

PUBLIC NOTICE

PUBLIC SERVICES COMMITTEE MEETING

Committee Members: Kim Chamberland, Amy Vilardo and Ted Haskins

Thursday, August 13, 2020 at 12:30 P.M.

City Council Chambers

745 Center Street, Milford, Ohio 45150

AGENDA

Call to Order

Proceedings: Approval of the July 16, 2020 Public Services Committee

Minutes

Agenda Items:

- Discussion: Brooklyn Avenue Partial-One Way
- Geotech Quotes for Tyler Avenue and Laurel Avenue Stormwater Improvement Projects
- And all additional matters that may properly come before the committee

Adjourn

Public Services Committee Meeting Minutes

July 16, 2020

Called to Order: 4:30pm by Kim Chamberland

***Present:** Kim Chamberland, Amy Vilardo, Ted Haskins absent*

***Staff:** City Manager, Michael Doss, Assistant City Manager, Pam Holbrook, Finance Director, Pat Wirthlin, Water Department Supervisor, Joe Casteel, and Administrative Assistant, Jackie Bain*

***Visitors:** Kleingers, Tim Casto, Deborah Buis, and Robert's Engineering Inc., Ron Roberts*

***Approval of Proceedings:** The committee approved the proceedings from the May 27, 2020 Public Services Committee meeting. Ms. Vilardo made a motion to approve. Seconded by Ms. Chamberland*

WELL #4 CLEANING

City of Milford Water Department Supervisor, Joe Casteel presented the committee with information regarding routine well cleaning services for Well # 4. The fee for the cleaning was already approved in the budget. The cheapest best low bid from three bids was \$ 11,623.75 plus \$2,500 for incidentals. The cleaning was approved in the budget and at the March 3, 2020 City Council meeting as Ordinance No. 2020-16/ An Ordinance Authorizing an Agreement with Boone Water Systems, Inc. for the Cleaning of Well #4 in the contract amount of \$14,123.75.

ENGINEERING SERVICES FOR WWTP INFLUENT LIFT STATION SCREEN GRINDER

City Manager Michael Doss informed the committee on behalf of Waster Water Department Supervisor, Dave Walker, a quote for professional services from Environmental Engineering. It is our Ohio Public Works Commission funding that we applied for last year for the Wastewater Treatment Plant Lift Station Screen/Muffin Grinder. The Round 34 Funds that we had applied for are now available. We are not sure if Round 35 is going to happen and may be delayed. The funding for that project and is now available for us to draw from. The total project cost is \$165,000

We did receive \$80,000 in grant from OPWC and \$85,000 is the commitment from the City which includes the professional engineering services. Presented in the documents is a follow up for the engineering services. Section A of the Engineering Services included the design of the screening, all bid, pre bid, solicitations and bid opening, total cost \$6,500. Section B included actual construction inspection, assisting the city with all the filings that would occur with OPWC for the project. Total cost \$3,500. Both sections totaling \$10,100. This is information was brought to the committee's attention for consideration for Environmental Engineering to do the entire engineering services for both sections A and B for \$10,100 which is included in the overall cost.

The Committee Agreed to Make A Recommendation for The Law Director to Draft an Ordinance Authorizing an Agreement with Environmental Engineering Service for Wastewater Treatment Plant Influent Lift Station Screen Grinder Equipment Design in the amount of \$10,100.

DISCUSS PROPOSAL BY RON ROBERTS TO PREPARE ENGINEERING DRAWINGS FOR A STORMWATER PROJECT ON HIGH STREET

Pam Holbrook introduced a proposal from Roberts Engineering to do engineering and construction documents to extend the storm water line on High Street. This project was the result of four houses that Phil Ditchen is building on High Street. Two of the lots are under contract. Mr. Ditchen submitted permit documents. The project has been held up and the two potential property owners are wanting clarification on when we are moving forward. The last piece of this is the catch basin to handle the storm water from these four lots. Which currently does not exist. The next step is to have it designed. Who is to pay for this since part will be in the right of way as a result of this project? Two letters from Mr. Ditchen, one from June 9th, which included a proposal to share in the project, which the city would pay for the proposal, engineering design and construction documents that Ron Roberts would put together which amounts to \$7,700. Mr. Ditchen would pay for materials that would be used and the city employees would do the work to keep the project moving forward and satisfy the need for the extension. Mr. Tim Casto from Kleingers discussed the trench drains and the shed of water flowing down from the houses that will sit high on High Street. To make an incremental change in this development, and taking the existing storm water system and extending along the frontage within the right of way and to the corner of the development and receiving that water from the detention basin, which will be located on private property. Pam stated that after discussing this information with Tim, they did not feel comfortable moving the building permit application forms forward to building department until we know that the storm water is taken care of. Mr. Ditchen sent a letter in July saying that he is prepared to assume full responsibility in the event that the city does not want to participate. It is now up to coming up with an agreement. Ms. Holbrook said that we would be paying for the design proposal from Ron Roberts in the amount of \$7,000. To put a design together and prepare the construction documents and provide the work for this. Mr. Ditchen would pay for the materials which Mr. Ron Roberts stated would be about \$50,000. The city would be paying for \$7,700 plus whatever we can provide as in-house labor. Mr. Roberts is making the argument that we are being proactive and responsible by simply doing this study. The study is in two parts: Mr. Ditchen's part and the rest of the study is to survey the system, develop a model and to understand what we have out on Main Street because currently we do not have anything like this. And it is a good opportunity to do this right now. Ms. Holbrook asked if this is something that we can move forward with the construction and engineering documents to figure out the rest once Tim has a chance to analyze the results of Ron's study. The committee felt that the comfort level to commit was for just the engineering to be done at this time. Mr. Roberts stated that once you do the first phase, which does not take that long, we can get a cost estimate.

The Committee Agreed to Make A Recommendation for The Law Director to Draft an Ordinance Authorizing an Agreement with Roberts Engineering for Preparation of Engineering Drawings for The High Street Stormwater Project in the amount of \$ 7,700

LOCAL CORONAVIRUS RELIEF FUND (CRF) PURCHASES: LAPTOPS AND WHITEBOARDS

Ms. Holbrook also presented information received from Millennium Business Systems regarding Smartboards. The current two whiteboards are from 2012 and are not working as needed for meeting presentations and the ability to share screens. Millennium provided information for two Smartboards: one 65" wireless which equals \$5941.00, and one 75" Wireless which equals \$7547.00 which also includes the computer for each board as well as the rolling stand for each. The total cost would be \$13,088 which is less than what we paid in 2012.

Pat Wirthlin, Finance Director presented information on the Local Coronavirus Relief Fund Purchase — Laptops \$16K. 195K Grant for COVID - the City received a \$195,691 grant to cover COVID-19 expenses. There is a bit of a time-crunch: The City must encumber by October 15 and spend the funds by December 26. The City received the grant as a provision of the Federal CARES Act's Coronavirus Relief Fund (CRF). The next step is figuring out how to spend the money! What's Out-Unfortunately, the City may not use this grant for its most significant COVID costs to date ... loss of revenue and shift wages. Instead, the City must spend the CRF funds on pandemic-related necessities including costs for distance learning and teleworking, which leads into today's request ...Seven Laptops for \$16K COVID complications require the Staff to telework at times. The City's I.T. company (E/Technologies) was nice enough to lend some older model laptops to a few. Others of us used personal computers. Please consider earmarking CRF funds for seven new laptops at a total cost of \$16,000 per attached.

The Committee Agreed to Make A Recommendation for the Law Director to draft an Ordinance Authorizing the Purchase of Smartboards from Millennium Business Systems for A Total Amount Of \$13,088

The Committee Agreed to Make A Recommendation for the Law Director to draft an Ordinance Authorizing E-Technologies to Purchase Laptops for the City of Milford for a Total Amount Of \$16,000

ITS PHASE 3 PREEMPTION AGREEMENT

Michael Doss informed the committee that the city partnered with the Clermont County Transportation Improvement District back in 2014 to provide a grant application with OKI for a variety of traffic signal upgrades and emergency preemption for signals in Clermont County. Milford participated in the Grant application program. Fast forward to 2021, we were approached by Clermont County Engineer about reengaging and participating in this project with other local municipalities/townships. At the time Covid-19 had just hit and we were in a holding pattern. In June of this year, we were again approached about reengaging. Per 2014 information, our project share would be \$70,532.66. The total project cost for Milford's portion is \$352,663.30. the overall project for Clermont County is a little over 2.1

million. It is an 80/20 grant. The county would really like for us to participate and would revise the agreement so that Milford could pay their share in 2021. This could be placed in the 2021 budget and get that project going. The committee had a lengthy discussion regarding why we should participate in this program since they felt this was a lot of money for an improvement of a few traffic lights. Neither the Police department nor the Fire Department are in favor of this program. Also, the information reflects 2014 numbers, and this could and probably will change. Mr. Tim Casto discussed some possible benefits of having such a program. The committee felt that unless there was a really good reason, we should not spend \$70,532.66 at this time since this project is not pressing. The committee agreed to pass on participating in this program at this time. If possible, get information for a split out as alternate, split it and making a decision based from updated information.

TRAFFIC LIGHT INVOICE FOR LIGHT AT CORNER OF MAIN/LOCUST

Mr. Doss discussed with the committee a recent traffic accident at Locust/Main where a traffic light was taken out by a tractor trailer going through town. It took out the pole and one of the lights had to be totally removed. This amount was for over \$7,500. The total invoice amount was for \$13,761.12. The light repair was an emergency situation. The project is complete and is in que to be paid. The information will be turned in to our insurance provider.

The Committee Agreed to Make A Recommendation for The Law Director to Draft an Ordinance Authorizing Payment to Capital Electric Line Builders for The Light at The Corner of Main/Locust in The Amount Of \$13,761.12.

There being no additional business Ms. Chamberland made a motion to adjourn the meeting at 5:47pm Seconded by Ms. Vilardo All yes

Respectfully Submitted, Jackie Bain

"These minutes have been approved and adopted by Ms. Chamberland July 20, 2020, Ms. Vilardo July 20, 2020."

Michael Doss

From: Tim Casto <Tim.Casto@kleingers.com>
Sent: Wednesday, August 12, 2020 1:30 PM
To: Michael Doss
Subject: FW: Re: Milford Drainage Projects - Geotechnical proposals
Attachments: 6801 - 634-644 Tyler Road Underground Detention.pages.pdf; 6805 - Laurel Street Infiltration Trenches.pages.pdf; P037313.01-The Kleingers Group-Laurel Street Infiltration Basins-20200806.pdf; P037314.01-The Kleingers Group-Tyler Ave DB-20200806.pdf; S&ME Cleveland & Laurel Geotech Proposal.pdf; S&ME Tyler St Geotech Proposal.pdf

Tim Casto, PE

2nd Annual Municipal Summit: 10/1/2020
"Connect More. Putting Together the Right Team"
Ask me for more details!

THE KLEINGERS GROUP

www.kleingers.com
www.winthefunding.com

From: Nick Yeretjian <Nick.Yeretjian@kleingers.com>
Sent: Thursday, August 6, 2020 4:05 PM
To: Tim Casto <Tim.Casto@kleingers.com>
Cc: Sarah Cobb <sarah.cobb@kleingers.com>; Sam Morton <Sam.Morton@kleingers.com>
Subject: Re: Milford Drainage Projects - Geotechnical proposals

Tim,

Attached please find the subject proposals. As requested, we have 3 proposals for each of the two sites. All three consultant fees are very close with SM&E being the lowest. Here is a summary of the fees:

CSI:

Laurel : \$6,400 and if authorized \$650 per visit additional measurements (for seasonal high water table)
Tyler: \$5,900 and if authorized \$650 per visit additional measurements (for seasonal high water table)

Geotechnology:

Laurel : \$7,500 and if awarded with Tyler \$6,450
Tyler: \$6,900 and if awarded with Lauren \$5,850

S&ME:

Laurel: \$5,950
Tyler: \$5,450

A quick review of all proposals, the scopes are comparable and in line with what we asked them to do.

Please let me know if I can be of further assistance. Sarah, please save the proposals in the appropriate project folder.

Good luck for the meeting. Thanks
Nick

UAS Mapping

SPECIAL INSPECTIONS

GEOTECHNICAL ENGINEERING

Environmental Consulting



Materials

GEOTECHN

Drilling Services

GEOTECHNICAL ENGINEERING

SPECIAL INSPECTIONS

Proposal for Providing
Geotechnical Services

634/644 Tyler Road
Underground
Detention

Milford, Ohio

UAS Mapping
Proposal Number 6801
August 6, 2020

Materials Testing



Consulting Services Incorporated

Proposal for Geotechnical Services

Lexington
858 Contract Street
Lexington, KY 40505
859.309.6021 | Fax 888.792.3121



Louisville
11012 Bluegrass Parkway
Louisville, KY 40299
502.532.8269 | Fax 888.792.3121

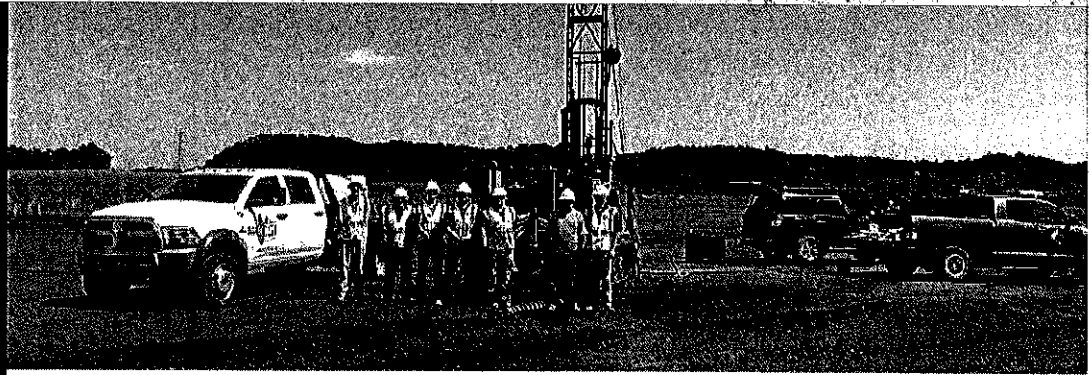


Cincinnati
11785 Highway Drive
Cincinnati, OH 45241
513.252.2059 | Fax 888.792.3121



Corporate Mailing Address
858 Contract Street
Lexington, KY 40505

www.csikentucky.com
www.csiohio.com



August 6, 2020

Nick Yeretian
The Kleingers Group
6219 Centre Park Drive
West Chester, Ohio 45069

Subject: **Proposal for Geotechnical Services**
634/644 Tyler Road Underground Detention
Milford, Ohio
CSI Proposal No. 6801

Dear Mr. Yeretian

Consulting Services Incorporated (CSI) is pleased to submit this proposal for providing our geotechnical services for the above referenced project. This proposal outlines our understanding of the project, our proposed scope and project team as well as our proposed fees for providing these services.

We appreciate the opportunity to be part of the project team. We are one of the few **100% locally owned** firms providing geotechnical, materials testing and environmental services. The fees that we receive for providing our services stay local. They are put back into our firm, employees for training and knowledge that helps to continue the quality and highest level of service our clients expect.

Please let us know if you have any questions regarding the information contained herein.

Joseph S. Burkhardt, PE
Principal Geotechnical Engineer



PROJECT INFORMATION

Based on our understanding of the project, Kleingers is working with The City of Milford to improve their storm sewer system. At this time, an underground detention basin is being evaluated in the empty lot located at between house numbers 634 and 644 Tyler Road. The intent is to exfiltrate runoff through the underground detention basin at this location. We understand that you wish to determine infiltration rates, establish the seasonal high table water elevation and the locations/depth of impermeable layers, if any.

