agreement that the General Liability coverage required herein shall be primary to and shall seek no contribution from all insurance available to District, with District's insurance being excess, secondary, and non-contributing. The Commercial General Liability coverage provided by Consultant shall be endorsed to provide such primary and non-contributing liability. If the additional insured has other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis.

8.5 Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of District.

8.6 District shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by District and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to District at the address provided in this Agreement for Notice within ten (10) days of the requested change. Consultant shall pay any costs incurred as a result of said changes.

8.7 When there is a cancellation, non-renewal, or material change in coverage which is not made pursuant to a request by District, Consultant shall notify District of such and shall give such notices not less than thirty (30) days prior to the change, if Consultant knows of said change in advance, or ten (10) days notice after the change, if Consultant did not know of the change in advance. In the event of cancellation or non-renewal, such notice must be accompanied by a replacement Certificate of Insurance. All notices under this Article shall be given to District at the address provided in the Notice section of this Agreement.

8.8 If Consultant fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, District may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; however, procuring of said insurance by District is an alternative to other remedies District may have, and is not the exclusive remedy for failure of Consultant to maintain said insurance or secure such endorsement. In addition to any other remedies District may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, District shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof. A stop work order

given to Consultant by District in accordance with this Article shall not constitute a Suspension of Work under this Agreement.

8.9 It is agreed that Consultant's insurance shall be deemed primary with respect to any insurance or self insurance carried by District for liability arising out of operations under this Agreement.

8.10 Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of the work covered under this Agreement.

IX. INDEMNIFICATION

9.1 Consultant (for purposes of this Section referred to as Licensed Engineer) whose work product is the subject of this Agreement for engineering services and other related professional services, agrees to **INDEMNIFY AND HOLD DISTRICT, ITS OFFICERS AND EMPLOYEES, HARMLESS** against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may **ARISE OUT OF OR BE OCCASIONED OR CAUSED BY LICENSED ENGINEER'S NEGLIGENT ACT, ERROR, OR OMISSION OF LICENSED ENGINEER, ANY AGENT, OFFICER, REPRESENTATIVE, EMPLOYEE, CONSULTANT, OR SUBCONSULTANT OF LICENSED ENGINEER** while in the exercise of performance of the rights or duties under this Agreement.

9.2 The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of District, its trustees, officers, or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT LICENSED ENGINEER AND DISTRICT ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO DISTRICT UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

9.3 Consultant shall promptly advise District, in writing, of any claim or demand against District or Licensed Engineer known to Licensed Engineer related to or arising out of Licensed Engineer activities under this Agreement.

9.4 The provisions of this section are solely for the benefit of the Agreement Parties and not intended to create or grant any rights, contractual or other wise, to any other person or entity.

X. LIABILITY AND STANDARD OF CARE

10.1 Services provided by Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Acceptance of reports or other documents by District shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, associates, agents, or subcontractors for the accuracy and competency of their testing, reports, assessments, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by District for any defect or error in testing, reports, or assessments and work performed by Consultant, its employees, subcontractors, and agents.

XI. CONSULTANT'S WARRANTY UNDER THE PROFESSIONAL SERVICES PROCUREMENT ACT

11.1 Consultant warrants that it has not employed or retained any company or person other than a bona fide employee working solely for Consultant to solicit or secure this Agreement, and that it has not, for the purpose of soliciting or securing this Agreement, paid, compensated, or agreed to pay or compensate, any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, for any other consideration contingent upon or resulting

from the award or making of this Agreement. For breach of the foregoing warranty, District shall have the right to terminate the Agreement under the provisions of this Agreement. However, breach of the warranty required in this provision constitutes fraud by operation of law; therefore, any Consultant found in breach of such warranty, by a final judgment of a Court of Competent Jurisdiction, shall take no compensation under this Agreement for any services rendered and such forfeiture shall not bar District from pursuit and collection of any and all other damages, at law and in equity, to which it may be justly entitled. This Agreement is entered into under competency requirements of the Texas Professional Services Procurement Act governing District employment of engineering and other professionals. Accordingly, Consultant further pledges and warrants its best and most competent professional efforts to secure to District the benefits of the Agreement.

XII. ASSIGNMENT OF RIGHTS OR DUTIES

12.1 By entering into this Agreement, District has approved the use of subcontractors, if any, identified in Consultant's Proposal. No further approval shall be needed for Consultant to use such subcontractors to the extent they are identified in Consultant's Proposal.

12.2 Except as otherwise required herein, Consultant may not sell, assign, pledge, transfer, or convey any interest in this Agreement nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written consent of District. Engineering services required by law to be performed by a licensed engineer, or services which, by law, require the supervision and approval of a licensed engineer, may only be subcontracted upon the prior written approval of District. Any other services to be performed under this Agreement may be subcontracted upon the written approval of District's representative. As a condition of consent, if same is given, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor consultant, assignee, transferee, or subcontractor. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by District in accordance with this Article.

12.3 Any attempt to assign, transfer, pledge, convey, or otherwise dispose of any part of, or all of its right, title, interest or duties to or under this Agreement, without said written approval, shall be void, and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, or otherwise dispose of any part of, or all of its right, title, or interest or duties to or under this Agreement, District may, at its option, terminate this Agreement as provided herein, and all rights, titles and interest of Consultant shall thereupon cease and terminate, notwithstanding any other remedy available to District under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to District, which District sustains as a result of such violation.

12.4 Consultant agrees to notify District's representative of any changes in ownership interest greater than thirty percent (30%) or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to District under this Agreement, any such change of ownership interest or control of its business entity may be grounds for termination of this Agreement in accordance with Article VI, TERMINATION.

XIII. INDEPENDENT CONTRACTOR

13.1 Consultant covenants and agrees that it is an independent contractor and not an officer, agent, servant, or employee of District; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors; that the doctrine of *respondent superior* shall not apply as between District and Consultant, its officers, agents, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between District and Consultant.

XIV. NOTICES

14.1 Unless otherwise expressly provided elsewhere in this Agreement, any election, notice, or communication required or permitted to be given under this Agreement shall be in writing and deemed to

have been duly given if and when delivered personally (with receipt acknowledged), or on receipt after mailing the same by certified mail, return receipt request with proper postage prepaid, or three (3) days after mailing the same by first class U.S. mail, postage prepaid (in accordance with the "Mailbox Rule"), or when sent by a national commercial courier service such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier.

If intended for District, to:

Willis Independent School District
Attn: Dr. Kimberley James,
Superintendent of Schools
612 N. Campbell St.
Willis, TX 77378

If intended for Consultant, to:

UES Professional Services 44, Inc.
Attn: Sean Bowman, MBA
14731 Pebble Bend Dr.
Houston, TX 77068

XV. WORK ON SCHOOL DISTRICT PREMISES

15.1 To the extent that the work contemplated by this Agreement may be performed in connection with an educational facility which is currently occupied and in use, it is imperative that Consultant's operations and the performance of the work not interfere with, interrupt, disturb, or disrupt District's normal operations or facilities. Consultant agrees to and shall comply with all rules, regulations, and requirements of District and the school campus on which the work is to be performed (or will be/may be performed). Consultant shall take all steps necessary to protect and guard the safety of the employees, students, and invitees of District. Consultant shall exercise the utmost skill and judgment to ensure that testing activities will not interfere with the use, occupancy, and quiet enjoyment of facilities in use on the site. Consultant recognizes that the ongoing District activities in proximity with its activities shall result in the need for prompt and effective coordination of its services with those involved in the ongoing utilization of the premises. Such coordination and adequate site access shall be the responsibility of Consultant. Consultant understands and accepts the difficulties and the cost associated with working in an existing facility and the potential delays and disruptions in its work. Consultant has considered such constraints in the negotiation of this Agreement.

15.2 Consultant shall be responsible for the actions of Consultant's agents, employees, and all sub-consultants working under it. Consultant agrees that if the site of the Project is a public school campus, it shall prohibit the possession or use of alcohol, controlled substances, tobacco, and any prohibited weapons on the site and shall require adequate dress of Consultant's forces consistent with the nature of the work being performed. Sexual harassment of employees of Consultant or employees or students of District by employees of Consultant is strictly forbidden. Any employee of Consultant who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by Consultant, including removal from the job site.