If any of this information is incorrect, please let us know so we can reassess our scope of services needed and provide best fits recommendations for the project.



VALUE OF CSI TO THE PROJECT



Our services include geotechnical engineering and analysis based on the provided information, our experience and the proposed services. Our services will be used for determining subsurface conditions with respect to the proposed detention system.

If we are selected for the services, we would propose (at minimum) a tele-conference or office meeting to serve as coordination for the project and discuss other project details prior to field work.

As always, value will play a role in every aspect of our services. This value is measured and demonstrated by:

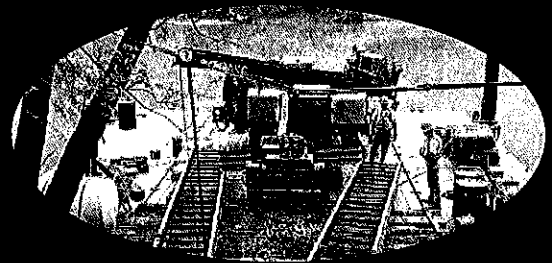
- ① **Single point of contact** by an experienced and service-oriented professional
- ② A **quick turnaround** of service (field work, preliminary recommendations, and final report)
- ③ **Getting the client what is needed** for this specific project and project site (fine-tuning our geotechnical services to meet the client needs and longer-term planning/construction needs)
- ④ **Pro-active communication** to keep you, the rest of the design team, and the Owner informed of findings, potential additional services needed, and planning of the next step needed.
- ⑤ Providing **clear, concise and professional reports**

The project will be under the direct management of Mr. Joseph Burkhardt, PE, of CSI. Mr. Burkhardt is a Principal Geotechnical Engineer at CSI with over 20 years of experience. Assisting Mr. Burkhardt will be several other staff professionals.





VALUE OF CSI TO THE PROJECT (cont.)



We will work with your office to gather the needed contact and site information and will coordinate our field services to provide the quickest turnaround and streamline of services possible. Rework or revisiting the sites would only be needed if the Owner or other outside party presents additional or new information that would justify such "additional" work.

Geotechnical engineering is not an exact science and deals with highly variable conditions; as such, each report will have clearly identified concerns (which would have already been discussed with your team prior to issuing the report). Finally, because we understand that political, economical and even timing (or other) situations of every project site can and will often be different, we will strive to mold our services and reports reflective of those needs. All the issues mentioned in this paragraph are key to getting the Owner what they need for their project.

As stated earlier, we would recommend a pre-site visit meeting to discuss additional expectations/needs for the specific site. We also will be in contact at least 3 other times during our services. First, within a day or so of completion of geotechnical drilling to discuss our initial findings. Second, shortly thereafter, we would be able to discuss how and if laboratory testing affects our initial discussions. Thirdly, we always want to discuss our complete findings prior to report submittal, so there are no surprises in our reports and that our report can provide the information expected and needed.

We strive to provide clear and concise reports. That includes more graphs, images, and tables of things discussed in the reports. We realize that our audience is not typically other geotechnical engineers, so our reports need to explain issues clearly as opposed to covering all the theoretical aspects of geosciences. Also, our reports need to present information in a format conducive to the construction AND design processes, not just a report that allows designers to breeze through the report without considering construction processes or vice versa.





CSI PROJECT EXPERIENCE



CSI's project team has provided geotechnical engineering services to thousands of construction projects throughout the United States. These projects have helped CSI understand what various clients and their team members demand. CSI realizes that quality is the utmost importance to the client. CSI will strive for success on this project using the experience, knowledge, communication and team work skills it has obtained from working with other owners, construction manager, design professionals and applicable officials.

In just 2015 to 2019, CSI has provided similar geotechnical services on the following projects:

Project Name: Cincinnati Scholar House, Cincinnati, Ohio

Project Description: Mixed-use, 3-story building

Project Name: Midwest Fertilizer Facility, Mt. Vernon, Indiana

Project Description: 200 acre site for a \$2B new fertilizer plant.

Project Name: Pictoria Drive Warehouse, Springdale, Ohio

Project Description: 120,000 square foot industrial/commercial warehouse building

Project Name: ARCO Industrial Building, Walton, Kentucky

Project Description: 600,000 square foot industrial warehouse building

Project Name: Suncoke Expansion, Franklin Furnace, Ohio

Project Description: 500,000 square foot expansion, including structures in the Ohio River

Project Name: Fischer Auto Parts Expansion, Walton, Kentucky

Project Description: 80,000 square foot expansion, to an existing 250,000 square foot warehouse

Project Name: Turfway Warehouse, Florence, Kentucky

Project Description: 200,000 square foot industrial/commercial warehouse building.





SCOPE OF SERVICES-GEOTECHNICAL

Geotechnical Services - As requested, our scope for the geotechnical investigation will include two (2) soil test borings to explore the site conditions. Each boring will be extended to depths of 25 feet or auger refusal, whichever is shallower. In addition, CSI will install a groundwater piezometer to monitor seasonal groundwater fluctuations at one location. We have provided a cost to perform subsequent groundwater readings and anticipate this to be performed on a quarterly basis. Our initial cost includes performing a static water level reading approximately one week after installation. Subsequent readings will be charged on a per trip basis (see fee schedule)

Field Services - CSI will assign a geotechnical professional to conduct a field reconnaissance, to direct drilling/sampling operations, to log the samples obtained from the borings and to obtain/log the rock cores. Logging of the soil samples and/or rock cores from the borings full-time is critical to give the engineer the fullest insight into the site conditions (surface and subsurface conditions, and allows detailed discussions about the subsurface conditions with project personnel). This added level of service allows the geotechnical report to be more than just telling the design team what was observed in the recovered samples. Our Principal Engineer (Joe Burkhardt, PE) will serve as the senior reviewer for the geotechnical report and the geotechnical engineer of record.

Prior to drilling, we will contact the state or local underground utility locator hot-line to comply with applicable regulations. Typically these services will contact primary utility providers that are members; therefore, they do not locate all public utilities and do not locate any private lines. We will place our borings away from known utility right-of-ways and the locations marked by the regulatory locator services or others. CSI will not be responsible for damages to, or arriving from, utility lines that are not properly marked.



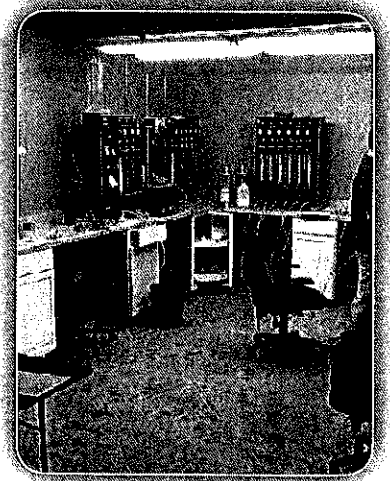
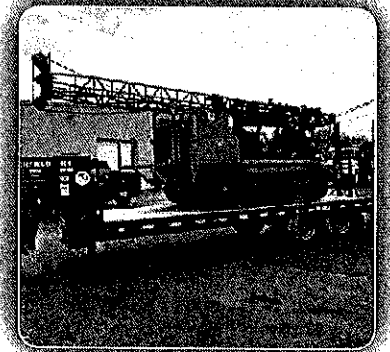
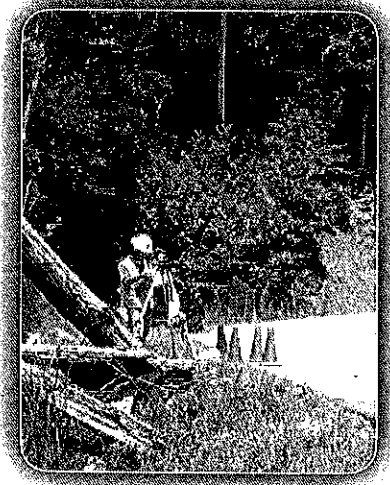
SCOPE OF SERVICES-GEOTECHNICAL (cont.)

It should be noted that our services, while sampling soil and possibly water in the boreholes, do not include assessment of environmental/contaminant conditions.

Upon completion of soil augering, we will check water levels in the boreholes. We will immediately backfill one hole with auger cuttings and reverse auger the top few feet to create a temporary plug (i.e. - temporarily providing a safe walking surface). These hole plugs may subside over time and require backfilling. Site personnel should be advised of this and they may need to backfill the borings at a later time. A piezometer will be installed at the remaining location. Spoils at this location will be spread out on the ground and will not be hauled off. Borings drilled in asphalt or concrete areas will be patched with cold-patch asphalt. Grouting of borings or additional trips to the site to observe and/or backfill boring holes has not been included in our proposal.

Laboratory Services - After the field operations, the recovered samples will be brought back to our laboratory for further classification (classified in general accordance with ASTM D2488) and subjected to the following anticipated laboratory testing:

- Natural moisture contents
- Atterberg limits
- Percent finer than #200 sieve
- Permeability Testing (3 tests)



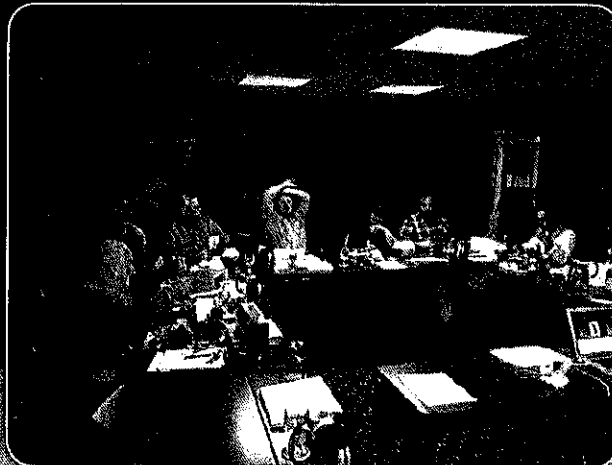


SCOPE OF SERVICES-GEOTECHNICAL (cont.)

Engineering Letter Report - After completion of our laboratory testing, we will issue a letter report. The report will discuss the following:

- Site topographic conditions, site observations and published geology for the site and site area
- Summary of subsurface findings
- Boring Logs and As-Built Detail of piezometer with initial groundwater level (one week after install)
- Results of laboratory testing including hydraulic conductivity

If subsequent readings are desired, CSI will perform them at your request, which we have estimated to be on a quarterly basis. After each reading, CSI will provide a letter with the date of the reading and the groundwater level.





COMPENSATION AND AUTHORIZATION

Compensation

Based on the scope of work detailed in this proposal, we have arrived at the following budget:

LINE ITEM	FEE
GEOTECHNICAL SERVICES	\$5,900
SUBSEQUENT GROUNDWATER READINGS	\$650 (per trip)

Schedule

Upon receipt of authorization to proceed, we would begin the field work within 5 to 7 business days (drilling schedule and weather dependent). Our geotechnical field work would take about one day to complete.

Closing

Thank you for considering CSI for your project. If there are any questions or if we can provide any additional information to aid in your evaluation of this proposal, please call us at your convenience. To authorize us to begin work, please sign the attached Proposal Acceptance Sheet and return to us. Please note that the Terms and Conditions are a part of this proposal.

We appreciate your consideration of CSI for this work and look forward to assisting you on this and future projects.



PROPOSAL ACCEPTANCE AGREEMENT

CSI SERVICES:			
Services Description:	Geotechnical Services		
Project Name:	634/644 Tyler Road Underground Detention		
Proposal Number:	6801	Proposal Date:	8/6/20
CLIENT - CSI will perform the Services referenced in the Proposal for and charge the Invoice to the account of:			
Client Name:	The Kleingers Group		
Full Address:	6219 Centre Park Drive, West Chester, OH 45069		
Company Contact:	Nick Yeretizian		
E-mail Address:	nick.yeretizian@kleingers.com		

PROPOSAL ACCEPTANCE & AUTHORIZATION TO PROCEED Consulting Services Incorporated of Kentucky, (CSI) will perform services set forth in the Proposal referenced above, incorporated herein by reference (the Proposal) (collectively, the "Services") subject to the terms listed on this page and hereof. For purposes herein, the term "Site" shall mean Project Location listed above. Proposals (and costs therein) shall be valid for no more than 90 days. Receipt by CSI of a signed Proposal Acceptance Sheet shall constitute the Client's Authorization to Proceed and agreement and acceptance of the terms hereunder.

1. STANDARD OF CARE

The Services will be performed in accordance with standards customarily observed by a firm rendering the same or similar services in the same geographic region during the same time period. CSI makes no warranties, express or implied, as to the Services performed hereunder except for the preceding sentence's warranty of compliance with generally accepted standards. CSI hereby fully and expressly disclaims any and all other warranties of any nature whatsoever, express or implied. During the Services, CSI will take reasonable precautions to prevent injury or loss to persons or property at the Site and minimize damage to the Site; however, Client understands and agrees that invasive services, including, but not limited to, drilling, boring or sampling, may damage or alter the Site; Site restoration is an out-of-scope service unless otherwise agreed in writing. The Services shall in no way be construed, designed or intended to be relied upon as legal interpretation or advice.

2. RELATIONSHIP OF PARTIES

CSI, its employees, agents, affiliates or subcontractors shall act solely as an independent contractor in performing the Services. CSI shall have no right or authority to act for Client and will not enter into any agreement in the name of or on behalf of Client unless otherwise agreed in writing. Nothing in these Terms & Conditions shall be construed to give any rights or benefits to any party other than Client and CSI. Unless otherwise authorized in writing by CSI, there are no intended third party beneficiaries to these terms and conditions or to any work product or services by CSI; Client is the sole intended and agreed beneficiary of CSI's services and work product. Client agrees that should CSI elect to grant reliance to a third party lender, the third party must first sign CSI's Reliance and Potential Conflict of Interest agreement.

3. DOCUMENTS & CONFIDENTIALITY

All documents including, but not limited to, drawings, specifications, reports, logs, field notes, lab test data, calculations, and estimates prepared by or for CSI in connection with the Services are instruments of service and shall be the sole property of CSI ("Work Product"); however, Client may request a copy for its exclusive use and Client further agrees that under no circumstances shall any document produced by CSI under this Agreement, be used at any location or for any project not expressly provided for in this Agreement without CSI's prior written permission. Proprietary concepts, systems and ideas developed during the Services shall remain the sole property of CSI. Work Product will not be disclosed by CSI to a third party without prior consent of Client except to the extent required to comply with a rule or regulation, court order, governmental directive, or professional or ethical standard or when such Work Product or portion thereof becomes available to the general public or is received by CSI from others who lawfully possess same. Client authorizes CSI to use and publish Client's name and general description of the Services in CSI's marketing materials. CSI has the right in its sole discretion, to dispose of or retain the documents. If Client requests documents in an electronic format, it agrees that the electronic copy may be inaccurate or incomplete, and the document retained by CSI remains the document of record.

Reliance upon the Services shall be limited to Client; any unauthorized release of Work Product is prohibited and Client agrees to indemnify, defend and hold CSI harmless from any and all claims or damages associated with the unauthorized release of Work Product to third parties. Notwithstanding the foregoing, any third party reliance expressly authorized by CSI and Client is subject to the limitation of liability and terms and conditions stated herein except as specifically agreed to in writing by the parties.



4. CSI REPRESENTATIONS

Findings and recommendations resulting from the Services are based upon information derived from CSI's on-site activities and other services performed hereunder; such information is subject to change over time. Certain indicators of hazardous substances, petroleum products or other deleterious constituents may have been latent, inaccessible, unobservable or not present during the Services, and CSI cannot represent that the Site is not affected by constituents or other latent conditions beyond those identified from the Services performed. Subsurface conditions throughout the Site may vary from data revealed from discrete borings, tests, assessments, investigations or other exploratory services; CSI's findings, recommendations and estimates are based solely upon data available to CSI at the time of the Services. CSI will not be responsible for a third party's interpretations or use of the data. CSI will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health & safety precautions or plans for any third parties, including subcontractors or other parties present at the Site. Should CSI provide observations or monitoring services at the Site at any time, Client agrees that CSI shall not be responsible for any working conditions or safety at the Site other than for its own staff during said observations or monitoring services. Any monitoring of a third party's or contractor's procedures does not include review of the adequacy of said contractor's safety measures in, on, adjacent to, or near the project.

5. CLIENT REPRESENTATIONS

Client understands the nature of CSI's presence on the Site and shall ensure that CSI's personnel and subcontractors have safe and reasonable access to the Site for the performance of the Services. Client shall furnish or cause to be furnished to CSI an accurate Site map and all information known or available to Client, including, but not limited to, past and current Site operations, subterranean structures, utilities, and the environmental condition of the Site (such as the identity, location, quantity, nature or characteristics of any hazardous or toxic materials on or near the Site). CSI may rely upon, but shall not be responsible for the accuracy of, any data provided by Client, Client's agent or any third party. Client shall immediately transmit new, updated or revised information as it becomes available during the Services. Client will secure all necessary approvals, permits, licenses and consents necessary to commence and complete the Services unless otherwise agreed in writing, and shall make any and all spill or release notifications that may be required by law.

6. SUBTERRANEAN STRUCTURES, UTILITIES, WETLAND ISSUES

Client is responsible for accurately providing the locations of all subterranean structures and utilities and potentially jurisdictional areas which may contain wetlands, endangered species habitat or cultural resources. CSI will take reasonable precautions to avoid damage or injury to subterranean structures or utilities and potentially jurisdictional areas identified to us. Client agrees to hold harmless and indemnify CSI for any claims, payments or other liability, including reasonable attorneys fees, for any damages to subterranean structures, utilities or potentially jurisdictional areas which are not (i) accurately identified by Client or others, (ii) accurately depicted on plans; or (iii) called to the attention of CSI prior to performing the Services, except to the extent that CSI has been contracted to locate sensitive areas on the site not identified or accurately located.

7. INDEMNITIES

CSI shall indemnify and hold Client harmless from and against any and all lawsuits, claims, liabilities, causes of action, losses, damages, forfeitures, penalties, fines, costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses, to the extent the same arise from (i) a negligent breach by CSI of these terms & conditions; (ii) violation of law by CSI in performing the Services or (iii) negligent errors or omissions of CSI in performing the Services. CSI's total maximum aggregate liability (irrespective of the number of claims or claimants) under this indemnity to client or any third party shall be limited by Client such that CSI's maximum liability to Client or any third party shall in no event exceed the amount set out in the paragraph entitled "risk allocation and liability limitation". Client agrees to release, defend, hold harmless and indemnify CSI from and against all further liability under the above indemnity including any and all lawsuits, claims, liabilities, actions, causes of action, demands, losses, damages, forfeitures, penalties, fines, costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses, by whomever asserted, to the extent that such claim, property damage, injury or death resulted from (i) the negligence or willful misconduct of Client or Client's agent; (ii) violation of law or regulation by Client or Client's agent; (iii) Client or CSI's alleged involvement at the Site as an owner, operator, arranger, generator or transporter of hazardous substances or wastes; or (iv) inaccurate information provided by Client to CSI. Client understands the nature of invasive services which may involve drilling through varied soil and water substrata which may result in inadvertent and unavoidable cross-mingling of said strata and constituents therein; Client agrees to indemnify and hold harmless CSI should this occur to the extent not caused by the negligence of CSI, subject always in every respect to the limitation of liability set out in the paragraph below entitled "risk allocation and liability limitation".

8. RISK ALLOCATION AND LIABILITY LIMITATION

The parties hereunder are aware and understand the risks and rewards associated with the Services, as well as CSI's fee for these Services. The Client acknowledges that without this limitation of liability CSI would not have performed the services and that both parties had the opportunity to negotiate the terms and conditions of this Agreement. The Client and CSI agree to allocate certain of the risks so that, to the fullest extent permitted by law, CSI's total maximum aggregate (irrespective of the number of claims or claimants) liability to Client and any third parties shall in no event exceed \$50,000 or the amount of CSI's fee, whichever is greater for any and all injuries, damages, claims, losses, or expenses (including reasonable attorneys' fees and expert witness fees) arising out of this agreement from any cause or causes. Such causes include, but are not limited to, CSI's negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, indemnity obligations, or other acts giving rise to liability based upon contract, tort or statute except for the knowingly and intentionally wrongful misconduct of CSI. The limitation and Aggregate shall apply to all work for client by CSI irrespective of whether subsequent agreements contain this or a similar provision. Client agrees to indemnify and hold harmless CSI from and against all liabilities in excess of the monetary limit established above. The parties also agree that Client will not seek damages in excess of the limitations indirectly through suits with other parties who may join CSI as a third-party defendant. For purposes of this paragraph, the term "parties" means the Client and CSI and their officers, directors, shareholders, employees, agents,



affiliates, successors, assigns, and subcontractors. Both Client and CSI agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this Agreement.

9. DISPUTE RESOLUTION COSTS

In the event that CSI and Client find themselves in adversarial positions, and in the event of litigation, arbitration, or mediation in connection therewith, the non-prevailing party shall reimburse the prevailing party for the prevailing party's documented legal costs in addition to whatever judgment or settlement sums may be due.

10. MONITORING

This paragraph applies in the event CSI is retained by Client to provide a Site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the Proposal. In this case, CSI will report observations and its professional opinions to the Client. No action of CSI or CSI's Site representative shall be construed as altering any contract between Client and third parties. The CSI representative has no right to reject or stop work of any Client agent; such rights are reserved solely for Client. Furthermore, CSI's presence on-site does not in any way guarantee the completion or quality of the performance of the work of any third party. CSI will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences, or procedures of any third party or any agent of the Client.

11. SAMPLING OR TEST LOCATION.

Unless otherwise stated, the fees in the Proposal do not include costs associated with surveying of the site for the accurate horizontal or vertical locations of tests. Field tests or boring locations described in a report or shown on sketches are based upon information furnished by others or estimates made in the field by our representatives. Such dimensions, depths, or elevations should be considered as approximations only, unless otherwise stated. If the client specifies the test or boring location, we reserve the right to deviate a reasonable distance from the location specified.

12. WASTES; SAMPLES

This paragraph applies in those instances where Services performed involve wastes or samples. Unless otherwise specified in the Proposal, proper disposition of any contaminated materials generated during the Services (including, but not limited to, waste materials, samples, produced soils or fluids, cuttings, or protective gear or equipment) is out-of-scope and shall require a written amendment by the parties specifying Client's choice of transporter and waste facility. In no event shall CSI be required to sign or certify a manifest, disposal ticket or like document relating to the transport or disposition of hazardous materials or hazardous waste. It is understood and agreed that CSI, in performing the Services, does not act as a generator, transporter, arranger, or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Client and CSI understand and agree that title to all foregoing samples and waste materials remains with Client. Laboratory or field equipment that cannot be decontaminated from hazardous constituents shall become the property and responsibility of Client, and Client shall reimburse CSI for its fair market value unless otherwise agreed in writing. Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of ordered analytical tests; other investigation-derived wastes will be disposed of within 60 days after submission of a final CSI report documenting the Services. At Client's written request, CSI will retain preservable test specimens or the residue therefrom at an agreed-to charge, and will use

reasonable and common business efforts to retain such test specimens or samples but only for a mutually acceptable and agreed-to storage charge and period of time. Client agrees that CSI is not responsible or liable under any circumstance or in any event to Client or any third party for any loss of test specimens or samples retained in storage, Client waiving all claims in connection therewith and agreeing to indemnify CSI in connection therewith.

13. DELAYS; CHANGED CONDITIONS

If Services cannot be performed on or before the projected due date because of circumstances beyond the reasonable control of CSI, including, but not limited to, strike, fire, riot, excessive precipitation, act of God, access limitations, health and safety risks, governmental action, third party action or Client action or omission, or criminal acts by non-CSI persons or entities, or acts of war, terrorism, or the public enemy, the Services shall be amended by Client and CSI in accordance with paragraph 19. In the event Site conditions change materially from those observed at the Site or described to CSI at the time of Proposal, CSI and Client shall execute a written change order evidencing equitable adjustments to the Proposal and Project Cost; Client understands that said changed conditions may delay, postpone or suspend the Services until such time as Services and the Project Cost are amended. In the event a timely and equitable change order cannot be negotiated by the parties, CSI, at its discretion, may terminate its Proposal, Services, and agreement with Client.

14. DISCOVERY OF HAZARDOUS MATERIALS

Client represents that it has made a reasonable effort to evaluate if hazardous materials are on or near the Site, and that Client has informed CSI of Client's findings relative to the possible presence of such materials. Hazardous materials may exist where there is no reason to believe they could or should be present. CSI and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the Proposal or termination of the Services. CSI and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for CSI to take immediate measures to protect health and safety of its personnel. Client agrees to compensate CSI for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials. CSI agrees to notify Client when unanticipated or suspected hazardous materials are encountered. Client shall make any and all disclosures required by law to the appropriate governing agencies. Client also agrees to hold CSI harmless for any and all consequences of disclosures made by CSI that are required by governing law or ethical canon. In the event the Site is not owned by the Client, Client shall be responsible for informing the Site owner of the discovery of unanticipated or suspected hazardous materials. Notwithstanding any other provision of the Agreement, Client waives any claim against CSI and, to the maximum extent permitted by law, agrees to defend, indemnify, and hold harmless CSI from any claim, liability, and defense costs for injury or loss arising from CSI's discovery and disclosure or reporting of unanticipated or suspected hazardous materials, including, but not limited to, any project delay costs and any costs associated with possible reduction of the Site's value.

In connection with toxic or hazardous substances or constituents and to the maximum extent permitted by applicable law, for separate and valuable consideration of the promises contained in this environmental indemnity language (which is a valuable and fundamental inducement to CSI to provide services to Client), Client agrees to defend, hold harmless, and indemnify CSI from and against



any and all claims, liabilities, or judgments, except to the extent finally determined as being caused by CSI's negligence or willful misconduct (such exception being always subject to the "Risk Allocation and Liability Limitation" provision set out elsewhere herein), resulting from:

- a) Client's violation of any federal, state, or local statute regulation or ordinance relating to the management or disposal of toxic or hazardous substances or constituents;
- b) Client's undertaking of or arrangements for the handling, removal, treatment, storage, transportation or disposal of toxic or hazardous substances or constituents found or identified at a site;
- c) Toxic or hazardous substances or constituents introduced at the site by Client or third persons before, during, or after the completion of CSI's services;
- d) allegations that CSI is a handler, generator, operator, treater, storer, transporter, or disposer unless expressly retained by Client for such services under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state, or local regulation or law due to CSI's services; or
- e) any third party suit or claim for damages against CSI alleging strict liability, personal injury (including death) or property damage from exposure to or releases of toxic or hazardous substances or constituents at or from the project site before, during, or after completion of CSI's services under this Agreement.

The obligations of this paragraph are in addition to (and not in the place of) any other Client indemnity obligations herein. Nothing herein shall operate to increase the limitation of liability set out elsewhere herein.

15. MONITORING WELLS

Client will take custody of all monitoring wells and probes installed as part of the services provided by CSI and will take any and all necessary steps for the proper maintenance, repair or closure of such well or probes at Client's expense.

16. TERMINATION

Client or CSI may terminate a Proposal, the Services or this Agreement upon seven (7) days written notice should the other party fail substantially to perform in accordance with these Terms & Conditions through no fault of the terminating party or if the Client suspends the Services for more than three (3) months. Further, CSI may terminate Services as described in the Proposal Acceptance Sheet hereunder. Client shall compensate CSI for Services performed up to the date of receipt of termination plus any and all reasonable costs incurred in terminating the Services in accordance with CSI's current fee schedule, including, but not limited to, the cost of completing analyses, records, and reports necessary to document project status at the time of termination.

17. ASSIGNMENTS

Neither these Terms & Conditions nor any interest, claim or obligation hereunder shall be assigned or transferred by Client to any party or parties without the prior consent of CSI. Nothing herein shall prevent CSI from using CSI's subcontractors to assist in performing the Services.

18. NON-WAIVER; INVALIDITY.

In the event that a provision herein shall for any reason be held invalid, illegal or unenforceable in any respect, such finding shall not affect the enforceability of any other provision of these Terms &

Conditions. Failure or delay in exercising any right, power or remedy under these Terms & Conditions shall not impair any right, power or remedy which any party hereto may have, nor shall any such failure or delay be construed to be a waiver of any such right, power or remedy or an acquiescence in any breach or default hereunder absent an express, written waiver or acquiescence, nor shall any waiver of any breach or default be deemed a waiver of any default or breach subsequently occurring under these Terms & Conditions. These Terms & Conditions may be executed via facsimile or by transmitting originals; any number of executed counterparts will constitute one and the same instrument.

19. APPLICABLE LAW; VENUE; SURVIVAL

The services, proposal and these terms & Conditions shall be governed by and construed according to the laws of the state corresponding to the location of the soliciting CSI office located in Lexington, Ky (as identified on the Proposal Acceptance Sheet). Venue for any legal action hereunder shall be in the project location. Paragraphs 3, 7 and 8 will survive termination of this Agreement for any cause.

20. PRECEDENCE; AMENDMENTS

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, purchase order, requisition, notice to proceed, oral communications or other agreement regarding the Services. These Terms & Conditions replace and supersede all prior discussions and agreements between and amongst Client and CSI with respect to the matters contained herein. These Terms & Conditions herein may be amended only by an agreement signed by both CSI and Client.

21. CONTINUING AGREEMENT

The indemnity obligations and the limitations of liability established under this Agreement will survive the expiration or termination of this Agreement. If CSI provides services to Client that the parties do not confirm through execution of an amendment to this Agreement, the obligations of the parties to indemnify each other and the limitations of liability established under the Agreement apply to such Services as if the parties had executed an amendment.

22. CONFLICTS OF INTEREST

CSI will advise the Client of any existing or potential conflicts of interest which are discovered during the performance of services under this Agreement. All parties agree that CSI may discontinue its services in accordance with the "Termination" provisions set out elsewhere in this Agreement in the event a material conflict of interest is discovered or becomes evident.



PAYMENT TERMS:

CSI will be compensated for performing the Services in accordance with the Proposal referenced above. Invoices will be issued monthly. Client agrees to pay all charges not in dispute within 30 days of receipt of CSI's invoice and recognizes that charges not paid within 30 days are subject to a late payment charge of 1.5 percent (1.5%) (but not to exceed the maximum applicable legal rate) of the balance due for each additional month or fraction thereof that undisputed charges remain unpaid. The Client shall notify CSI within 10 days of receipt of CSI's invoice should the invoice contain charges the Client intends to dispute. Client agrees to pay any and all collection costs on overdue invoices, including reasonable attorneys' fees. Client further agrees that CSI has the right to suspend or terminate the Services in CSI's sole discretion if undisputed charges are not paid within 45 days of receipt of CSI's invoice and agrees to waive any and all claims against CSI and to indemnify, defend and hold CSI harmless from and against any claims arising from CSI's suspension or termination due to Client's failure to provide timely payment. Client agrees that all documents of any nature furnished to Client or Client's agents or designees in connection with the Services, if not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever.