15.3 Criminal History Records Checks

15.3.1 For purposes of this Section 15.3 (and all subsections), the following definitions shall be applicable:

.1 "Continuing Duties" shall mean work duties that are performed pursuant to a contract on a regular, repeated basis rather than infrequently or one-time only.

.2 "Covered Employees", shall mean, all employees of Consultant, as well as employees of Consultant's subcontractors, consultants, or independent contractors (of every tier), who will have Continuing Duties related to the services contracted for herein and the Opportunity For Direct Contact With Students in connection with the subject employee's Continuing Duties.

.3 "Disqualifying Criminal History" means: a conviction within the last 30 years, related to one or more of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: (1) a felony offense under Texas Penal Code Title 5 Offenses Against Persons (homicide; kidnapping, unlawful restraint, smuggling of persons, trafficking of persons, sexual offenses; and assault offenses); (2) an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or (3) an equivalent offense under federal law or the laws of another state. Consultant shall assume all expenses associated with obtaining criminal

history record information, providing the certification, and performing Consultant's responsibilities as set out herein.

.4 "Opportunity for Direct Contact with Students" is contact that results from activities that provide a substantial opportunity for verbal or physical interaction with students, and that is not supervised by a certified educator or other professional school district employee. An employee is not considered to have an Opportunity For Direct Contact With Students if: (1) the employee's work does not involve the construction alteration or repair of an Instructional Facility; (2) the employee's work involves construction of a new Instructional Facility and the person's duties related to the contacted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3) if the employee's work involves an existing Instructional Facility; and:

a. the project site area contains sanitary facilities and is separated from all areas used by students, by a secure barrier fence that is not less than six feet in height; and

b. Consultant has adopted a written policy applicable to its employees, as well as employees of its subcontractors (of any tier) and its independent contractors and consultants, which prohibits these parties from interacting with students or entering areas used by students, informs these parties of the policy, and enforces the policy on the Project site and at any other areas where the work contemplated in this Agreement will be conducted.

c. Consultant has sought and received written approval by District of the adopted policy (including its enforcement provisions) and Consultant's means of informing the relevant parties of the existence of the policy.

d. Consultant certifies that, if it has taken the above precautions or imposed conditions to ensure that Consultant's employees and employees of any of its subcontractors, independent contractors, or consultants, will not become Covered Employees, then Consultant will make reasonable efforts to ensure that these precautions or conditions continue throughout the time the contracted services are provided.

.5 "Instructional Facility" is defined as real property or improvements to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Texas Education Code § 28.002; Texas Education Code § 22.08341(a)(2); and Texas Education Code § 46.01.

15.3.2 Unless otherwise exempt from providing such information by any provision in Texas Education Code, Section 22.08341 (the "**Statute**"), Consultant agrees, that prior to commencement of work under this Agreement, using the form promulgated by District or such other form approved by District, Consultant will arrange with District to obtain any national criminal history record information ("CHRI") required pursuant to Texas Education Code, Section 22.08341 (the "**Statute**") on all of Consultant's employees, independent contractors, agents, or Subcontractors, Consultant's Subcontractors of every tier ("**Subcontractors**"), Subcontractors' employees, independent contractors, agents, or sub-subcontractors, if any of these persons is a "Covered Employee" as defined by the Statute (i.e., the person has or will have continuing duties related to the contracted for services, and said person has or will have the opportunity for direct contact with students in connection with those continuing duties and shall reimburse District for the costs and expenses associated with obtaining the criminal history information). For purposes of this Section 15.3, a person does not have the opportunity for direct contact with students if:

.1 the public work does not involve the construction, alteration, or repair of an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required by the Texas Education Code ("**Instructional Facility**");

.2 for a public work that involves construction of a new Instructional Facility, the person's duties related to the contracted services will be completed not later than the seventh (7th) day before the first date the facility will be used for instructional purposes; or

.3 for a public work that involves an existing Instructional Facility:

a. the public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and

- b. Consultant adopts a policy prohibiting employees, including subcontractor entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

§ 15.3.3 Any Covered Employee that has during the preceding thirty (30) years, been convicted of one of the following offenses, if at the time of the offense the victim was under eighteen (18) or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense to (a) or (b) under federal law or the laws of another state ("**Disqualifying Criminal History**") shall be disqualified and prohibited from performing any contract duties or services and neither Consultant nor its Subcontractor may permit such person to provide services at an instructional facility. If a Covered Employee is determined by District's review of the CHRI to have a Disqualifying Criminal History, Contractor will exclude that person from assignment to the Project. Consultant understands that it will not have access to the results of such criminal history records check, based on statewide regulations beyond the control of District, and agrees to rely solely on the judgment of District as to whether the Covered Employee must be excluded from the Project.

§ 15.3.4 Prior to commencement of its work on the Project, Consultant will provide written certification to District that either: (1) Consultant and its Subcontractors of every tier, do not have any Covered Employees, as defined; (2) are otherwise exempt from compliance with the Statute; or (3) has complied with the statutory and contractual requirements stated in this Section of the Agreement as of that date, and that it:

.1 has requested a Criminal History Records Check through District on all Covered Employees, if any, of every tier, has provided the required information to District to do so and reimbursed District for same;

.2 has obtained written certification from its independent contractors, and Subconsultants (of any tier) that they have provided the required information to Consultant, necessary to secure the information from District and reimbursed Consultant for same; and

.3 have excluded any Covered Employee reported by District to have a Disqualifying Criminal History from assignment to the Project.

Further, Consultant agrees that if it receives information that a Covered Employee is arrested or convicted for any of the Disqualifying Criminal History offenses, during the performance of the work, Consultant will immediately remove the Covered Employee from District's property or other location where students are regularly present and notify District of said removal within three (3) days of doing so. Consultant understands that any failure to comply with the requirements of this section may be grounds for termination of this Agreement, in accordance with Article VI, Termination.

XVI. TESTING AND OBSERVATIONS

16.1 District understands that testing and observation are discrete sampling procedures and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. District understands that testing and observation are not continuous or exhaustive and are conducted to reduce - not eliminate - project risk. District agrees to the level or amount of testing performed and the associated risk. District is responsible (even if delegated to contractor) for notifying and scheduling Consultant, so Consultant can perform these services. Consultant shall not be responsible for the quality and completeness of the work performed by District's contractor or the contractor's adherence to the project documents, and Consultant's performance or testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work or create a warranty or guarantee. Consultant will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.

XVII. SUB-SURFACE EXPLORATIONS

17.1 Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. District understands Consultant's layout of boring and test locations is approximate, and that Consultant may deviate a reasonable distance from those locations.

Consultant will take reasonable precautions to reduce damage to the site when performing its testing and services; however, District accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in this Agreement as a service to be provided.

XVIII. UTILITIES

18.1 Consultant shall utilize a utility locating service for public utilities. District shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, which are not correctly marked (including by a utility locate service), or which are incorrectly shown on the plans furnished to Consultant.

XIX. CONTRACT CONSTRUCTION

19.1 All Parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

XX. FAMILIARITY WITH LAW AND CONTRACT TERMS

20.1 Consultant represents that, prior to signing this Agreement; Consultant has become thoroughly acquainted with all matters relating to the performance of this Agreement, all applicable laws, and all terms and conditions of this Agreement.

XXI. APPLICABLE LAW AND VENUE

21.1 This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

21.2 The obligations of the Parties to this Agreement shall be performable in Montgomery County, Texas, and if legal action, such as civil litigation, is necessary in connection therewith, exclusive venue shall lie in the County where District's administrative offices are located.

XXII. SEVERABILITY

22.1 In the event any one or more paragraphs or portions of this Agreement are held invalid or unenforceable, such shall not affect, impair, or invalidate the remaining portions of this Agreement, but such shall be confined to the specific section, sentences, clauses, or other portions of this Agreement held invalid or unenforceable.

XXIII. FORCE MAJEURE

23.1 In the event that performance by either Party of any of its obligations or undertakings hereunder shall be interrupted or delayed by a Force Majeure Event, then such Party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each Party shall bear the cost of any expense it may incur due to the occurrence. For purposes of this agreement, a Force Majeure event is an event or circumstance which is beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent; provided that such event or circumstance is limited to the following: (a) complete inaccessibility to the location at which services were to be performed; (b) governmental act (including but not limited to state, federal, and /or local authority related to the COVID-19 pandemic or other pandemic or epidemic); (c) earthquakes, flood, fire, tornado, fire or other physical natural disaster; (d) act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works or requisition; (e) plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, including but not limited to the COVID-19 pandemic; (f) the event is made impracticable if act(s)/circumstance(s) cause performance to become

substantially more difficult, complex or challenging, such as an excessive or unreasonable increase in performance costs or if increased costs make performance commercially senseless. ("Force Majeure Event"). The Party Affected by the Force Majeure Event shall provide notice of such Party's failure or delay in performance due to a Force Majeure Event to the unaffected Party promptly, but no later than five (5) business days after the occurrence of a Force Majeure Event. Such notice shall describe the Force Majeure Event and the actions taken to minimize the impact thereof.

XXIV. SUCCESSORS

24.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors, and, except as otherwise provided in this Agreement, their assigns.

XXV. NON-WAIVER OF PERFORMANCE

25.1 A waiver by either Party of a breach of any of the terms, conditions, covenants, or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant, or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification, or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

25.2 No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXVI. NO THIRD PARTY BENEFICIARIES AND IMMUNITY

26.1 For purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects matters/disputes between the Parties to this Agreement and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with District or Consultant or both, or that such third parties may benefit incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either District or Consultant. Nothing in this Agreement shall be deemed to relinquish, waive, modify, or amend any immunity or legal defense available at law or in equity. No provision of this Agreement is consent to suit.

XXVII. LEGAL AUTHORITY

27.1 The signer of this Agreement for District and Consultant each represents, warrants, assures, and guarantees that she or he has full legal authority to execute this Agreement on behalf of District and Consultant respectively and to bind District and Consultant to all terms, conditions, provisions, and obligations herein contained.

XXVIII. CERTIFICATIONS

28.1 Pursuant to Texas Government Code Chapter 2271, if the Agreement is valued at \$100,000 or more and if Consultant has at least ten (10) full-time employees, Consultant represents and warrants to District that Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

28.2 Pursuant to Texas Government Code Chapter 2270, Consultant represents and warrants that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Consultant has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void this Agreement.

28.3 By signing this Agreement, the undersigned certifies as follows: Under Section 231.006 of the Texas Family Code, to the extent applicable to this Agreement, Consultant certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified payments and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

28.4 Pursuant to Texas Government Code Chapters 809, Consultant represents and warrants to District that Consultant does not boycott energy companies and will not boycott energy companies during the term of the Agreement. This provision does not apply to sole proprietorships.

28.5. Pursuant to Texas Government Code Chapter 2274, if the Agreement is valued at \$100,000 or more and if Consultant has at least ten (10) full-time employees, then Consultant represents and warrants to District that Consultant does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during the term of the Agreement. This provision does not apply to sole proprietorships.

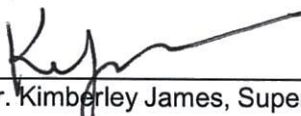
XXIX. ENTIRE AGREEMENT

29.1 This Agreement, together with its Attachments, if any, embodies the complete Agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties relating to matters herein, and, except as otherwise provided herein, cannot be modified without written consent of the Parties.

29.2 It is understood and agreed by the Parties that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this Agreement, and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective date of the rule, regulation or law.

[signatures on following page]

WILLIS INDEPENDENT SCHOOL DISTRICT

By: 
Dr. Kimberley James, Superintendent of Schools
Date: 7.15.25

UES Professional Solutions 44. LLC

By: Sean Bowman
Sean Bowman
Date: 7/14/2025

EXHIBIT A

Scope of Services



May 21, 2025

Ms. Gabrielle Maxwell
Willis ISD
204 W Rogers St
Willis, TX 77378

Re: UES Proposal No. 112911-R1
Construction Materials Testing
Willis High School Parking Improvements (Preliminary)
Willis, TX

Dear Ms. Maxwell:

UES Professional Solutions 44, LLC (UES), is pleased to submit this proposal for providing Construction Materials Testing (CMT) and related quality control services for the referenced project.

Our personnel and equipment resources are unmatched and we have the experienced staff to perform the necessary CMT services in accordance with the project requirements. In the Houston area, UES is accredited by the American Association for Laboratory Accreditation (A2LA) and meets the requirements of ASTM E329. We also participate in Cement and Concrete Reference Laboratory (CCRL) and AASHTO re:source proficiency sampling programs.

For the purpose of this proposal, we have estimated quantities and tests per our experience, with the information provided. The actual costs for CMT services can decrease or increase with changes in the scope of work and are heavily dependent on the contractor's work methods, production, and sequencing. This is only an estimate for budgetary purposes and UES's total fee will be based on the actual amount of time and laboratory testing required for the project. These services will be performed on a unit price basis in accordance with the attached Schedule of Services and Fees. UES is willing to re-evaluate our budget once a formal construction schedule is finalized.

UES utilizes a proprietary electronic laboratory data management and report generation system. CMT reports prepared in Adobe PDF format are emailed to the Client and their designees. Report turnaround time is typically one day. UES also provides an extranet where CMT reports can be accessed by the Client at any time. CMT reports are automatically posted to our extranet when they are emailed. Our system is designed to provide high quality, real-time information.

By execution of this proposal, the undersigned Client acknowledges and agrees that the document entitled "Terms and Conditions" has been provided or made available to Client and Client agrees that such Terms and Conditions shall be applied to the present Proposal and shall be fully binding upon Client. The Terms and Conditions are fully incorporated into this Proposal by reference as if set forth at length.

Ms. Gabrielle Maxwell
UES Proposal No. 112911-R1
May 21, 2025

We appreciate the opportunity to submit this proposal for CMT services and look forward to working with you during the construction phase of this project. If there are any questions concerning this proposal or if we can be of further assistance, please contact us at your convenience.

Respectfully submitted,

UES



Jennifer Ochoa
CMT Project Estimator

CLIENT APPROVAL

ESTIMATED BUDGET: \$80,947.00

Consultant offers the CLIENT the Proposal as described above. CLIENT may accept Consultant's offer by signing in the space provided below and returning a signed copy to Consultant. Such notification may be given by fax or by returning the original proposal. In the event the CLIENT authorizes work without returning a signed copy, the CLIENT agrees to be bound by the terms and conditions as stated herein. The proposal described above has been read, understood, and accepted by CLIENT effective as of the date that the executed proposal is returned to Consultant.

EXECUTED BY CLIENT'S AUTHORIZED REPRESENTATIVE: _____
(signature)

Printed Name: _____ Title: _____

Date Accepted: _____

CLIENT Business Name: _____

Billing Address: _____

Telephone: _____ Email: _____

ACCOUNTS PAYABLE INFORMATION

A/P Contact Name: _____ A/P Contact Telephone: _____

*A/P Contact Email: _____

**A/P Contact Email must be provided before UES can proceed with its proposed services*

REPORT DISTRUBUTION

Name: _____ Email: _____

Name: _____ Email: _____

Name: _____ Email: _____

UES
Construction Materials Engineering and Testing
Basic Services and Cost Estimate
Project Name: Willis High School Parking Improvements (Preliminary); Willis, TX

DESCRIPTION	Estimated Quantity	Unit Rate	Estimated Total
<u>EARTHWORK - UTILITIES</u>			
Moisture Density Relationship, ASTM D-698 (each)	2	\$250.00	\$500.00
Moisture Density Relationship, Soil Cement Mix. ASTM D-558 (each)	2	\$260.00	\$520.00
Compressive Strength, Molded Soil Cement Mix. ASTM D-1633 (each)	2	\$240.00	\$480.00
Atterberg Limits (each)	2	\$85.00	\$170.00
Minus No. 200 Sieve (each)	2	\$85.00	\$170.00
Engineering Technician (hourly)	76	\$58.00	\$4,408.00
Nuclear Density Equipment Charge (per trip)	9	\$100.00	\$900.00
Transportation Charge (per trip)	10	\$100.00	\$1,000.00
Project Management and Report Review (hourly)	11	\$150.00	\$1,650.00
<u>EARTHWORK - PAVING</u>			
Moisture Density Relationship, ASTM D-698 (each)	1	\$250.00	\$250.00
Atterberg Limits (each)	6	\$85.00	\$510.00
Minus No. 200 Sieve (each)	1	\$85.00	\$85.00
Engineering Technician (hourly)	380	\$58.00	\$22,040.00
Nuclear Density Equipment Charge (per trip)	46	\$100.00	\$4,600.00
Transportation Charge (per trip)	48	\$100.00	\$4,800.00
Project Management and Report Review (hourly)	42	\$150.00	\$6,300.00
<u>CONCRETE - PAVING</u>			
Concrete Observation and Reinforcing Steel Inspection (hourly)	260	\$58.00	\$15,080.00
Concrete Observation and Reinforcing Steel Inspection, Overtime (hourly)	12	\$87.00	\$1,044.00
Concrete Test Cylinders (each)	320	\$22.00	\$7,040.00
Transportation Charge (per trip)	40	\$100.00	\$4,000.00
Project Management and Report Review (hourly)	36	\$150.00	\$5,400.00
ESTIMATED BUDGET			\$80,947.00