Company:

Print Name of Authorized Representative:

Signature of Authorized Representative:

Accepted Date:

UAS Mapping

SPECIAL INSPECTIONS

GEOTECHNICAL ENGINEERING



Environmental Consulting

SPECIAL INSPECTIONS

Drilling Services

GEOTECHNICAL ENGINEERING

SPECIAL INSPECTIONS

GEOTECHNICAL ENGINEERING

Materials Testing

Proposal for Providing
Geotechnical Services

Laurel Street

Drilling Services
Infiltration
Trenches

Milford, Ohio

Proposal Number 6805

August 6, 2020

Materials Testing



Consulting Services Incorporated

Proposal for Geotechnical Services

Lexington
858 Contract Street
Lexington, KY 40505
859.309.6021 | Fax 888.792.3121



Louisville
11012 Bluegrass Parkway
Louisville, KY 40299
502.532.8269 | Fax 888.792.3121

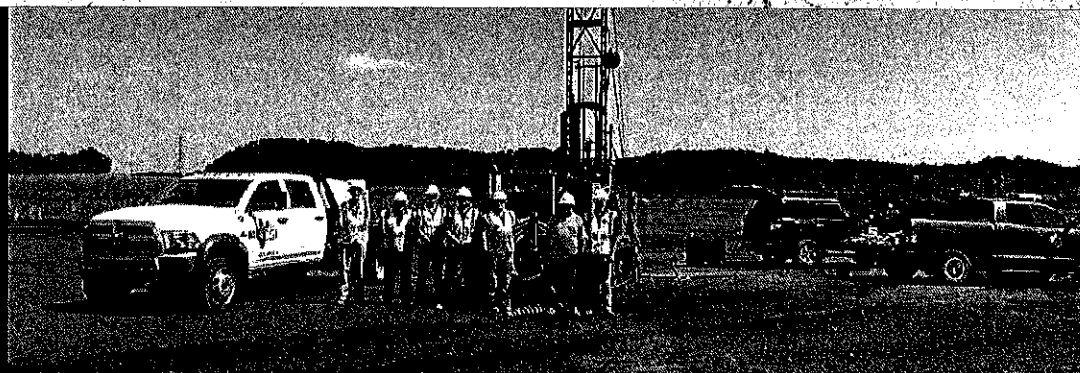


Cincinnati
11785 Highway Drive
Cincinnati, OH 45241
513.252.2059 | Fax 888.792.3121



Corporate Mailing Address
858 Contract Street
Lexington, KY 40505

www.csikentucky.com
www.csiohio.com



August 6, 2020

Nick Yeretzian
The Kleingers Group
6219 Centre Park Drive
West Chester, Ohio 45069

Subject: **Proposal for Geotechnical Services**
Laurel Street Infiltration Trenches
Milford, Ohio
CSI Proposal No. 6805

Dear Mr. Yeretzian

Consulting Services Incorporated (CSI) is pleased to submit this proposal for providing our geotechnical services for the above referenced project. This proposal outlines our understanding of the project, our proposed scope and project team as well as our proposed fees for providing these services.

We appreciate the opportunity to be part of the project team. We are one of the few **100% locally owned** firms providing geotechnical, materials testing and environmental services. The fees that we receive for providing our services stay local. They are put back into our firm, employees for training and knowledge that helps to continue the quality and highest level of service our clients expect.

Please let us know if you have any questions regarding the information contained herein.

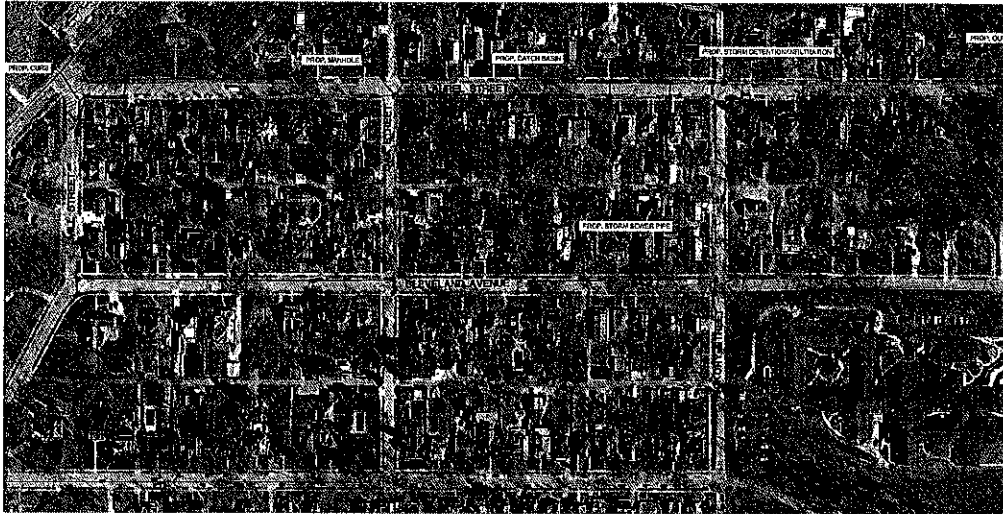
A handwritten signature in cursive script, reading 'Joseph S. Burkhardt'.

Joseph S. Burkhardt, PE
Principal Geotechnical Engineer



PROJECT INFORMATION

Based on our understanding of the project, Kleingers is working with The City of Milford to improve their storm sewer system. At this time, a series of infiltration trenches are being considered along Laurel , Oak, and Hickory Streets (see blue lines in figure below). We have assumed these trenches will be about 24 inches wide and 3 feet deep filled with an open-graded stone or a proprietary system. We understand that you wish to determine infiltration rates, establish the seasonal high table water elevation and the locations/depth of impermeable layers, if any.



If any of this information is incorrect, please let us know so we can reassess our scope of services needed and provide best fits recommendations for the project.



VALUE OF CSI TO THE PROJECT



Our services include geotechnical engineering and analysis based on the provided information, our experience and the proposed services. Our services will be used for determining subsurface conditions with respect to the proposed infiltration system.

If we are selected for the services, we would propose (at minimum) a tele-conference or office meeting to serve as coordination for the project and discuss other project details prior to field work.

As always, value will play a role in every aspect of our services. This value is measured and demonstrated by:

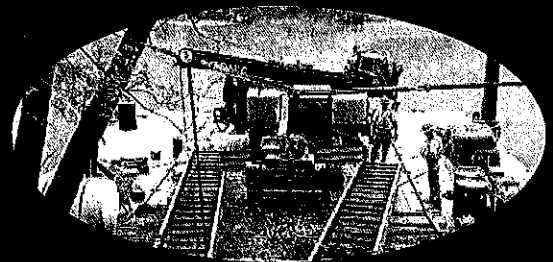
- ① **Single point of contact** by an experienced and service-oriented professional
- ① **A quick turnaround** of service (field work, preliminary recommendations, and final report)
- ① **Getting the client what is needed** for this specific project and project site (fine-tuning our geotechnical services to meet the client needs and longer-term planning/construction needs)
- ① **Pro-active communication** to keep you, the rest of the design team, and the Owner informed of findings, potential additional services needed, and planning of the next step needed.
- ① Providing **clear, concise and professional reports**

The project will be under the direct management of Mr. Joseph Burkhardt, PE, of CSI. Mr. Burkhardt is a Principal Geotechnical Engineer at CSI with over 20 years of experience. Assisting Mr. Burkhardt will be several other staff professionals.





VALUE OF CSI TO THE PROJECT (cont.)



We will work with your office to gather the needed contact and site information and will coordinate our field services to provide the quickest turnaround and streamline of services possible. Rework or revisiting the sites would only be needed if the Owner or other outside party presents additional or new information that would justify such "additional" work.

Geotechnical engineering is not an exact science and deals with highly variable conditions; as such, each report will have clearly identified concerns (which would have already been discussed with your team prior to issuing the report). Finally, because we understand that political, economical and even timing (or other) situations of every project site can and will often be different, we will strive to mold our services and reports reflective of those needs. All the issues mentioned in this paragraph are key to getting the Owner what they need for their project.

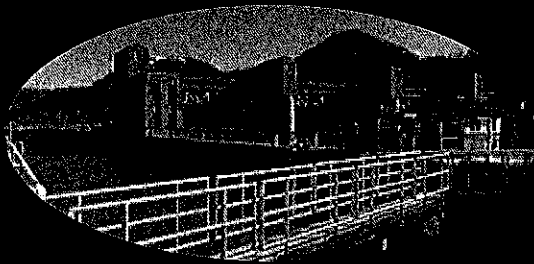
As stated earlier, we would recommend a pre-site visit meeting to discuss additional expectations/needs for the specific site. We also will be in contact at least 3 other times during our services. First, within a day or so of completion of geotechnical drilling to discuss our initial findings. Second, shortly thereafter, we would be able to discuss how and if laboratory testing affects our initial discussions. Thirdly, we always want to discuss our complete findings prior to report submittal, so there are no surprises in our reports and that our report can provide the information expected and needed.

We strive to provide clear and concise reports. That includes more graphs, images, and tables of things discussed in the reports. We realize that our audience is not typically other geotechnical engineers, so our reports need to explain issues clearly as opposed to covering all the theoretical aspects of geosciences. Also, our reports need to present information in a format conducive to the construction AND design processes, not just a report that allows designers to breeze through the report without considering construction processes or vice versa.





CSI PROJECT EXPERIENCE



CSI's project team has provided geotechnical engineering services to thousands of construction projects throughout the United States. These projects have helped CSI understand what various clients and their team members demand. CSI realizes that quality is the utmost importance to the client. CSI will strive for success on this project using the experience, knowledge, communication and team work skills it has obtained from working with other owners, construction manager, design professionals and applicable officials.

In just 2015 to 2019, CSI has provided similar geotechnical services on the following projects:

Project Name: Cincinnati Scholar House, Cincinnati, Ohio

Project Description: Mixed-use, 3-story building

Project Name: Midwest Fertilizer Facility, Mt. Vernon, Indiana

Project Description: 200 acre site for a \$2B new fertilizer plant.

Project Name: Pictoria Drive Warehouse, Springdale, Ohio

Project Description: 120,000 square foot industrial/commercial warehouse building

Project Name: ARCO Industrial Building, Walton, Kentucky

Project Description: 600,000 square foot industrial warehouse building

Project Name: Suncoke Expansion, Franklin Furnace, Ohio

Project Description: 500,000 square foot expansion, including structures in the Ohio River

Project Name: Fischer Auto Parts Expansion, Walton, Kentucky

Project Description: 80,000 square foot expansion, to an existing 250,000 square foot warehouse

Project Name: Turfway Warehouse, Florence, Kentucky

Project Description: 200,000 square foot industrial/commercial warehouse building.





SCOPE OF SERVICES-GEOTECHNICAL

Geotechnical Services - As requested, our scope for the geotechnical investigation will include three (3) soil test borings to explore the site conditions. Each boring will be extended to depths of 25 feet or auger refusal, whichever is shallower. In addition, since the area is fairly large, CSI will install three (3) groundwater piezometer to monitor seasonal groundwater fluctuations. We have provided a cost to perform subsequent groundwater readings and anticipate this to be performed on a quarterly basis. Our initial cost includes performing a static water level reading approximately one week after installation. Subsequent readings will be charged on a per trip basis (see fee schedule)

Infiltration Testing - With the anticipated shallow depth of the infiltration trenches, we propose to perform field testing of infiltration rates at 3 locations (near borings). During the geotechnical investigation, each of the locations will be offset approximately 5 feet and drilled to a depth of 3 feet using an approximate 6 inch diameter auger. After drilling, each of the holes will be saturated and allowed to sit for up to 24 hours (dependent upon material type). After the holes are saturated, they will be refilled and then monitored over a period of up to 24 hours with the drop in water level being recorded over this period.

Field Services - CSI will assign a geotechnical professional to conduct a field reconnaissance, to direct drilling/sampling operations, to log the samples obtained from the borings and to obtain/log the rock cores. Logging of the soil samples and/or rock cores from the borings full-time is critical to give the engineer the fullest insight into the site conditions (surface and subsurface conditions, and allows detailed discussions about the subsurface conditions with project personnel). This added level of service allows the geotechnical report to be more than just telling the design team what was observed in the recovered samples. Our Principal Engineer (Joe Burkhardt, PE) will serve as the senior reviewer for the geotechnical report and the geotechnical engineer of record.

Prior to drilling, we will contact the state or local underground utility locator hot-line to comply with applicable regulations. Typically these services will contact primary utility providers that are members; therefore, they do not locate all public utilities and do not locate any private lines. We will place our borings away from known utility right-of-ways and the locations marked by the regulatory locator services or others. CSI will not be responsible for damages to, or arriving from, utility lines that are not properly marked.



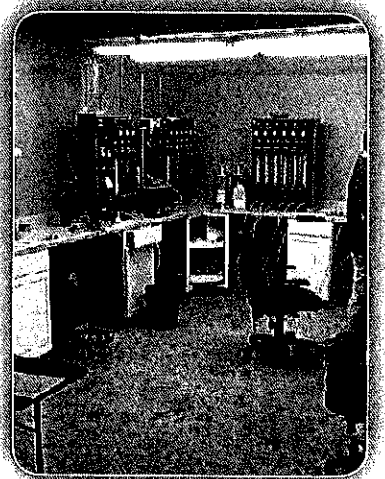
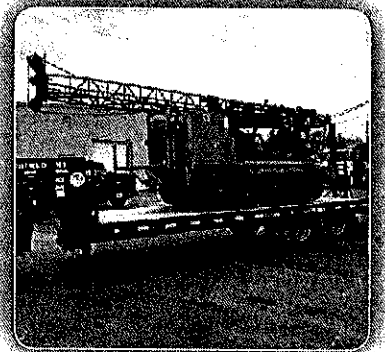
SCOPE OF SERVICES-GEOTECHNICAL (cont.)

It should be noted that our services, while sampling soil and possibly water in the boreholes, do not include assessment of environmental/contaminant conditions.

Upon completion of soil augering, we will check water levels in the boreholes. We will immediately backfill one hole with auger cuttings and reverse auger the top few feet to create a temporary plug (i.e. - temporarily providing a safe walking surface). These hole plugs may subside over time and require backfilling. Site personnel should be advised of this and they may need to backfill the borings at a later time. A piezometer will be installed at the remaining location. Spoils for each location will be hauled offsite and disposed of.

Laboratory Services - After the field operations, the recovered samples will be brought back to our laboratory for further classification (classified in general accordance with ASTM D2488) and subjected to the following anticipated laboratory testing:

- Natural moisture contents
- Atterberg limits
- Percent finer than #200 sieve



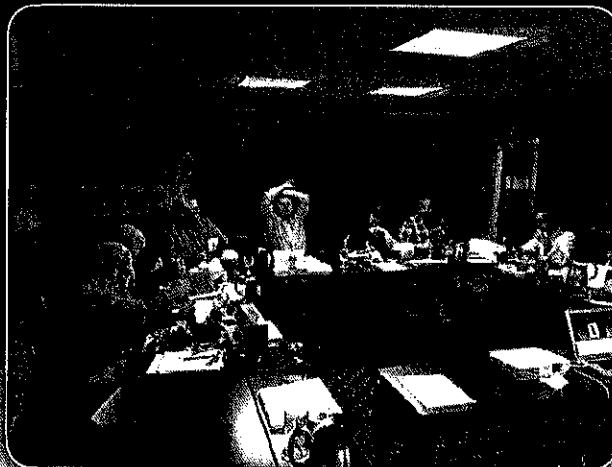


SCOPE OF SERVICES-GEOTECHNICAL (cont.)