Proposal No.	112911-R1
Project Name	Willis High School Parking Improvements (Preliminary); Willis, TX
PROPOSAL ASSUMPTIONS AND BASIS FOR ESTIMATE	
Project Information	1. It is our understanding that concrete paving with a gross footprint of 328,100 square feet is to be constructed at the proposed development in Willis, Texas.
Construction Documents	1. Enclosed budget is based on Civil drawings (dated 05/06/2025) as provided by Willis ISD. 2. UES did not have a geotechnical report or a detailed construction schedule during the preparation of this estimate.
Earthwork	1. Proofroll and subgrade verification to be performed in paving areas. 2. The enclosed budget allows up to 32 inspection days to monitor the 328,100 SF of earthwork relating to the paving including proof roll, lime pulverization, and compaction on stabilized subgrade. UES has assumed monitoring to be performed on an average 8 hours per day basis, during these tasks. This duration could vary, up or down, depending on the schedule and production of the earthwork contractor. 3. Depth of grading fill in the paving areas is approximately 25,000 CY. Fill placement duration is assumed to be 14 inspection days with monitoring performed on an average 8 hours per day basis, inclusive of travel. This duration could vary, up or down, depending on the schedule and production of the utility contractor. 4. The enclosed budget allows up to 9 inspection days to monitor onsite earthwork relating to utility trench backfill. UES has assumed monitoring to be performed on an average 8 hours per day basis, during these tasks. This duration could vary, up or down, depending on the schedule and production of the utility contractor. 5. Lime pulverization, depth checks and compaction testing in paving areas = 1 test per lift per 5,000 SF.
Concrete	1. Concrete cylinders will be cast at a minimum rate of 1 set of 4 cylinders per mix per day or 1 set of 4 cylinders per mix per 100 CY, whichever is greater, on all pours. 2. Enclosed budget assumes the following number of pours for the project: A. Paving (328,100 SF): 20 pours; 3. Stand-alone cylinder pickups are assumed to be required on all concrete pours.
General	1. Field testing services will be provided on an "as requested" basis when scheduled by your representative. A minimum of 24 hours' notice is required to properly schedule our services. To schedule our services please contact our dispatcher at (713) 360-0462 during our office hours from 7:00 AM to 5:00 PM. UES shall not be held responsible for tests not performed as a result of a failure to schedule our services or any subsequent damage caused as a result of a lack of testing. 2. UES requests that Client arranges for a coordination/scheduling meeting at the onset of each major work task (e.g., Earthwork - Buildings, Foundations, Concrete - Buildings) to verify testing and inspection scope, schedule, and assumptions. 3. <i>During the time of this cost estimate no construction schedule was available for estimating purposes. The construction schedule is a critical item in determining a precise cost estimate for construction materials testing. In lieu of a defined construction schedule UES will estimate the project based on comparable project production rates and typical industry standards. UES is willing to re-evaluate our budget once a formal construction schedule is finalized.</i> 4. All time is for a minimum of four hours or as noted and is charged Portal to Portal from UES's Houston offices. 5. <i>Estimate is valid for 90 days from the proposal date shown above.</i> 6. The contractor shall be responsible for providing a protected storage container for concrete cylinders at a point on the job site mutually agreeable with UES for the purpose of storing concrete cylinders until they are transported to the Laboratory. The container shall be constructed and equipped to maintain the environment specified for initial curing in ASTM C31 (section 10.1.2). 7. Measurement uncertainty is not taken into account by UES when issuing statements of conformity as to whether tested items pass or fail specified values (ISO 17025-17, 7.1.3). 8. Project Engineering services on materials engineering and testing, for consultation, analysis, report preparation and review, and supervision and scheduling of field and laboratory personnel will be charged on a "per report" basis. 9. UES utilizes a proprietary electronic laboratory data management and report generation system. CMT reports prepared in Adobe PDF format are emailed to the Client and their designees. UES also provides an extranet where CMT reports, and expenditures can be accessed by the Client at any time. CMT reports are automatically posted to our extranet when they are emailed.

UES Professional Solutions 44, LLC
GENERAL CONDITIONS – TEXAS

SECTION 1: SCOPE OF SERVICES

1.1 UES Professional Solutions 44, LLC ("UES") will provide to Client the professional services described under the Scope of Services ("Services") in the Professional Services Agreement ("Agreement") between UES and Client to which these General Conditions form a part.

1.2 UES shall provide revised or additional services, including changes to the Services necessary due to changed or unforeseen conditions, only in accordance with a written Addendum or Change Order (collectively, "Addendum") to the Agreement agreed to by UES and Client, and only to the extent set forth in that Addendum. Either UES or Client may communicate in writing any requested changes in the nature and scope of the Project; in either case, the changes shall only be executed upon written approval of the Addendum by UES and Client.

1.3 Unless otherwise provided for in the Agreement, the Services will be provided on a standard work schedule of Monday through Friday 8:00 AM to 5:00 PM (excluding holidays), and samples will be analyzed on a standard five (5) to seven (7) business day laboratory turnaround time.

1.4 UES shall not be responsible for any delays, fees or costs associated with adverse or unusual weather conditions that prevent the Services from being safely conducted.

1.5 UES shall provide the personnel, equipment, Level D personal protective equipment (as defined by the Occupational Safety and Health Administration ("OSHA")), and other materials necessary to provide the Services. UES, at its sole discretion, may retain subcontractors or other third-parties to assist it in the provision of the Services.

1.6 Client will provide UES with written authorization to proceed with the Services and any associated fee (e.g., retainer) prior to UES initiating work on the Services.

1.7 The terms "Project" and "Site" are used interchangeably in these General Conditions refer to the land and/or construction project on which or to which UES is to provide Services under this Agreement.

1.8 UES shall perform all Services hereunder as an independent contractor, and nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or master and servant, or employer and employee between the parties hereto or any affiliates or subsidiaries thereof, or to provide either party with the right, power or authority, whether express or implied, to create any such duty or obligation on behalf of the other party. UES also agrees not to be treated, or seek to be treated, as an employee of Client for any purpose, including for the purposes of fringe benefits provided by Client, or for disability income, social security taxes and benefits, Federal unemployment compensation taxes, State unemployment insurance benefits and Federal income tax withholding at sources. UES hereby represents that UES has and at all times will maintain timely payments of all taxes due to the Internal Revenue Service and all other government agencies, including withholding and all other taxes.

SECTION 2: PROFESSIONAL STANDARD OF CARE

2.1 UES will provide its services under this Agreement in a manner consistent with the level of professional care and skill ordinarily exercised by similar professionals practicing contemporaneously under similar conditions in the locality of the Project. NO OTHER WARRANTY CONCERNING THE SERVICES UES PROVIDES UNDER THE AGREEMENT OR ANY ADDENDUM, EXPRESS OR IMPLIED, IS MADE, AND ALL OTHER WARRANTIES, INCLUDING THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW.

2.2 Client understands that subsurface investigations may involve drilling, boring, excavating or sampling through varied subsurface soil and water strata which, consistent with the prevailing standard of professional care, may result in the unavoidable or inadvertent cross-mingling of soil and water and any Hazardous Substances or constituents contained in them, and that this risk cannot be eliminated despite the exercise of professional care. IF SUCH SUBSURFACE INVESTIGATIONS ARE PART OF THE SERVICES, CLIENT WAIVES ANY CLAIM AGAINST UES, AND SHALL INDEMNIFY, DEFEND, AND HOLD UES HARMLESS FROM ANY CLAIM OR LIABILITY FOR INJURY OR LOSS ARISING FROM CROSS-CONTAMINATION RELATED TO SUCH SUBSURFACE EXPLORATIONS INCLUDING, WITHOUT LIMITATION, ANY CLAIM OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

2.3 UES will take reasonable precautions to minimize damage to the Site, but it is understood by Client that, in the normal course of the provision of the Services, including sampling or drilling, some damage to or alteration of the Site is possible. The repair of such damage shall not be part of the Services unless explicitly specified in writing in the Agreement.

2.4 The Services provided by UES are not intended to be and shall not be construed as providing legal advice, and UES shall not be responsible for Client's compliance with any applicable laws.

2.5 Client and Client's personnel and contractors shall promptly inform UES of any actual or suspected defects in UES's services, to help UES take those prompt and effective measures that in UES's opinion will help minimize the consequences of any such defect. Client's payment in full of the amount owed for services rendered shall be taken to mean that Client is satisfied with and has accepted UES's services.

SECTION 3: SITE ACCESS, SITE CONDITIONS AND CLIENT RESPONSIBILITIES

3.1 Client will grant or obtain at its expense lawful and safe access to the Site as needed for UES to perform the Services and will notify all affected persons and entities in writing of UES's presence. The access shall be adequate to allow UES to conduct the Services, including bringing and storing equipment and tools on the Site and any necessary access to exterior and interior areas. UES shall not be responsible for any delays, fees or costs caused by delayed or restricted access that prevents or slows the delivery of the Services by UES.

3.2 If the Site is not owned or operated by Client or the Client does not otherwise have the authority to grant UES lawful access, Client shall be responsible for obtaining, at its own expense, an access agreement for the Site and shall provide UES a copy of such access agreement at least three business days in advance of the date contemplated for the first Site access related to the Project. UES reserves the right to delay, without penalty, any Site visit and the provision of Services under the Agreement if a site access agreement, in UES' reasonable judgment and discretion, would impose conditions, liabilities or risks on UES in excess of those set forth in these General Conditions or the Agreement. IF THE SITE IS NOT OWNED BY CLIENT, CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES, INCLUDING ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES AND SUCCESSORS ("UES INDEMNITEES") HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES (INCLUDING ATTORNEY'S FEES) ALLEGED BY THE SITE OWNER OR THE SITE OWNER'S EMPLOYEES, AGENTS, CONTRACTORS OR OTHER PERSONS OR ENTITIES ARISING FROM UES'S PERFORMANCE OF SERVICES UNDER THE AGREEMENT AT SUCH SITE INCLUDING, WITHOUT LIMITATION, ANY CLAIM, LOSS, DAMAGE OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

3.3 Unless otherwise expressly provided for in the Agreement, Client will be responsible for communicating and coordinating with the Site owner(s) with respect to access necessary to the provision of the Services, including security procedures, opening gates, providing access to buildings, avoiding conflicts between provision of the Services and any commercial or manufacturing activities on the Site, and moving vehicles or other equipment that may interfere with the agreed upon Site activities and the Site access necessary to conduct such activities, including opening gates to allow equipment to gain access to proposed work areas, areas to store necessary equipment, as well as access to the interiors of any onsite buildings.

3.4 Client shall be responsible for the safety of the Site where the Project is conducted and for providing a safe environment for UES to provide the Services. UES shall be responsible for the safe and compliant conduct of its personnel at the Site and shall also comply with the reasonable and lawful work rules for the Site. As required by applicable laws, UES will prepare a site-specific Health and Safety Plan (HASP) applicable to its personnel for the Services provided at the Site. UES shall not be responsible for the safety of other personnel at the Site, nor shall it be responsible for ensuring that the Site complies with environmental, health and safety laws, or reporting any unsafe conduct or non-compliance that it may observe. If UES encounters conditions at the Site that are unsafe for its personnel, it reserves the right at its sole discretion to suspend or halt work until such conditions are cured. UES shall not be responsible for any fees, costs or damages associated with any safety-related delays. Unless otherwise provided for in the Agreement, UES shall not work in conditions that require personal protective equipment beyond that classified as Level D by OSHA.

3.5 Client shall inform UES of any reporting or other requirements imposed by any third parties, such as federal, state, or local entities with respect to environmental matters relevant to the Services, Client shall assume responsibility to provide any required notice to any third party, and it shall secure the necessary permits or permissions from any third parties (including governmental authorities) required for UES's provision of the Services. If included in the Agreement, Client may authorize UES to obtain certain permits on Client's behalf, in which case Client shall be responsible for any fees or expenses incurred by UES with respect to obtaining such permits.

3.6 Client shall provide UES with all necessary information to perform its services, including, but not limited to, maps, site plans, reports, surveys, plans and specifications, environmental and hydrogeological investigations and studies, other designs, documents, and any other existing environmental information about the Site. Client assumes all liability for information not provided to UES that could affect the quality or sufficiency of the Services UES provides. If UES encounters undisclosed or unforeseen conditions that may cause material delays or an increase in fees or costs, UES shall inform Client and any changes in schedule, fees or costs shall be addressed in an Addendum. UES shall not be responsible for any delays, fees or costs caused by undisclosed or unforeseen conditions.

3.7 Client is responsible for accurately identifying to UES in writing the existence and location of all subterranean structures and utilities on or affecting the Site (including the type and location of utility lines) and the services to be provided by UES. UES will take reasonable precautions to avoid affecting subterranean structures and utilities disclosed to it in writing by Client. If included in the Agreement, Client may authorize UES to conduct applicable public utility identification and clearance requirements on behalf of Client. CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES INDEMNITEES HARMLESS FOR ANY CLAIMS, LOSSES, DAMAGES (INCLUDING ATTORNEY'S FEES) OR LIABILITIES ARISING FROM DAMAGE DONE TO ANY SUBTERRANEAN STRUCTURES OR UTILITIES, OR FOR THE RELEASE OF ANY HAZARDOUS SUBSTANCES FROM ANY SUCH STRUCTURES OR UTILITIES, THAT ARE NOT ACCURATELY IDENTIFIED AND LOCATED IN WRITING AND DISCLOSED TO UES BY CLIENT BEFORE UES COMMENCES ITS WORK INCLUDING, WITHOUT LIMITATION, ANY CLAIM, LOSS, DAMAGE OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

3.8 Unless otherwise stated in the Agreement, any soil or groundwater monitoring activities that are included in the Services are based on the assumption that soil borings and monitoring wells can be installed using standard truck-mounted drilling equipment, the locations are accessible to such equipment, and that surface conditions at each location consists of non-reinforced asphalt or concrete not exceeding six (6) inches in thickness and no concrete or asphalt cutting will be required. If UES encounters materially different conditions at the Site, UES shall inform Client and an Addendum shall be agreed to that addresses any changes in schedule, fees or costs associated with the changed conditions.

SECTION 4: HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CONDITIONS

4.1 Client represents it has informed UES of all known or suspected Hazardous Substances on, under or near the Site of which it is aware, and that it has provided UES with all studies, reports, investigations, or similar documents in its possession about the environmental conditions at the Site, including any documents and correspondence involving Federal, State or local environmental, health or safety regulatory notifications.

4.2 For purposes of the Agreement and these General Conditions, the term "Hazardous Substances" includes materials defined or regulated as hazardous substances, hazardous materials, hazardous wastes, hazardous constituents, solid wastes, pollutants, or toxic substances under any Federal, State or local environmental, health, safety or natural resources law, statute, regulation or ordinance, including but not limited to petroleum products, polychlorinated biphenyls, per- and polyfluoroalkyl substances, asbestos, and any other material or substance listed or identified by the United States Environmental Protection Agency or any similar State or local agency as presenting a potential danger to health, safety or the environment.

4.3 Except to the extent required by law, UES shall not be responsible for making any disclosures to governmental agencies or the Site owner regarding the presence or release of Hazardous Substances on, under, from or around a Site.