Engineering Letter Report - After completion of our laboratory testing, we will issue a letter report. The report will discuss the following:

- Site topographic conditions, site observations and published geology for the site and site area
- Summary of subsurface findings including zones that could be impermeable
- Boring Logs and As-Built Detail of piezometers with initial groundwater level (one week after install)
- Results of laboratory and field testing

If subsequent readings are desired, CSI will perform them at your request, which we have estimated to be on a quarterly basis. After each reading, CSI will provide a letter with the date of the reading and the groundwater level.





COMPENSATION AND AUTHORIZATION

Compensation

Based on the scope of work detailed in this proposal, we have arrived at the following budget:

LINE ITEM	FEE
GEOTECHNICAL SERVICES	\$6,400
SUBSEQUENT GROUNDWATER READINGS	\$650 (per trip)

Schedule

Upon receipt of authorization to proceed, we would begin the field work within 5 to 7 business days (drilling schedule and weather dependent). Our geotechnical field work would take about one day to complete.

Closing

Thank you for considering CSI for your project. If there are any questions or if we can provide any additional information to aid in your evaluation of this proposal, please call us at your convenience. To authorize us to begin work, please sign the attached Proposal Acceptance Sheet and return to us. Please note that the Terms and Conditions are a part of this proposal.

We appreciate your consideration of CSI for this work and look forward to assisting you on this and future projects.



PROPOSAL ACCEPTANCE AGREEMENT

CSI SERVICES:			
Services Description:	Geotechnical Services		
Project Name:	Laurel Street Infiltration Trenches		
Proposal Number:	6805	Proposal Date:	8/6/20
CLIENT - CSI will perform the Services referenced in the Proposal for and charge the Invoice to the account of:			
Client Name:	The Kleingers Group		
Full Address:	6219 Centre Park Drive, West Chester, OH 45069		
Company Contact:	Nick Yeretzian		
E-mail Address:	nick.yeretzian@kleingers.com		

PROPOSAL ACCEPTANCE & AUTHORIZATION TO PROCEED Consulting Services Incorporated of Kentucky, (CSI) will perform services set forth in the Proposal referenced above, incorporated herein by reference (the Proposal) (collectively, the "Services") subject to the terms listed on this page and hereof. For purposes herein, the term "Site" shall mean Project Location listed above. Proposals (and costs therein) shall be valid for no more than 90 days. Receipt by CSI of a signed Proposal Acceptance Sheet shall constitute the Client's Authorization to Proceed and agreement and acceptance of the terms hereunder.

1. STANDARD OF CARE

The Services will be performed in accordance with standards customarily observed by a firm rendering the same or similar services in the same geographic region during the same time period. CSI makes no warranties, express or implied, as to the Services performed hereunder except for the preceding sentence's warranty of compliance with generally accepted standards. CSI hereby fully and expressly disclaims any and all other warranties of any nature whatsoever, express or implied. During the Services, CSI will take reasonable precautions to prevent injury or loss to persons or property at the Site and minimize damage to the Site; however, Client understands and agrees that invasive services, including, but not limited to, drilling, boring or sampling, may damage or alter the Site; Site restoration is an out-of-scope service unless otherwise agreed in writing. The Services shall in no way be construed, designed or intended to be relied upon as legal interpretation or advice.

2. RELATIONSHIP OF PARTIES

CSI, its employees, agents, affiliates or subcontractors shall act solely as an independent contractor in performing the Services. CSI shall have no right or authority to act for Client and will not enter into any agreement in the name of or on behalf of Client unless otherwise agreed in writing. Nothing in these Terms & Conditions shall be construed to give any rights or benefits to any party other than Client and CSI. Unless otherwise authorized in writing by CSI, there are no intended third party beneficiaries to these terms and conditions or to any work product or services by CSI; Client is the sole intended and agreed beneficiary of CSI's services and work product. Client agrees that should CSI elect to grant reliance to a third party lender, the third party must first sign CSI's Reliance and Potential Conflict of Interest agreement.

3. DOCUMENTS & CONFIDENTIALITY

All documents including, but not limited to, drawings, specifications, reports, logs, field notes, lab test data, calculations, and estimates prepared by or for CSI in connection with the Services are instruments of service and shall be the sole property of CSI ("Work Product"); however, Client may request a copy for its exclusive use and Client further agrees that under no circumstances shall any document produced by CSI under this Agreement, be used at any location or for any project not expressly provided for in this Agreement without CSI's prior written permission. Proprietary concepts, systems and ideas developed during the Services shall remain the sole property of CSI. Work Product will not be disclosed by CSI to a third party without prior consent of Client except to the extent required to comply with a rule or regulation, court order, governmental directive, or professional or ethical standard or when such Work Product or portion thereof becomes available to the general public or is received by CSI from others who lawfully possess same. Client authorizes CSI to use and publish Client's name and general description of the Services in CSI's marketing materials. CSI has the right in its sole discretion, to dispose of or retain the documents. If Client requests documents in an electronic format, it agrees that the electronic copy may be inaccurate or incomplete, and the document retained by CSI remains the document of record.

Reliance upon the Services shall be limited to Client; any unauthorized release of Work Product is prohibited and Client agrees to indemnify, defend and hold CSI harmless from any and all claims or damages associated with the unauthorized release of Work Product to third parties. Notwithstanding the foregoing, any third party reliance expressly authorized by CSI and Client is subject to the limitation of liability and terms and conditions stated herein except as specifically agreed to in writing by the parties.



4. CSI REPRESENTATIONS

Findings and recommendations resulting from the Services are based upon information derived from CSI's on-site activities and other services performed hereunder; such information is subject to change over time. Certain indicators of hazardous substances, petroleum products or other deleterious constituents may have been latent, inaccessible, unobservable or not present during the Services, and CSI cannot represent that the Site is not affected by constituents or other latent conditions beyond those identified from the Services performed. Subsurface conditions throughout the Site may vary from data revealed from discrete borings, tests, assessments, investigations or other exploratory services; CSI's findings, recommendations and estimates are based solely upon data available to CSI at the time of the Services. CSI will not be responsible for a third party's interpretations or use of the data. CSI will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health & safety precautions or plans for any third parties, including subcontractors or other parties present at the Site. Should CSI provide observations or monitoring services at the Site at any time, Client agrees that CSI shall not be responsible for any working conditions or safety at the Site other than for its own staff during said observations or monitoring services. Any monitoring of a third party's or contractor's procedures does not include review of the adequacy of said contractor's safety measures in, on, adjacent to, or near the project.

5. CLIENT REPRESENTATIONS

Client understands the nature of CSI's presence on the Site and shall ensure that CSI's personnel and subcontractors have safe and reasonable access to the Site for the performance of the Services. Client shall furnish or cause to be furnished to CSI an accurate Site map and all information known or available to Client, including, but not limited to, past and current Site operations, subterranean structures, utilities, and the environmental condition of the Site (such as the identity, location, quantity, nature or characteristics of any hazardous or toxic materials on or near the Site). CSI may rely upon, but shall not be responsible for the accuracy of, any data provided by Client, Client's agent or any third party. Client shall immediately transmit new, updated or revised information as it becomes available during the Services. Client will secure all necessary approvals, permits, licenses and consents necessary to commence and complete the Services unless otherwise agreed in writing, and shall make any and all spill or release notifications that may be required by law.

6. SUBTERRANEAN STRUCTURES, UTILITIES, WETLAND ISSUES

Client is responsible for accurately providing the locations of all subterranean structures and utilities and potentially jurisdictional areas which may contain wetlands, endangered species habitat or cultural resources. CSI will take reasonable precautions to avoid damage or injury to subterranean structures or utilities and potentially jurisdictional areas identified to us. Client agrees to hold harmless and indemnify CSI for any claims, payments or other liability, including reasonable attorneys fees, for any damages to subterranean structures, utilities or potentially jurisdictional areas which are not (i) accurately identified by Client or others, (ii) accurately depicted on plans; or (iii) called to the attention of CSI prior to performing the Services, except to the extent that CSI has been contracted to locate sensitive areas on the site not identified or accurately located.

7. INDEMNITIES

CSI shall indemnify and hold Client harmless from and against any and all lawsuits, claims, liabilities, causes of action, losses, damages, forfeitures, penalties, fines, costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses, to the extent the same arise from (i) a negligent breach by CSI of these terms & conditions; (ii) violation of law by CSI in performing the Services or (iii) negligent errors or omissions of CSI in performing the Services. CSI's total maximum aggregate liability (irrespective of the number of claims or claimants) under this indemnity to client or any third party shall be limited by Client such that CSI's maximum liability to Client or any third party shall in no event exceed the amount set out in the paragraph entitled "risk allocation and liability limitation". Client agrees to release, defend, hold harmless and indemnify CSI from and against all further liability under the above indemnity including any and all lawsuits, claims, liabilities, actions, causes of action, demands, losses, damages, forfeitures, penalties, fines, costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses, by whomever asserted, to the extent that such claim, property damage, injury or death resulted from (i) the negligence or willful misconduct of Client or Client's agent; (ii) violation of law or regulation by Client or Client's agent; (iii) Client or CSI's alleged involvement at the Site as an owner, operator, arranger, generator or transporter of hazardous substances or wastes; or (iv) inaccurate information provided by Client to CSI. Client understands the nature of invasive services which may involve drilling through varied soil and water substrata which may result in inadvertent and unavoidable cross-mingling of said strata and constituents therein; Client agrees to indemnify and hold harmless CSI should this occur to the extent not caused by the negligence of CSI, subject always in every respect to the limitation of liability set out in the paragraph below entitled "risk allocation and liability limitation".

8. RISK ALLOCATION AND LIABILITY LIMITATION

The parties hereunder are aware and understand the risks and rewards associated with the Services, as well as CSI's fee for these Services. The Client acknowledges that without this limitation of liability CSI would not have performed the services and that both parties had the opportunity to negotiate the terms and conditions of this Agreement. The Client and CSI agree to allocate certain of the risks so that, to the fullest extent permitted by law, CSI's total maximum aggregate (irrespective of the number of claims or claimants) liability to Client and any third parties shall in no event exceed \$50,000 or the amount of CSI's fee, whichever is greater for any and all injuries, damages, claims, losses, or expenses (including reasonable attorneys' fees and expert witness fees) arising out of this agreement from any cause or causes. Such causes include, but are not limited to, CSI's negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, indemnity obligations, or other acts giving rise to liability based upon contract, tort or statute except for the knowingly and intentionally wrongful misconduct of CSI. The limitation and Aggregate shall apply to all work for client by CSI irrespective of whether subsequent agreements contain this or a similar provision. Client agrees to indemnify and hold harmless CSI from and against all liabilities in excess of the monetary limit established above. The parties also agree that Client will not seek damages in excess of the limitations indirectly through suits with other parties who may join CSI as a third-party defendant. For purposes of this paragraph, the term "parties" means the Client and CSI and their officers, directors, shareholders, employees, agents,



affiliates, successors, assigns, and subcontractors. Both Client and CSI agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this Agreement.

9. DISPUTE RESOLUTION COSTS

In the event that CSI and Client find themselves in adversarial positions, and in the event of litigation, arbitration, or mediation in connection therewith, the non-prevailing party shall reimburse the prevailing party for the prevailing party's documented legal costs in addition to whatever judgment or settlement sums may be due.

10. MONITORING

This paragraph applies in the event CSI is retained by Client to provide a Site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the Proposal. In this case, CSI will report observations and its professional opinions to the Client. No action of CSI or CSI's Site representative shall be construed as altering any contract between Client and third parties. The CSI representative has no right to reject or stop work of any Client agent; such rights are reserved solely for Client. Furthermore, CSI's presence on-site does not in any way guarantee the completion or quality of the performance of the work of any third party. CSI will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences, or procedures of any third party or any agent of the Client.

11. SAMPLING OR TEST LOCATION.

Unless otherwise stated, the fees in the Proposal do not include costs associated with surveying of the site for the accurate horizontal or vertical locations of tests. Field tests or boring locations described in a report or shown on sketches are based upon information furnished by others or estimates made in the field by our representatives. Such dimensions, depths, or elevations should be considered as approximations only, unless otherwise stated. If the client specifies the test or boring location, we reserve the right to deviate a reasonable distance from the location specified.

12. WASTES; SAMPLES

This paragraph applies in those instances where Services performed involve wastes or samples. Unless otherwise specified in the Proposal, proper disposition of any contaminated materials generated during the Services (including, but not limited to, waste materials, samples, produced soils or fluids, cuttings, or protective gear or equipment) is out-of-scope and shall require a written amendment by the parties specifying Client's choice of transporter and waste facility. In no event shall CSI be required to sign or certify a manifest, disposal ticket or like document relating to the transport or disposition of hazardous materials or hazardous waste. It is understood and agreed that CSI, in performing the Services, does not act as a generator, transporter, arranger, or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Client and CSI understand and agree that title to all foregoing samples and waste materials remains with Client. Laboratory or field equipment that cannot be decontaminated from hazardous constituents shall become the property and responsibility of Client, and Client shall reimburse CSI for its fair market value unless otherwise agreed in writing. Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of ordered analytical tests; other investigation-derived wastes will be disposed of within 60 days after submission of a final CSI report documenting the Services. At Client's written request, CSI will retain preservable test specimens or the residue therefrom at an agreed-to charge, and will use

reasonable and common business efforts to retain such test specimens or samples but only for a mutually acceptable and agreed-to storage charge and period of time. Client agrees that CSI is not responsible or liable under any circumstance or in any event to Client or any third party for any loss of test specimens or samples retained in storage, Client waiving all claims in connection therewith and agreeing to indemnify CSI in connection therewith.

13. DELAYS; CHANGED CONDITIONS

If Services cannot be performed on or before the projected due date because of circumstances beyond the reasonable control of CSI, including, but not limited to, strike, fire, riot, excessive precipitation, act of God, access limitations, health and safety risks, governmental action, third party action or Client action or omission, or criminal acts by non-CSI persons or entities, or acts of war, terrorism, or the public enemy, the Services shall be amended by Client and CSI in accordance with paragraph 19. In the event Site conditions change materially from those observed at the Site or described to CSI at the time of Proposal, CSI and Client shall execute a written change order evidencing equitable adjustments to the Proposal and Project Cost; Client understands that said changed conditions may delay, postpone or suspend the Services until such time as Services and the Project Cost are amended. In the event a timely and equitable change order cannot be negotiated by the parties, CSI, at its discretion, may terminate its Proposal, Services, and agreement with Client.

14. DISCOVERY OF HAZARDOUS MATERIALS

Client represents that it has made a reasonable effort to evaluate if hazardous materials are on or near the Site, and that Client has informed CSI of Client's findings relative to the possible presence of such materials. Hazardous materials may exist where there is no reason to believe they could or should be present. CSI and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the Proposal or termination of the Services. CSI and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for CSI to take immediate measures to protect health and safety of its personnel. Client agrees to compensate CSI for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials. CSI agrees to notify Client when unanticipated or suspected hazardous materials are encountered. Client shall make any and all disclosures required by law to the appropriate governing agencies. Client also agrees to hold CSI harmless for any and all consequences of disclosures made by CSI that are required by governing law or ethical canon. In the event the Site is not owned by the Client, Client shall be responsible for informing the Site owner of the discovery of unanticipated or suspected hazardous materials. Notwithstanding any other provision of the Agreement, Client waives any claim against CSI and, to the maximum extent permitted by law, agrees to defend, indemnify, and hold harmless CSI from any claim, liability, and defense costs for injury or loss arising from CSI's discovery and disclosure or reporting of unanticipated or suspected hazardous materials, including, but not limited to, any project delay costs and any costs associated with possible reduction of the Site's value.