4.4 [FOR INVESTIGATION / REMEDIATION PROJECTS] The discovery of Hazardous Substances or other environmental conditions on, under or near the Site not contemplated within the Services may constitute a changed condition, necessitating an Addendum or Change Order. In the event of the discovery of Hazardous Substances or other environmental conditions not contemplated within the Services, Client agrees to compensate UES for all expenses incurred or caused by the discovery, including but not limited to those related to worker protection and exposure, emergency response actions and equipment decontamination.

[FOR GEOTECH PROJECTS ONLY] Client agrees that the discovery of Hazardous Substances or other environmental conditions on, under or near the Site not contemplated within the Services may constitute a changed condition, necessitating an Addendum or Change Order. Although unlikely, Client acknowledges that such a discovery may make it necessary for UES to take immediate measures to protect the health and safety of its employees and other persons, or to arrange for others to do so, including and up to delaying or terminating work. Client agrees to compensate UES for all expenses incurred or caused by the discovery of unanticipated Hazardous Substances or environmental conditions encountered at the Site, including but not limited to those related to worker protection and exposure, emergency response actions and equipment decontamination.

4.5 [FOR INVESTIGATION / REMEDIATION PROJECTS] All substances on, in, or under Client's site, or obtained from Client's site as samples or as byproducts of the sampling process, shall be Client's property. UES shall not be required to sign or certify a waste manifest, disposal ticket, or similar document relating to the transportation or disposal of wastes or Hazardous Substances. UES may serve as Agent for Client if requested under a separate agreement and authorization. Client shall be considered the "generator" of any hazardous or other wastes, as that term is defined in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* and agrees that it shall assume all duties as "generator" of any waste material associated with the Services. Further, Client agrees that UES is not a generator, storer, treater, transporter, arranger, or disposer of wastes or Hazardous Substances and shall not be so identified on any document.

[FOR GEOTECH PROJECTS] All substances on, in, or under Client's site, or obtained from Client's site as samples or as byproducts of the sampling process, shall be Client's property. Unless otherwise expressly specified in the Agreement or the Services, the characterization, management and disposition of substances, including Hazardous Substances, generated during the Services (including, but not limited to, wastes, samples, produced soils or fluids, cuttings, or protective gear or equipment, etc.) is the sole responsibility of Client. Client shall be considered the "generator" of any hazardous or other wastes, as that term is defined in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* and agrees that it shall assume all duties as "generator" of any waste material associated with the Services. Further, Client agrees that UES is not and shall not be identified as a generator, storer, treater, transporter, arranger, or disposer of wastes or Hazardous Substances on any document. Unless specifically provided for in the Agreement, UES shall not have any responsibilities

with respect to the storage or preservation of samples, and Client agrees that UES is not responsible or liable to Client for any loss of samples that are shipped to a testing facility or retained in storage.

4.6 UES shall not have custody of any monitoring wells or permanent sampling locations installed as part of the Project, and shall not be responsible for proper maintenance, repair, or closure of such wells, unless otherwise provided for in the Agreement.

4.7 CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES (INCLUDING ATTORNEY'S FEES AND CONSULTANTS' FEES, COSTS OF DELAY OF THE SERVICES, AND ANY COSTS ASSOCIATED WITH POSSIBLE REDUCTION TO THE VALUE OF THE PROJECT OR THE SITE IN WHICH IT IS SITUATED) ARISING FROM (I) UES' DISCOVERY OF OR ITS EMPLOYEES' OR SUBCONTRACTORS' EXPOSURE TO HAZARDOUS SUBSTANCES OR SUSPECTED SUBSTANCES RELATED TO THE SERVICES, TO THE EXTENT CAUSED BY CLIENT'S NEGLIGENCE OR WILLFUL MISCONDUCT; (II) ANY DISCLOSURES UES IS REQUIRED TO MAKE BY LAW REGARDING HAZARDOUS SUBSTANCES OR ENVIRONMENTAL CONDITIONS AT A SITE; (III) ANY CLAIMS MADE ALLEGING THAT (A) UES IS AN OWNER OR OPERATOR OF THE SITE AT WHICH THE SERVICES ARE RENDERED; (B) UES IS THE GENERATOR, STORER OR TREATER OF HAZARDOUS SUBSTANCES AT SUCH SITE; OR (C) THAT UES ARRANGED FOR THE TRANSPORTATION OR DISPOSAL OF ANY HAZARDOUS SUBSTANCES FROM THE SITE; (IV) ANY VIOLATION BY CLIENT OF ANY FEDERAL, STATE OR LOCAL LAW, REGULATION, ORDER, DECREE OR ORDINANCE RELATED TO HAZARDOUS SUBSTANCES; OR (V) ANY CLAIMS MADE BY THIRD-PARTIES WITH RESPECT TO ALLEGED EXPOSURES TO OR DAMAGES CAUSED BY HAZARDOUS SUBSTANCES AT OR FROM THE SITE OR DURING OR RELATED TO ANY PROJECT OR THE PROVISION OF SERVICES, TO THE EXTENT CAUSED BY CLIENT'S NEGLIGENCE OR WILLFUL MISCONDUCT.

SECTION 5: BILLING AND PAYMENT

5.1 UES will submit invoices to Client in accordance with the Agreement for the specific Project. If the Agreement includes a retainer, the retainer must be received by UES before it will initiate work on the Project.

5.2 Payment will be due 30 days after presentation of invoice. Client will pay a finance charge of one and one-half percent (1 1/2 %) per month, or the maximum rate allowed by law, on all past due invoices. If UES incurs any expenses to collect overdue invoices, Client will also be liable for all sums incurred for reasonable attorneys' fees, expert witness fees, time of UES's employees, expenses and court costs, and interest.

5.3 Client agrees that UES may refuse to release to Client any reports, findings, data and other work product until it has been paid in full for services rendered. UES reserves, and does not waive, any lien rights it may have for unpaid professional services. Client agrees that all reports and other work furnished to Client or its agents that Client has not timely paid for will be returned upon demand and will not be used by the Client for any purpose.

5.4 UES shall have no obligation under this Agreement or any Addendum to provide expert consultant or expert witness services in litigation, arbitration, or any other dispute resolution proceeding, to produce its work product in discovery, to undertake any further investigation or analysis or prepare a report in connection with any such proceeding, or to make available for testimony its current or former employees or consultants. The Parties will execute a new agreement for any such services. In the absence of a new executed agreement for such services, Client will pay UES 150% of its prevailing rates and expenses for the time spent by UES employees and costs incurred on any such additional tasks.

5.5 Services provided at the Client's request outside normal business hours will be performed for an additional fee to be negotiated and reflected in the Agreement or an executed Addendum, or, if no such fee is negotiated, at 150% of UES standard rates.

5.6 Reimbursable expenses, those outside of the scope of the proposed services, are charged to the Client at cost plus fifteen (15) percent and include the following items:

(i) Out of scope reproduction of plans, specifications and other documents, including plans and documents necessary for submission to regulatory agencies, but excluding documents reproduced for use by UES and any of its consultants.

(ii) Out of scope permit application and filing fees advanced by UES. Such fees will be invoiced to Client at cost.

(iii) The cost of equipment rental including, where applicable, equipment operators and subcontracted services, such as authorized photogrammetry, testing services, laboratory services, archeological services, and other specialized services, excluding those services which are explicitly included in the UES proposal. If the services covered by this Agreement are subject to local or state taxes or fees, such additional costs will be charged to the project and are subject to reimbursement as provided herein.

5.7 Fees and schedule commitments are subject to renegotiations for unreasonable delay caused by Client's failure to provide specified facilities or information, or for delays caused by unpredictable occurrences, or force majeure events such as fires, floods, strikes, riots, unavailability of labor or materials or services, acts of God or of public enemy, or acts or regulations of any governmental agency. Temporary work stoppage caused by any of the above may result in additional costs (reflecting a change in scope) beyond that outlined in the proposed Agreement. UES shall have the right to increase its compensation payable by the Client to UES in the event that UES must modify services, facilities or equipment to comply with laws or regulations that become effective after execution of this Agreement, provided UES gives the Client fifteen (15) days prior notice as to the cause for escalation and the additional amounts involved.

5.8 The fees and charges reflected in UES's proposal for services are exclusive of any sales, use, personal property, value added and goods/services taxes. Where applicable, such taxes shall appear as a separate item on UES's invoice and Client shall be liable for the payment of such taxes to UES. Notwithstanding the foregoing, Client shall not be responsible for any foreign, federal, state or local taxes based on UES's net income or receipts, or such other taxes based on UES doing business in any particular jurisdiction.

SECTION 6: INTELLECTUAL PROPERTY AND CONFIDENTIALITY

6.1 All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES during the provision of the Services, are instruments of service, and shall remain the property of UES. Neither Client nor any other entity shall change or modify UES's instruments of service. UES shall retain sole and exclusive ownership of all ideas, concepts, theories, improvements, designs, original works of authorship, formulas, processes, models, software, algorithms, inventions, know-how, techniques, compositions of matter and any other information owned by UES prior to the date of this Agreement or created or modified by UES during the provision of the Services.

6.2 UES will retain final reports generated as part of the Services for a period of at least five years following submission of such reports or completion of the Services, whichever is later. UES will make those records available to the Client in a reasonable time and manner, subject to payment of a reasonable fee for the time of UES employees to assemble and transmit those documents.

6.3 The Services and all deliverables provided as part of the Services (including but not limited to reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES), are prepared for the sole and exclusive use of Client, and Client is the only entity to which UES owes any duty, in contract or tort, pursuant to any law or under this Agreement. Any information or deliverables generated by UES during the provision of the Services may not be given or disclosed to any other entity, or used or relied upon by any other entity, without the express written consent of UES. Such written consent may take the form of a "reliance letter" which must be agreed to by such other person or entity to whom the Services and Deliverables may be disclosed, and for which a separate fee will be charged. UES shall be entitled to injunctive relief preventing/prohibiting any disclosure, reliance or attribution prohibited hereunder, and Client shall release, indemnify, defend, and hold harmless UES from any losses (including attorney's fees) arising from or related to such unauthorized disclosure, attribution or reliance.

6.4 Each party may disclose to the other party certain information that it considers to be confidential ("Confidential Information") provided such information is disclosed in writing and clearly marked or, if orally disclosed, promptly thereafter reduced to writing and clearly marked "Confidential." In no event shall Confidential Information include information that: (a) is or becomes publicly available other than through a breach of the Agreement; (b) is known to the party receiving such information prior to disclosure or is independently developed by such party subsequent to such disclosure without reference to Confidential Information provided hereunder; or (c) is subsequently lawfully obtained by the party receiving such information from a third party without obligations of confidentiality. Each party agrees that it (a) will not disclose or divulge the other party's Confidential Information to any person, (b) will not use the other party's Confidential Information for its own benefit or the benefit of others, (c) will employ at least the same degree of care in protecting Confidential Information as it employs in protecting its own confidential information, and (d) will, upon termination of the Agreement, or at any time at the request of the other party, return to the other party or destroy all copies of the other party's Confidential Information. Notwithstanding the foregoing, each party may disclose the other party's Confidential Information to its employees, subcontractors and authorized agents who have a need to know such confidential information to fulfill its obligations under this Agreement. In the event a party receives a subpoena or other validly issued administrative or judicial process requesting the disclosure of the other party's Confidential Information, such party will promptly notify the other party and tender to it the defense of such demand and will cooperate (at the other party's expense) with the defense of such demand. Unless the demand shall have been timely quashed or extended, the party receiving the demand shall thereafter be entitled to comply with such demand when and to the extent required by law.

SECTION 7: RISK ALLOCATION

7.1 CLIENT AGREES WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS AGREEMENT AND ANY ADDENDUM THAT THE AGGREGATE LIABILITY OF UES FOR ANY AND ALL CLAIMS, LOSSES, COSTS, AND DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES AND EXPERT WITNESS FEES AND EXPENSES, SHALL NOT EXCEED THE GREATER OF \$50,000.00 OR THE FEE ACTUALLY PAID BY CLIENT TO UES FOR THE SERVICES. IN CONSIDERATION FOR PAYMENT BY THE CLIENT OF AN ADDITIONAL SUM OF \$1,000, UES AGREES THAT ITS AGGREGATE LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS, LOSSES, COSTS, AND DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES AND EXPERT WITNESS FEES AND EXPENSES, ARISING FROM SERVICES PROVIDED UNDER THIS AGREEMENT AND ANY ADDENDUM THERETO SHALL BE THE GREATER OF \$50,000 OR UP TO \$1,000,000 IN COVERAGE BY ITS PROFESSIONAL LIABILITY POLICY (INCLUDING ANY DEDUCTIBLE OR SELF INSURED RETENTION). The terms "claim" or "claims" mean any claim in contract, tort, or statute alleging errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligence, negligent misrepresentation, and any other basis giving rise to liability in law or equity.

7.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED FOR IN THE AGREEMENT OR ANY ADDENDUM, UES SHALL NOT BE LIABLE TO CLIENT FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO REDUCTION IN VALUE OF REAL PROPERTY, PENALTIES ASSOCIATED WITH NON-COMPLIANCE WITH LAW, LOST PROFITS, LOSS OF USE, FINANCING COSTS AND LOST SAVINGS) INCURRED BY CLIENT. ITS EMPLOYEES, CONSULTANTS, AGENTS, CONTRACTORS OR SUBCONTRACTORS.

7.3 Client agrees that it will not seek damages in excess of this contractually agreed-upon limitation against any other person or entity who may in turn join UES as a third-party defendant for such damages, or where such person or entity may seek recovery from UES in a separate proceeding. CLIENT SHALL INDEMNIFY, DEFEND AND HOLD UES INDEMNITEES HARMLESS FOR ANY SUCH DAMAGES (INCLUDING ATTORNEY'S FEES) AWARDED TO ANY OTHER PERSON OR ENTITY AS A RESULT OF ANY LITIGATION, ARBITRATION OR OTHER DISPUTE RESOLUTION PROCEEDING COMMENCED BY CLIENT AGAINST ANY SUCH PERSON OR ENTITY FOR DAMAGES FOR WHICH UES MAY BE IN WHOLE OR PART BE HELD LIABLE INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

SECTION 8: INSURANCE

8.1 UES represents it has Worker's Compensation insurance in force, that is has commercial general liability coverage in the amount of \$1,000,000.00 and has professional liability insurance in the amount of \$1,000,000.00.

8.2 Client shall maintain such insurance as is necessary to fully underwrite Client's defense and indemnity obligations set forth herein, and shall, upon request by UES, provide proof to UES to verify such insurance.

SECTION 9: INDEMNITY

9.1 IN ADDITION TO AND NOTWITHSTANDING ANY OTHER PROVISION IN THESE GENERAL CONDITIONS, CLIENT AGREES, TO THE FULLEST EXTENT PROVIDED BY LAW, TO RELEASE, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO UES), INDEMNIFY, AND HOLD UES, INCLUDING ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES AND SUCCESSORS ("UES INDEMNITEES") HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES (INCLUDING ATTORNEY'S FEES) OR LIABILITIES FROM OR BY ANY PERSON OR ENTITY ARISING FROM (1) ACTS OR OMISSIONS BY CLIENT, CLIENT'S AGENTS, STAFF, AND OTHERS EMPLOYED BY OR CONTRACTED TO CLIENT, INCLUDING ARCHITECTS, ENGINEERS, CONTRACTORS, SUBCONTRACTORS, AND CONSULTANTS, WHETHER OR NOT UES IS RESPONSIBLE IN WHOLE OR IN PART FOR THE ACTS OR OMISSIONS FOR WHICH CLIENT IS INDEMNIFYING UES AND (2) THE PROVISION OF THE SERVICES BY UES EXCEPT TO THE EXTENT CAUSED BY UES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, SUCH EXCEPTION SUBJECT TO THE LIMITS SET FORTH IN SECTION 7. FOR THE AVOIDANCE OF DOUBT, CLIENT'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 9.1 INCLUDE, WITHOUT LIMITATION, INDEMNIFICATION FOR ANY CLAIMS, LOSSES, DAMAGES OR LIABILITIES ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

9.2 UES AGREES TO INDEMNIFY, AND HOLD CLIENT HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES ARISING TO THE EXTENT SOLELY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY UES IN THE PROVISION OF THE SERVICES, SUBJECT TO THE LIMITS SET FORTH IN SECTION 7.