In connection with toxic or hazardous substances or constituents and to the maximum extent permitted by applicable law, for separate and valuable consideration of the promises contained in this environmental indemnity language (which is a valuable and fundamental inducement to CSI to provide services to Client), Client agrees to defend, hold harmless, and indemnify CSI from and against



any and all claims, liabilities, or judgments, except to the extent finally determined as being caused by CSI's negligence or willful misconduct (such exception being always subject to the "Risk Allocation and Liability Limitation" provision set out elsewhere herein), resulting from:

- a) Client's violation of any federal, state, or local statute regulation or ordinance relating to the management or disposal of toxic or hazardous substances or constituents;
- b) Client's undertaking of or arrangements for the handling, removal, treatment, storage, transportation or disposal of toxic or hazardous substances or constituents found or identified at a site;
- c) Toxic or hazardous substances or constituents introduced at the site by Client or third persons before, during, or after the completion of CSI's services;
- d) allegations that CSI is a handler, generator, operator, treater, storer, transporter, or disposer unless expressly retained by Client for such services under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state, or local regulation or law due to CSI's services; or
- e) any third party suit or claim for damages against CSI alleging strict liability, personal injury (including death) or property damage from exposure to or releases of toxic or hazardous substances or constituents at or from the project site before, during, or after completion of CSI's services under this Agreement.

The obligations of this paragraph are in addition to (and not in the place of) any other Client indemnity obligations herein. Nothing herein shall operate to increase the limitation of liability set out elsewhere herein.

15. MONITORING WELLS

Client will take custody of all monitoring wells and probes installed as part of the services provided by CSI and will take any and all necessary steps for the proper maintenance, repair or closure of such well or probes at Client's expense.

16. TERMINATION

Client or CSI may terminate a Proposal, the Services or this Agreement upon seven (7) days written notice should the other party fail substantially to perform in accordance with these Terms & Conditions through no fault of the terminating party or if the Client suspends the Services for more than three (3) months. Further, CSI may terminate Services as described in the Proposal Acceptance Sheet hereunder. Client shall compensate CSI for Services performed up to the date of receipt of termination plus any and all reasonable costs incurred in terminating the Services in accordance with CSI's current fee schedule, including, but not limited to, the cost of completing analyses, records, and reports necessary to document project status at the time of termination.

17. ASSIGNMENTS

Neither these Terms & Conditions nor any interest, claim or obligation hereunder shall be assigned or transferred by Client to any party or parties without the prior consent of CSI. Nothing herein shall prevent CSI from using CSI's subcontractors to assist in performing the Services.

18. NON-WAIVER; INVALIDITY.

In the event that a provision herein shall for any reason be held invalid, illegal or unenforceable in any respect, such finding shall not affect the enforceability of any other provision of these Terms &

Conditions. Failure or delay in exercising any right, power or remedy under these Terms & Conditions shall not impair any right, power or remedy which any party hereto may have, nor shall any such failure or delay be construed to be a waiver of any such right, power or remedy or an acquiescence in any breach or default hereunder absent an express, written waiver or acquiescence, nor shall any waiver of any breach or default be deemed a waiver of any default or breach subsequently occurring under these Terms & Conditions. These Terms & Conditions may be executed via facsimile or by transmitting originals; any number of executed counterparts will constitute one and the same instrument.

19. APPLICABLE LAW; VENUE; SURVIVAL

The services, proposal and these terms & Conditions shall be governed by and construed according to the laws of the state corresponding to the location of the soliciting CSI office located in Lexington, Ky (as identified on the Proposal Acceptance Sheet). Venue for any legal action hereunder shall be in the project location. Paragraphs 3, 7 and 8 will survive termination of this Agreement for any cause.

20. PRECEDENCE; AMENDMENTS

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, purchase order, requisition, notice to proceed, oral communications or other agreement regarding the Services. These Terms & Conditions replace and supersede all prior discussions and agreements between and amongst Client and CSI with respect to the matters contained herein. These Terms & Conditions herein may be amended only by an agreement signed by both CSI and Client.

21. CONTINUING AGREEMENT

The indemnity obligations and the limitations of liability established under this Agreement will survive the expiration or termination of this Agreement. If CSI provides services to Client that the parties do not confirm through execution of an amendment to this Agreement, the obligations of the parties to indemnify each other and the limitations of liability established under the Agreement apply to such Services as if the parties had executed an amendment.

22. CONFLICTS OF INTEREST

CSI will advise the Client of any existing or potential conflicts of interest which are discovered during the performance of services under this Agreement. All parties agree that CSI may discontinue its services in accordance with the "Termination" provisions set out elsewhere in this Agreement in the event a material conflict of interest is discovered or becomes evident.



PAYMENT TERMS:

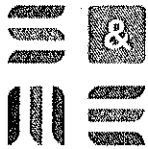
CSI will be compensated for performing the Services in accordance with the Proposal referenced above. Invoices will be issued monthly. Client agrees to pay all charges not in dispute within 30 days of receipt of CSI's invoice and recognizes that charges not paid within 30 days are subject to a late payment charge of 1.5 percent (1.5%) (but not to exceed the maximum applicable legal rate) of the balance due for each additional month or fraction thereof that undisputed charges remain unpaid. The Client shall notify CSI within 10 days of receipt of CSI's invoice should the invoice contain charges the Client intends to dispute. Client agrees to pay any and all collection costs on overdue invoices, including reasonable attorneys' fees. Client further agrees that CSI has the right to suspend or terminate the Services in CSI's sole discretion if undisputed charges are not paid within 45 days of receipt of CSI's invoice and agrees to waive any and all claims against CSI and to indemnify, defend and hold CSI harmless from and against any claims arising from CSI's suspension or termination due to Client's failure to provide timely payment. Client agrees that all documents of any nature furnished to Client or Client's agents or designees in connection with the Services, if not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever.

Company:

Print Name of Authorized Representative:

Signature of Authorized Representative:

Accepted Date:



August 6, 2020

The Kleingers Group
6305 Centre Park Drive
West Chester, Ohio 45069

Attention: Mr. Nick Yeretzian, P.E.
Nick.Yeretzian@kleingers.com

Reference: **Proposal – Geotechnical Exploration
Tyler Avenue Drainage Improvements**
Milford, Ohio
S&ME Proposal No. 11-12000249B

Dear Mr. Yeretzian:

S&ME Inc. (S&ME) is pleased to submit this proposal for providing Geotechnical Services for the planned drainage improvements on Tyler Avenue in Milford, Ohio. This proposal was prepared in response to a request for proposal during our site visit on August 3, 2020. This proposal describes our understanding of the project, outlines our approach and presents a schedule and proposed fee for these services. Our Agreement for Services (Form AS-071) is attached and is incorporated as part of this proposal.

◆ SITE AND PROJECT DESCRIPTION

We understand that the City of Milford plans to improve the existing drainage between 634 and 644 Tyler Avenue. Kleingers provided Tyler Avenue Drainage, Existing Conditions plan sheet dated 8/3/2020. This plan sheet indicates improvements will be made to the empty lot between 634 and 644 Tyler Avenue with a low area north of the empty lot. The planned improvements include installation of an underground detention basin. The invert elevation of the detention basin was not finalized at the time of this proposal but will likely be near the basement elevations of the adjacent houses.

Kleingers has requested a geotechnical exploration scope of work to include two (2) soil test borings, and an engineering report detailing our subsurface findings and engineering recommendations. The following paragraphs detail our proposed scope of work based on our understanding of the project requirements.

◆ SCOPE OF SERVICES – GEOTECHNICAL SERVICES

Field Exploration

We will assign a Licensed Geotechnical Engineer (P.E.) to perform the work associated with your project. Our work will be directed and supervised by one of our Senior Geotechnical Engineers. S&ME proposes to offer the following scope of geotechnical services for this project.



Geotechnical Field Services

- Contact Ohio Utilities Protection Services (811) to mark the locations of existing public underground utilities in the proposed exploration areas.
- Visit the site to observe site surface conditions, mark the boring locations, and supervise the drilling activities. We will locate the borings with hand-held GPS equipment with sub-meter horizontal accuracy.
- Mobilize a drill crew with an ATV/track-mounted or truck-mounted drilling rig to the site.
- S&ME proposes to perform two (2) soil test borings for the planned improvements. The borings will be drilled to a depth of about 20 feet below the existing ground surface, or auger refusal, whichever is encountered first, for a total drilling footage of 40 feet.
- The borings will include split-barrel soil sampling at 2.5-foot to 5-foot intervals. The sampler will be driven in general accordance with the Standard Penetration Test procedures (ASTM D 1586).
- Obtain groundwater level measurements at the time of drilling and prior to backfilling.
- Install one (1) standpipe piezometers and obtain 1 additional groundwater level reading 2 weeks after drilling is complete.
- Backfill the remaining borehole with soil cuttings and pavement patch, if needed.
- Perform infiltration testing (ASTM D5126) at each boring location.
- The boring locations will be marked relative to existing site features. We understand that Kleingers will obtain locations and elevation of our borings after drilling is complete.

Laboratory Testing

Our Geotechnical Engineer will observe the recovered samples and visually classify them in general accordance with the Unified Soil Classification System (USCS) (ASTM D-2488). On the basis of the anticipated conditions, we propose to perform the following laboratory tests:

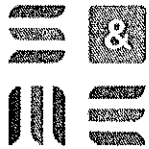
- Natural moisture contents.
- Atterberg limits tests.
- Grain size analyses tests.

Deliverables – Geotechnical Services

After our analyses are complete, we will issue a report describing the exploration and outlining our recommendations. The report will include the following:

- A review of area and site geologic conditions, surface topographical features and site conditions.
- A brief review of our test procedures and the results of all laboratory testing conducted.
- A discussion of surface and subsurface conditions.
- A discussion on measured infiltration rates and groundwater table.
- A review of any identified geotechnical conditions which may affect the design or construction of the planned drainage improvements, including excavation and backfill recommendations.

A final report, with vicinity map, Boring Location Plan, and typed boring logs will be submitted electronically (pdf format). Hard copies are available upon request.



Client Responsibilities – Geotechnical Services

We request that the client provide us the following:

- Signed authorization of our services.
- Assistance in marking known underground utilities.
- Notify property owners of our proposed work schedule and cordon off the proposed work areas as necessary to safely complete our field portion of the Scope of Services.

Excluded Services – Geotechnical Services

Without attempting to be a complete list of all services or potential services that will be excluded from this proposal and performed by S&ME, the following services are specifically excluded from this proposal:

- Surveying Services.
- Exploration, laboratory testing and engineering services to address chemically active or corrosive materials or conditions, or the presence of gas.
- Attendance at project team meetings.
- Addenda to the geotechnical report to address changes or additions to the proposed project not known to us at the time of this proposal.
- Wetlands and jurisdictional waters determination or delineation.
- Construction phase services. The monitoring of construction or testing of construction materials is beyond the proposed scope of geotechnical services we have prepared a separate proposal for these services for this project.

If any of the above excluded services are required, please contact us so that we can modify this proposal or prepare a proposal for additional services.

◆ COMPENSATION/SCHEDULE

On the basis of the workscope defined herein, we propose a **lump sum fee of \$5,450** for our services. If subsurface conditions are encountered that require a modification to the workscope, you will be notified. Our fee does not include surveying or clearing/reclamation of the site. **If this workscope is authorized concurrently with the Cleveland Avenue and Laurel Street Drainage Improvement project, a reduction of the \$1,000 from the above lump sum will be applied.**

Our fee estimate assumes that S&ME personnel can access the project site during normal business hours (i.e., not nights, weekends, etc.) without any special working conditions being mandated. If this is not possible, or if we are required to drill at other times, additional fees will be required.

Based upon our present schedule, we anticipate mobilizing to the site within two (2) weeks, assuming we have received written authorization to proceed. Depending on our drill schedule, we may employ sub-contract drilling services. Please be aware that our schedule changes each day as we add projects. Delaying authorization will change our schedule.



We expect the field work will take one (1) day to complete. The final report will contain the construction and design recommendations and will be available three (3) to four (4) weeks after the field work is complete due to time required to complete our anticipated laboratory testing program.

◆ USE OF PROPOSAL/REPORT

This proposal is solely intended for the services as described in the Scope of Services. The Scope of Services may not be modified or amended, unless the changes are first agreed to in writing by the client and S&ME, Inc. Use of this proposal and corresponding final report is limited to above-referenced project and client. No other use is authorized by S&ME, Inc.

◆ LIMITATIONS

We will contact the local utility locators prior to mobilizing to the site. **The utility location services will only mark public utility lines; therefore, we will need assistance in locating private lines or underground structures, and we request that the Client provide us with any drawings depicting on-site utilities.** Our firm cannot be held responsible for damage to utility lines or subsequent loss of service if utility locations are not made known to us or are mislocated by others.

We assume that the Client will obtain right-of-entry into the site for our equipment and personnel. While we will try to limit site disturbance, our fee does not include re-landscaping or otherwise restoring the site to its original condition. Our services will include backfilling the borings with the excavated material, unless otherwise directed. Over time, you should expect some settlement of the backfilled material. Please inform us if your requirements are any different.

We should be informed of any possible contamination on the site prior to drilling to prevent spreading of the contamination. If contaminated soil or groundwater is encountered during drilling, it is possible that the contamination may be spread to other soil zones or aquifers that were not previously contaminated. Because it is impossible to eliminate the risk of encountering existing contamination during drilling and because the geotechnical exploration is an essential aspect of the services that we are providing, our firm is not responsible for any claim which may arise as a result of contamination allegedly caused by the geotechnical exploration.

Our fee includes discussion and interpretation of our findings with other members of the design team, but does not include meetings concerning construction or changes in design. The fee also does not include review of construction documents such as plans and specifications. We would be pleased to provide unit price estimates for these additional services.

◆ AUTHORIZATION

Our Agreement for Services, Form Number AS-071, is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing the form and returning it to our office. We will then proceed with the performance of the services.



**Proposal – Geotechnical Exploration
Tyler Avenue Drainage Improvements**

Milford, Ohio

S&ME Proposal No. 11-12000249B

If you elect to accept our proposal by issuing a purchase order, then please reference this proposal number and date. Your purchase order will be an acceptance of our Agreement of Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, as our agreement is for services that are not compatible with purchase order agreements. If this proposal is transmitted to you via email, and if you choose to accept this proposal by email, your reply email acceptance will serve as your representation to S&ME that you have reviewed the proposal and the associated Agreement for Services (AS-071) and hereby accept both as written.

S&ME appreciates the opportunity to be of service to you. If you have any questions regarding the outlined scope of work, or if we may be of any further assistance, please call.

Sincerely,

S&ME, Inc.

A handwritten signature in black ink, appearing to read 'Benjamin C. Dusina'.

Benjamin C. Dusina, P.E.
Principal Engineer

A handwritten signature in black ink, appearing to read 'Christopher L. Yohe'.