9.3 To the extent either party's damages are covered by available insurance, Client and UES waive all rights of subrogation against each other and against the contractors, subcontractors, consultants, agents, and employees of the other, except such rights as they may have to the proceeds of such insurance.

SECTION 10: DISPUTE RESOLUTION

10.1 All claims, disputes, and other matters in controversy between UES and Client arising out of or in any way related to this Agreement or any Addendum shall be decided by binding arbitration in accordance with the Construction Industry Rules of the American Arbitration Association then obtaining, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, UES shall not be required to arbitrate any legal and/or equitable claims (including statutory and equitable liens) for collection of monies due. The successful party in any such action will be entitled to recover its reasonable attorneys' fees, expert witness fees, and other claim-related expenses and court costs incurred, and also the time value at prevailing rates of its employees reasonably incurred in prosecuting or defending the claims, with any claims against UES subject to the limitations in Section 7.

10.2 Notwithstanding the foregoing, all claims, including for negligence or any other cause whatsoever that the Client has or claims to have against UES, shall be deemed waived unless (i) Client notifies UES of the claim or claims within thirty (30) days of discovery thereof, and (ii) if the Client

contends that a claim exists against UES for negligence or another violation of a standard of care owed by UES, Client has first provided UES with a written certification executed by an independent design professional currently practicing in the same discipline as UES. The certification shall: a) identify the name of the professional; b) specify each and every act or omission that the certifier contends is a violation of the standard of care identified in the Proposal Agreement; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to UES not less than thirty (30) calendar days prior to the institution of any arbitration or judicial proceeding.

10.3 NOTWITHSTANDING THE FOREGOING, UES SHALL HAVE NO LIABILITY FOR ANY CLAIM DISCOVERED BY CLIENT MORE THAN ONE YEAR AFTER DELIVERY OF THE LAST ISSUED REPORT BY UES FOR THE SERVICES DESCRIBED IN THE PROPOSAL AGREEMENT.

SECTION 11: TERMINATION

11.1 This Agreement may be terminated by either party for cause upon seven (7) days written notice and opportunity to cure in the event of a material breach by the other party, or in the case of a force majeure event such as terrorism, act of war, riot, insurrection, strike, declared public health emergency, flood, unusual weather condition, or act of God that continues or affects the Site for more than seven (7) calendar days. Such termination shall not be effective if such material breach or force majeure event has been remedied before expiration of the period specified in the written notice. In the event of any termination, UES shall be paid for Services (including any related costs and expenses) performed up to the termination notice date plus reasonable termination expenses.

11.2 UES and Client may terminate this Agreement at any time by mutual written consent.

11.3 In the event of termination or a suspension for more than three months of the Project for which these Services are to be provided, UES may in its sole discretion complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs incurred by UES in completing such analyses, records, and reports.

SECTION 12: REVIEWS, INSPECTIONS, TESTING, AND OBSERVATIONS

12.1 If the Services include oversight, monitoring or observation of work being conducted by third parties (other than UES subcontractors), such services shall be conducted solely to determine that the work being overseen, monitored, or observed is in general conformity to the contractual requirements between Client and such third parties. Client shall have sole responsibility and authority to reject, suspend or stop the work of such third parties, or modify or terminate any agreement between Client and such third parties.

12.2 UES shall not have the responsibility or authority to stop, suspend, or modify the work of such third parties, and does not guarantee that work it inspects conforms in all respects to the design, or to applicable laws, statutes, regulations, rules or codes, and it shall have no liability for design or construction defects, or the failure of Client's designers or contractors to comply with their contractual obligations.

12.3 Neither the activities of UES pursuant to this Agreement, nor the presence of UES or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon UES any responsibility for means or methods of work performance, superintendence, sequencing of construction, or safety or environmental conditions or compliance at the Project Site. Client acknowledges that Client or its contractor is solely responsible for Project jobsite safety and compliance with environmental, health and safety laws.

12.4 Client is responsible for scheduling all inspections and construction materials testing ("CMT") activities of UES. UES will not be responsible for tests and inspections that it does not perform due to Client's failure to timely schedule work.

12.5 Client shall at the time of execution of the Agreement provide UES with a proposed schedule for tests and inspections UES shall perform. Client will give reasonable notice of all changes to that schedule. UES shall not be required to conduct any tests or inspections on less than 72 hours written notice, nor after normal business hours or on weekends or holidays.

SECTION 13: SOLICITATION OF EMPLOYEES

Client agrees that during the term of the Agreement, and for a period of one (1) year after the last date on which UES has provided services hereunder, Client shall not, directly or indirectly, solicit or attempt to solicit for employment, or contract directly or indirectly with, any employee of UES except as authorized in writing by UES. Client agrees that its breach of this Section shall cause UES irreparable harm, and that UES may, in addition to recovering any provable damages, enforce this obligation by injunction.

SECTION 14: NO ASSIGNMENT

Neither Client nor UES may delegate, assign or transfer its rights or obligations under the Agreement for any reason without the written consent of the other party. For avoidance of doubt, this provision does not affect UES' right, at its sole discretion, to use contractors or subcontractors in the performance and delivery of the Services.

SECTION 15: GOVERNING LAW

15.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to the conflict of laws provisions of the State of Texas to the extent such principles or rules would require or permit the application of the laws of any other jurisdiction.

15.2 If any of the provisions of this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired and will survive. Limitations of liability and indemnities provided for will survive termination of this Agreement for the period of all applicable statutes of limitations to which they relate.

15.3 **WITH RESPECT TO CLIENT'S INDEMNIFICATION OBLIGATIONS HEREUNDER, THESE TERMS AND CONDITIONS COMPLY WITH THE REQUIREMENT, KNOWN AS THE EXPRESS NEGLIGENCE RULE, TO EXPRESSLY STATE IN A CONSPICUOUS MANNER TO AFFORD FAIR AND ADEQUATE NOTICE THAT THESE TERMS AND CONDITIONS CONTAIN PROVISIONS REQUIRING ONE PARTY TO BE RESPONSIBLE FOR THE NEGLIGENCE, STRICT LIABILITY, OR OTHER FAULT OF ANOTHER PARTY.**

SECTION 16: INTEGRATED AGREEMENT

16.1 This Agreement, and any Addendum represent and contain the entire and only agreement and understanding among the parties with respect to the subject matter of their subject matter, and they supersede all prior or contemporaneous oral and written agreements, understandings, representations, inducements, promises, communications, and conditions between the parties. No agreement, understanding, representation, inducement, promise, or condition with respect to the subject matter of this Agreement shall be relied upon by the parties unless expressly incorporated herein.

16.2 In the event any provision of the Agreement or these General Conditions shall be invalid, illegal or unenforceable in any respect, such a provision shall be considered separate and severable from the remaining provisions of this Agreement, and the validity, legality or enforceability of any of the remaining provisions of this Agreement shall not be affected or impaired by such provision in any way.

SECTION 17: NO AMENDMENT

17.1 The Agreement, including these General Conditions, may not be amended, or modified except by a writing signed by both parties.

17.2 Failure by either party at any time to enforce any obligation by the other party, to claim a breach of any term of the Agreement or to exercise any power agreed to hereunder will not be construed as a waiver of any right, power or obligation under the Agreement, will not affect any subsequent breach, and will not prejudice either party as regards any subsequent action.

SECTION 18: WAIVER OF JURY TRIAL

Both Client and UES waive trial by jury in any action arising out of or related to the Agreement, and any Addendum to the Agreement.

SECTION 19: CONTRACTUAL STATUTE OF LIMITATIONS

To the extent that a statute of limitations for any cause of action against UES arising from this Agreement or any Addendum can be modified contractually in accordance with law, and the relevant statute of limitations for any claim arising of or relating to any this Agreement or any Addendum, or the services provided by UES thereunder, is greater than two (2) years, the relevant statute of limitations shall be two (2) years from the date UES last provided services thereunder. The parties agree that this provision is material to the decision of UES to enter into this agreement, that it is a reasonable measure to allocate and insure against risk, and that it does not violate public policy. This section shall not be construed as an agreement to increase the statute of limitations for any causes of action that are otherwise barred by law.

SECTION 20: HEADINGS

The headings in these General Conditions are for reference only and are not intended to form part of the contract between the Parties.

REVISED: 3/7/24