Christopher L. Yohe, P.E.
Senior Engineer

Attachments: Agreement for Services (Form AS-071)



**Proposal – Geotechnical Exploration
Tyler Avenue Drainage Improvements**
Milford, Ohio
S&ME Proposal No. 11-12000249B

ATTACHMENTS

**AGREEMENT FOR SERVICES**

Form AS-071

Date: 8/6/2020	
S&ME, Inc. (hereafter Consultant)	Client Name: The Kleingers Group (hereafter Client)
Address: 862 East Crescentville Road City: Cincinnati State: OH Zip: 45246 Telephone: (513) 771-8471	Address: 6219 Centre Park Drive City: West Chester State: Ohio Zip: 45069 Phone Number: (513) 779-7851
PROJECT	
Project Name: Milford Stormwater Improvements Project Location (Street Address): 644 Tyler Ave. City: Milford State: Ohio Zip: 45150	
SERVICES TO BE RENDERED	
Proposal Number: 11-2000249B dated: 8/6/2020 is incorporated into this Agreement for Services. This Agreement for Services is incorporated into the above Proposal.	

Client desires to contract with Consultant for the Services to be Rendered ("Services") on Client's Project, as contained in Consultant's Proposal. The Proposal and Client's Project are referenced immediately above.

THEREFORE, in consideration of the Mutual Covenants and Promises included herein, Client and Consultant agree as follows:

- 1. ACCEPTANCE:** Client hereby accepts this offer by Consultant to provide the Services as contained in Consultant's Proposal and agrees that such Services and any additional Services performed by Consultant shall be governed by this Agreement. If Client directs that Services commence prior to execution of this Agreement, Client agrees that commencement of Services by Consultant is in reliance on Client having accepted the terms of this Agreement and acknowledgment that Client will execute this Agreement, forthwith. **CLIENT MAY ACCEPT THIS AGREEMENT FOR SERVICES THROUGH THE USE OF CLIENT'S PURCHASE ORDER, HOWEVER ALL PREPRINTED TERMS AND CONDITIONS ON CLIENT'S PURCHASE ORDER ARE INAPPLICABLE AND THE TERMS OF THIS AGREEMENT SHALL GOVERN.** Unless this offer is previously accepted, it will be withdrawn automatically at 5:00 pm EST, ninety (90) days from the date of issue.
- 2. CONTRACT DOCUMENTS:** "Contract Documents" shall mean this Agreement for Services, the Proposal identified under "SERVICES TO BE RENDERED."
- 3. SCOPE OF SERVICES:** Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the services included in Consultant's proposal received by Client are adequate and sufficient for Client's intended purpose. Client shall communicate the provisions of this Agreement for Services to each and every third party to whom Client transmits any part of Consultant's work. Consultant shall have no duty or obligation to any third party greater than that set forth in Consultant's proposal, Client's acceptance thereof and this Agreement for Services. The ordering of work from Consultant, or the reliance on

any of Consultant's work, shall constitute acceptance of the terms of Consultant's proposal and this Agreement for Services, regardless of the terms of any subsequently issued document.

4. **CHANGE ORDERS:** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
5. **PAYMENT:** Client will pay Consultant for Services and expenses in accordance with the Contract Documents. If prices for Services are not specified in the Contract Documents, Consultant's current fee schedule in effect for the type of services performed shall control. Consultant will submit progress invoices to Client monthly and a final invoice upon completion of Services. Payment is due upon receipt of the invoice unless otherwise agreed to in writing prior to the submittal of the invoice. Invoices are past due 30 calendar days after the date of the invoice. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Client. The Client's obligation to pay under this Agreement is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or Client's successful completion of the Project. In addition, CONSULTANT reserves the right to suspend the performance of all services in any case where invoices remain unpaid more than sixty (60) days from the invoice date.
6. **STANDARD OF CARE:** Consultant and its agents, employees and subcontractors shall endeavor to perform the Services for Client with that degree of care and skill ordinarily exercised, under similar circumstances, by consultants practicing in the same discipline at the same time and location. In the event any portion of the Services fails to substantially comply with this standard of care obligation and Consultant is promptly notified in writing prior to one year after completion of such portion of the Services, Consultant will re-perform such portion of the Services, or if re-performance is impractical, Consultant will refund the amount of compensation paid to Consultant for such portion of the Services. CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
7. **LIMITATION OF LIABILITY:** Client agrees that Consultant's services will not subject Consultant's individual employees, officers or directors to any personal liability, and that notwithstanding any other provision of this agreement, Client agrees that its sole and exclusive remedy shall be to direct or assert any claim, demand, or suit only against Consultant. Statements made in Consultant's reports are opinions based upon engineering judgment and are not to be construed as representations of fact. Client and Consultant have evaluated the risks and rewards associated with this project, including Consultant's fee relative to the risks assumed, and agree to allocate certain of the associated risks. To the fullest extent permitted by law, Consultant's aggregate liability to Client, including that of Consultant's officers, directors, employees and agents, is limited to \$100,000, hereinafter referred to as LIMITATION OF LIABILITY. This LIMITATION OF LIABILITY applies to all lawsuits, claims or actions, whether identified as arising in tort, INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERROR OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY, contract, or other legal theory, including without limitation, Consultant's indemnity obligations to Client related to the Services provided in this Agreement and any continuation or extension of Consultant's Services.

By entering into this Agreement, Client acknowledges that this LIMITATION OF LIABILITY provision has been reviewed, understood and is a material part of this Agreement, and that Client has had an opportunity to seek legal advice regarding this provision.

8. **DISCLAIMER OF CONSEQUENTIAL DAMAGES:** In no event shall Consultant or Client be liable to the other for any special, indirect, incidental or consequential loss or damages, including, but not limited to, lost profits, damages for delay, or loss of use arising from or related to Services provided by Consultant.
9. **REPORTS:** In connection with the performance of the Services, Consultant shall deliver to Client reports, drawings, specifications, computer files, field data, notes, and other documents and instruments prepared by the Consultant reflecting Services provided and the results of such Services. All reports and written documents delivered to Client ("Instruments of Service") are instruments reflecting the Services provided by Consultant pursuant to this Agreement and are made available for Client's use subject to the limitations of this Agreement. Instruments of Service provided by Consultant to Client pursuant to this Agreement are provided for the exclusive use of Client, and with Client's permission, Client's contractors, designers and employees for the purpose and the Project described therein and are not to be used or relied upon by third parties or in connection with other projects. Subject to the permitted use of Client, and Client's agents, and employees, all Instruments of Service, other written documents, all original data gathered by Consultant and work papers produced by Consultant in the performance of or intrinsic to the Services included in the Services are, and shall remain, the sole and exclusive property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
10. **SAFETY:** Consultant is solely responsible for the safety and health of Consultant's employees. Consultant shall take necessary precautions for the safety of its employees. Consultant specifically disclaims any authority or responsibility for general job safety and for the safety of persons who are not employed by Consultant. Should Client, or third parties, be conducting activities on the Site, then each shall have responsibility for their own safety and compliance with applicable safety requirements.
11. **SAMPLES:** Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of tests and analysis. Upon written request, Consultant will retain samples for an agreed to duration and for a mutually acceptable storage charge. In the event that samples contain or may contain hazardous materials, Consultant shall, after completion of testing and at Client's expense, return such samples to Client or make samples available for disposal by Client's agent. Client recognizes and agrees that Consultant is acting as a bailee and at no time assumes title to said samples.
12. **HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring Consultant to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
13. **CLIENT OBLIGATIONS:**
- (a) Client warrants that all information provided to Consultant regarding the Project and Project location are complete and accurate to the best of Client's knowledge.
 - (b) Client agrees to furnish Consultant, its agents, employees, and subcontractors a right-of-entry and any authorizations needed for Consultant to enter onto the project site to perform the Services included in this Agreement.
 - (c) Client recognizes that the performance of the Services included in this Agreement may cause alteration or damage to the Site. Client acknowledges that some site disturbance is inherent in the work for which Consultant will not be responsible. Should Client not be owner of the property, then Client agrees to notify the owner of the aforementioned possibility of unavoidable alteration and damage and arrange for the repair of any alteration and damage.
 - (d) Client agrees to disclose the identity of all utilities serving the Project Site, the presence and accurate location of hidden or obscured man-made objects known to Client that may be in Consultant's work area and the nature and location of any known or suspected hazardous materials that may exist on the property.

(e) Our job site activities do not change any agreement between Client and any other party. Only Client has the right to reject or stop work of its contractors or agents. Our presence on site does not in any way guarantee the completion, quality or performance of the work by any other party retained by Client to provide field or construction/remediation services. We are not responsible for, and do not have control or charge of, the specific means, methods, techniques, sequences or procedures of construction or remediation selected by any contractor or agent of Client.

(f) Provide prompt written notice to CONSULTANT if CLIENT becomes aware of any fault or problem in the PROJECT, including any errors or omissions in CONSULTANT'S work.

14. **CERTIFICATIONS:** Client agrees not to require that Consultant execute any certification with regard to work performed, tested or observed under this Agreement unless: 1) Consultant believes that it has performed sufficient work to provide a sufficient basis to issue the certification; 2) Consultant believes that the work performed, tested or observed meets the criteria of the certification; and 3) Consultant has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Consultant is limited to an expression of professional opinion based upon the Services performed by the Consultant, and does not constitute a warranty or guarantee, either expressed or implied.
15. **FAILURE TO FOLLOW RECOMMENDATIONS:** The Client agrees that it would be unfair to hold the Consultant liable for problems that may occur if the Consultant's recommendations are not followed. Accordingly, the Client waives any claim against the Consultant, and agrees to indemnify, and hold harmless the Consultant from any claim or liability for injury or loss that results from failure to implement the Consultant's recommendations or from implementation of the Consultant's recommendations in a manner that is not in strict accordance with them.
16. **TERMINATION:**
For Convenience - Upon written notice, Client or Consultant may terminate the performance of any further Services included in this Agreement if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, Consultant shall stop work on all Services included in this Agreement and deliver any Instruments of Service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the dispatch or receipt of the termination notice. Upon Termination for Convenience, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

For Cause - In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, Consultant shall stop work on all Services included in this Agreement and deliver any instruments of service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the termination. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.
17. **UNFORESEEN CONDITIONS OR OCCURRENCES:** If, during the performance of Services, any unforeseen hazardous substance, material, element or constituent or other unforeseen conditions or occurrences are encountered which, in Consultant's judgment, significantly affects or may affect the Services, the risk involved in providing the Services, or the recommended Scope of Services, Consultant will promptly notify Client. Subsequent to that notification, Consultant may: (a) If practicable, in Consultant's judgment and with approval of Client, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with Client to modify the Scope of Services and the estimate of charges to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated into this Agreement; or (c) Terminate the Services effective on the date of notification pursuant to the terms of TERMINATION FOR CONVENIENCE. Client is responsible for reporting any releases of hazardous substances to appropriate government agencies as required by law. Client acknowledges that Consultant also may have reporting obligations under controlling law and regulations. Client waives any claim against Consultant and will indemnify and hold Consultant harmless from any claim, injury or loss arising from the discovery of unforeseen hazardous substances.
18. **FORCE MAJEURE:** Consultant shall not be deemed to be in default of this Agreement to the extent that any delay or failure in the performance of the Scope of Work results from any causes beyond its reasonable control.

For this purpose, such acts or events shall include, but are not limited to, storms, floods, unusually severe weather, epidemics, civil disturbances, war, riot, strikes, lockouts or other industrial disturbances, and the inability within reasonable diligence to supply personnel, equipment, information or material to the Project. In the event that such acts or events occur, it is agreed that Consultant shall attempt to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit of the Services covered by this Agreement.

19. **INSURANCE:** Consultant shall maintain at its own expense, during the term of this Agreement, the following insurance: (1) Workers' Compensation providing statutory coverages required by the state where services are provided, (2) Employer's Liability with limits of \$1,000,000 each accident, (3) Commercial General Liability with limits of \$1,000,000 each occurrence / \$2,000,000 aggregate, (4) Commercial Automobile with limits of \$1,000,000 each accident, (5) Umbrella Excess Liability with limits of \$5,000,000 each occurrence and (6) Professional Liability with limits of \$5,000,000 each claim.
20. **INDEMNITY:** Client agrees to indemnify Consultant, its employees and subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees), which Consultant, its employees and subcontractors may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Client's negligence or willful misconduct. Consultant agrees to indemnify Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Client may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Client and Consultant shall, in the event of liability arising out of their joint negligence or willful misconduct indemnify each other in proportion to their relative degree of fault. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against Consultant, the Client and the party initiating such action shall pay to Consultant the costs and expenses incurred by Consultant to investigate, answer and defend it, including reasonable attorney's and witness fees and court costs to the extent that Consultant shall prevail in such suit.
21. **DISPUTE RESOLUTION:** Consultant may, in Consultant's sole discretion, pursue collection of past due invoices by litigation in a court of competent jurisdiction. Other than Consultant's collection of past due invoices, if a dispute arises out of or relates to this contract, or the breach thereof, the parties will attempt to settle the matter through amicable discussion. If no agreement can be reached, the parties agree to use non-binding mediation before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, reasonable costs and attorneys' fees will be awarded to the prevailing party. All questions as to the interpretation or enforceability of this Agreement shall be governed in accordance with the laws of the state where the project is located. In the event of any litigation involving this Agreement or the performance by the parties thereto, such actions shall be brought in a court of competent jurisdiction in the state where the project is located. Notwithstanding the foregoing, Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services.
22. **ASSIGNMENT AND SUBCONTRACTS:** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Consultant may subcontract for the Services of others without obtaining Client's consent if Consultant deems it necessary or desirable to have others perform Services.
23. **NO WAIVER:** No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.
24. **MISCELLANEOUS:** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state where project is located. This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and Agreements, whether written or oral, between the parties regarding same. No amendment or modification to this Agreement or any waiver of any provisions hereof shall be effective unless in writing, signed by both Parties. If any part of this subcontract is found to be unenforceable, then the parties' intent is to have such part rewritten to attain as close as possible the original intent of the unenforceable provision.

25. **TIME BAR:** Notwithstanding any applicable state statute of repose or statute of limitation, the Parties agree that all legal actions by either party against the other concerning this Agreement or the work performed in relation to this Agreement, will become barred two (2) years from the time the party knew or should have known of the claim, or two (2) years after completion of Consultant's services, whichever occurs earlier.
26. **NO DISCRIMINATION:** To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and the posting requirement under 29 CFR Part 471, appendix A to subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

CONSULTANT HEREBY ADVISES CLIENT THAT ITS PERFORMANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED ON CLIENT'S ASSENT TO THE TERMS AND CONDITIONS DETAILED HEREIN.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative.

CLIENT:

The Kleingers Group

S&ME, Inc.

BY:

BY:

(Signature)

(Signature)

(Print Name / Title)

(Print Name / Title)

DATE:

DATE:

PROPOSAL NUMBER: 11-2000249B

Client's DIGITAL signature to be treated as original signature



August 6, 2020

The Kleingers Group
6305 Centre Park Drive
West Chester, Ohio 45069

Attention: Mr. Nick Yeretzian, P.E.
Nick.Yeretzian@kleingers.com

Reference: **Proposal – Geotechnical Exploration**
Cleveland Avenue and Laurel Street Drainage Improvements
Milford, Ohio
S&ME Proposal No. 11-12000249A

Dear Mr. Yeretzian:

S&ME Inc. (S&ME) is pleased to submit this proposal for providing Geotechnical Services for the planned drainage improvements along Cleveland Avenue and Laurel Street in Milford, Ohio. This proposal was prepared in response to a request for proposal during our site visit on August 3, 2020. This proposal describes our understanding of the project, outlines our approach and presents a schedule and proposed fee for these services. Our Agreement for Services (Form AS-071) is attached and is incorporated as part of this proposal.

◆ SITE AND PROJECT DESCRIPTION

We understand that the City of Milford plans to improve the existing drainage along Cleveland Avenue, Laurel Street, Oak Street and Hickory Street. Kleingers provided Cleveland Avenue & Laurel Street Drainage, Drainage Option plan sheet dated 8/3/2020. This plan sheet indicates several storm sewer pipe and manholes along with infiltration trenches are planned. The planned improvements are with the existing right-of-way of the residential roadways. Invert depths were unknown at the time of this proposal.

Kleingers has requested a geotechnical exploration scope of work to include three (3) soil test borings, and an engineering report detailing our subsurface findings and engineering recommendations. The following paragraphs detail our proposed scope of work based on our understanding of the project requirements.

◆ SCOPE OF SERVICES – GEOTECHNICAL SERVICES

Field Exploration

We will assign a Licensed Geotechnical Engineer (P.E.) to perform the work associated with your project. Our work will be directed and supervised by one of our Senior Geotechnical Engineers. S&ME proposes to offer the following scope of geotechnical services for this project.



Geotechnical Field Services

- Contact Ohio Utilities Protection Services (811) to mark the locations of existing public underground utilities in the proposed exploration areas.
- Visit the site to observe site surface conditions, mark the boring locations, and supervise the drilling activities. We will locate the borings with hand-held GPS equipment with sub-meter horizontal accuracy.
- Mobilize a drill crew with an ATV/track-mounted or truck-mounted drilling rig to the site.
- S&ME proposes to perform three (3) soil test borings for the planned improvements. The borings will be drilled to a depth of about 15 feet below the existing ground surface, or auger refusal, whichever is encountered first, for a total drilling footage of 45 feet.
- The borings will include split-barrel soil sampling at 2.5-foot to 5-foot intervals. The sampler will be driven in general accordance with the Standard Penetration Test procedures (ASTM D 1586).
- Obtain groundwater level measurements at the time of drilling and prior to backfilling.
- Install two (2) standpipe piezometers and obtain 1 additional groundwater level reading 2 weeks after drilling is complete.
- Backfill the remaining borehole with soil cuttings and pavement patch, if needed.
- Perform infiltration testing (ASTM D5126) at each boring location.
- The boring locations will be marked relative to existing site features. We understand that Kleingers will obtain locations and elevation of our borings after drilling is complete.

Laboratory Testing

Our Geotechnical Engineer will observe the recovered samples and visually classify them in general accordance with the Unified Soil Classification System (USCS) (ASTM D-2488). On the basis of the anticipated conditions, we propose to perform the following laboratory tests:

- Natural moisture contents.
- Atterberg limits tests.
- Grain size analyses tests.

Deliverables – Geotechnical Services

After our analyses are complete, we will issue a report describing the exploration and outlining our recommendations. The report will include the following:

- A review of area and site geologic conditions, surface topographical features and site conditions.
- A brief review of our test procedures and the results of all laboratory testing conducted.
- A discussion of surface and subsurface conditions.
- A discussion on measured infiltration rates and groundwater table.
- A review of any identified geotechnical conditions which may affect the design or construction of the planned drainage improvements.

A final report, with vicinity map, Boring Location Plan, and typed boring logs will be submitted electronically (pdf format). Hard copies are available upon request.



Client Responsibilities – Geotechnical Services

We request that the client provide us the following:

- Signed authorization of our services.
- Assistance in marking known underground utilities.
- Notify property owners of our proposed work schedule and cordon off the proposed work areas as necessary to safely complete our field portion of the Scope of Services.

Excluded Services – Geotechnical Services

Without attempting to be a complete list of all services or potential services that will be excluded from this proposal and performed by S&ME, the following services are specifically excluded from this proposal:

- Surveying Services.
- Traffic Control.
- Exploration, laboratory testing and engineering services to address chemically active or corrosive materials or conditions, or the presence of gas.
- Attendance at project team meetings.
- Addenda to the geotechnical report to address changes or additions to the proposed project not known to us at the time of this proposal.
- Wetlands and jurisdictional waters determination or delineation.
- Construction phase services. The monitoring of construction or testing of construction materials is beyond the proposed scope of geotechnical services we have prepared a separate proposal for these services for this project.

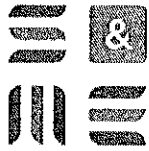
If any of the above excluded services are required, please contact us so that we can modify this proposal or prepare a proposal for additional services.

◆ COMPENSATION/SCHEDULE

On the basis of the workscope defined herein, we propose a **lump sum fee of \$5,950** for our services. If subsurface conditions are encountered that require a modification to the workscope, you will be notified. Our fee does not include surveying or clearing/reclamation of the site, fees of permits, or traffic control services. **If this workscope is authorized concurrently with the Tyler Avenue Drainage Improvement project, a reduction of the \$1,000 from the above lump sum will be applied.**

Our fee estimate assumes that S&ME personnel can access the project site during normal business hours (i.e., not nights, weekends, etc.) without any special working conditions being mandated. If this is not possible, or if we are required to drill at other times, additional fees will be required.

Based upon our present schedule, we anticipate mobilizing to the site within two (2) weeks, assuming we have received written authorization to proceed. Depending on our drill schedule, we may employ sub-contract drilling services. Please be aware that our schedule changes each day as we add projects. Delaying authorization will change our schedule.



We expect the field work will take one (1) day to complete. The final report will contain the construction and design recommendations and will be available three (3) to four (4) weeks after the field work is complete due to time required to complete the anticipated laboratory testing program.

◆ USE OF PROPOSAL/REPORT

This proposal is solely intended for the services as described in the Scope of Services. The Scope of Services may not be modified or amended, unless the changes are first agreed to in writing by the client and S&ME, Inc. Use of this proposal and corresponding final report is limited to above-referenced project and client. No other use is authorized by S&ME, Inc.

◆ LIMITATIONS

We will contact the local utility locators prior to mobilizing to the site. **The utility location services will only mark public utility lines; therefore, we will need assistance in locating private lines or underground structures, and we request that the Client provide us with any drawings depicting on-site utilities.** Our firm cannot be held responsible for damage to utility lines or subsequent loss of service if utility locations are not made known to us or are mislocated by others.

We assume that the Client will obtain right-of-entry into the site for our equipment and personnel. While we will try to limit site disturbance, our fee does not include re-landscaping or otherwise restoring the site to its original condition. Our services will include backfilling the borings with the excavated material, unless otherwise directed. Over time, you should expect some settlement of the backfilled material. Please inform us if your requirements are any different.

We should be informed of any possible contamination on the site prior to drilling to prevent spreading of the contamination. If contaminated soil or groundwater is encountered during drilling, it is possible that the contamination may be spread to other soil zones or aquifers that were not previously contaminated. Because it is impossible to eliminate the risk of encountering existing contamination during drilling and because the geotechnical exploration is an essential aspect of the services that we are providing, our firm is not responsible for any claim which may arise as a result of contamination allegedly caused by the geotechnical exploration.

Our fee includes discussion and interpretation of our findings with other members of the design team, but does not include meetings concerning construction or changes in design. The fee also does not include review of construction documents such as plans and specifications. We would be pleased to provide unit price estimates for these additional services.

◆ AUTHORIZATION

Our Agreement for Services, Form Number AS-071, is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing the form and returning it to our office. We will then proceed with the performance of the services.



**Proposal – Geotechnical Exploration
Cleveland Avenue and Laurel Street Drainage Improvements**
Milford, Ohio
S&ME Proposal No. 11-12000249A

If you elect to accept our proposal by issuing a purchase order, then please reference this proposal number and date. Your purchase order will be an acceptance of our Agreement of Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, as our agreement is for services that are not compatible with purchase order agreements. If this proposal is transmitted to you via email, and if you choose to accept this proposal by email, your reply email acceptance will serve as your representation to S&ME that you have reviewed the proposal and the associated Agreement for Services (AS-071) and hereby accept both as written.

S&ME appreciates the opportunity to be of service to you. If you have any questions regarding the outlined scope of work, or if we may be of any further assistance, please call.

Sincerely,
S&ME, Inc.

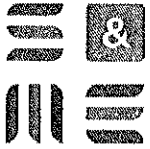
A handwritten signature in black ink, appearing to read 'Benjamin C. Dusina'.

Benjamin C. Dusina, P.E.
Principal Engineer

A handwritten signature in black ink, appearing to read 'Christopher L. Yohe'.

Christopher L. Yohe, P.E.
Senior Engineer

Attachments: Agreement for Services (Form AS-071)



Proposal – Geotechnical Exploration
Cleveland Avenue and Laurel Street Drainage Improvements
Milford, Ohio
S&ME Proposal No. 11-12000249A

ATTACHMENTS

**AGREEMENT FOR SERVICES**

Form AS-071

Date: 8/6/2020			
S&ME, Inc. (hereafter Consultant)		Client Name: The Kleingers Group (hereafter Client)	
Address: 862 East Crescentville Road City: Cincinnati State: OH Zip: 45246 Telephone: (513) 771-8471		Address: 6219 Centre Park Drive City: West Chester State: Ohio Zip: 45069 Phone Number: (513) 779-7851	
PROJECT			
Project Name: Milford Stormwater Improvements Project Location (Street Address): 98 Laurel St. City: Milford State: Ohio Zip: 45150			
SERVICES TO BE RENDERED			
Proposal Number: 11-2000249A dated: 8/6/2020 is incorporated into this Agreement for Services. This Agreement for Services is incorporated into the above Proposal.			

Client desires to contract with Consultant for the Services to be Rendered ("Services") on Client's Project, as contained in Consultant's Proposal. The Proposal and Client's Project are referenced immediately above.

THEREFORE, in consideration of the Mutual Covenants and Promises included herein, Client and Consultant agree as follows:

- 1. ACCEPTANCE:** Client hereby accepts this offer by Consultant to provide the Services as contained in Consultant's Proposal and agrees that such Services and any additional Services performed by Consultant shall be governed by this Agreement. If Client directs that Services commence prior to execution of this Agreement, Client agrees that commencement of Services by Consultant is in reliance on Client having accepted the terms of this Agreement and acknowledgment that Client will execute this Agreement, forthwith. **CLIENT MAY ACCEPT THIS AGREEMENT FOR SERVICES THROUGH THE USE OF CLIENT'S PURCHASE ORDER, HOWEVER ALL PREPRINTED TERMS AND CONDITIONS ON CLIENT'S PURCHASE ORDER ARE INAPPLICABLE AND THE TERMS OF THIS AGREEMENT SHALL GOVERN.** Unless this offer is previously accepted, it will be withdrawn automatically at 5:00 pm EST, ninety (90) days from the date of issue.
- 2. CONTRACT DOCUMENTS:** "Contract Documents" shall mean this Agreement for Services, the Proposal identified under "SERVICES TO BE RENDERED."
- 3. SCOPE OF SERVICES:** Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the services included in Consultant's proposal received by Client are adequate and sufficient for Client's intended purpose. Client shall communicate the provisions of this Agreement for Services to each and every third party to whom Client transmits any part of Consultant's work. Consultant shall have no duty or obligation to any third party greater than that set forth in Consultant's proposal, Client's acceptance thereof and this Agreement for Services. The ordering of work from Consultant, or the reliance on

any of Consultant's work, shall constitute acceptance of the terms of Consultant's proposal and this Agreement for Services, regardless of the terms of any subsequently issued document.

4. **CHANGE ORDERS:** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
5. **PAYMENT:** Client will pay Consultant for Services and expenses in accordance with the Contract Documents. If prices for Services are not specified in the Contract Documents, Consultant's current fee schedule in effect for the type of services performed shall control. Consultant will submit progress invoices to Client monthly and a final invoice upon completion of Services. Payment is due upon receipt of the invoice unless otherwise agreed to in writing prior to the submittal of the invoice. Invoices are past due 30 calendar days after the date of the invoice. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Client. The Client's obligation to pay under this Agreement is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or Client's successful completion of the Project. In addition, CONSULTANT reserves the right to suspend the performance of all services in any case where invoices remain unpaid more than sixty (60) days from the invoice date.
6. **STANDARD OF CARE:** Consultant and its agents, employees and subcontractors shall endeavor to perform the Services for Client with that degree of care and skill ordinarily exercised, under similar circumstances, by consultants practicing in the same discipline at the same time and location. In the event any portion of the Services fails to substantially comply with this standard of care obligation and Consultant is promptly notified in writing prior to one year after completion of such portion of the Services, Consultant will re-perform such portion of the Services, or if re-performance is impractical, Consultant will refund the amount of compensation paid to Consultant for such portion of the Services. CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
7. **LIMITATION OF LIABILITY:** Client agrees that Consultant's services will not subject Consultant's individual employees, officers or directors to any personal liability, and that notwithstanding any other provision of this agreement, Client agrees that its sole and exclusive remedy shall be to direct or assert any claim, demand, or suit only against Consultant. Statements made in Consultant's reports are opinions based upon engineering judgment and are not to be construed as representations of fact. Client and Consultant have evaluated the risks and rewards associated with this project, including Consultant's fee relative to the risks assumed, and agree to allocate certain of the associated risks. To the fullest extent permitted by law, Consultant's aggregate liability to Client, including that of Consultant's officers, directors, employees and agents, is limited to \$100,000, hereinafter referred to as LIMITATION OF LIABILITY. This LIMITATION OF LIABILITY applies to all lawsuits, claims or actions, whether identified as arising in tort, INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERROR OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY, contract, or other legal theory, including without limitation, Consultant's indemnity obligations to Client related to the Services provided in this Agreement and any continuation or extension of Consultant's Services.

By entering into this Agreement, Client acknowledges that this LIMITATION OF LIABILITY provision has been reviewed, understood and is a material part of this Agreement, and that Client has had an opportunity to seek legal advice regarding this provision.

8. **DISCLAIMER OF CONSEQUENTIAL DAMAGES:** In no event shall Consultant or Client be liable to the other for any special, indirect, incidental or consequential loss or damages, including, but not limited to, lost profits, damages for delay, or loss of use arising from or related to Services provided by Consultant.
9. **REPORTS:** In connection with the performance of the Services, Consultant shall deliver to Client reports, drawings, specifications, computer files, field data, notes, and other documents and instruments prepared by the Consultant reflecting Services provided and the results of such Services. All reports and written documents delivered to Client ("Instruments of Service") are instruments reflecting the Services provided by Consultant pursuant to this Agreement and are made available for Client's use subject to the limitations of this Agreement. Instruments of Service provided by Consultant to Client pursuant to this Agreement are provided for the exclusive use of Client, and with Client's permission, Client's contractors, designers and employees for the purpose and the Project described therein and are not to be used or relied upon by third parties or in connection with other projects. Subject to the permitted use of Client, and Client's agents, and employees, all Instruments of Service, other written documents, all original data gathered by Consultant and work papers produced by Consultant in the performance of or intrinsic to the Services included in the Services are, and shall remain, the sole and exclusive property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
10. **SAFETY:** Consultant is solely responsible for the safety and health of Consultant's employees. Consultant shall take necessary precautions for the safety of its employees. Consultant specifically disclaims any authority or responsibility for general job safety and for the safety of persons who are not employed by Consultant. Should Client, or third parties, be conducting activities on the Site, then each shall have responsibility for their own safety and compliance with applicable safety requirements.
11. **SAMPLES:** Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of tests and analysis. Upon written request, Consultant will retain samples for an agreed to duration and for a mutually acceptable storage charge. In the event that samples contain or may contain hazardous materials, Consultant shall, after completion of testing and at Client's expense, return such samples to Client or make samples available for disposal by Client's agent. Client recognizes and agrees that Consultant is acting as a bailee and at no time assumes title to said samples.
12. **HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring Consultant to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
13. **CLIENT OBLIGATIONS:**
- (a) Client warrants that all information provided to Consultant regarding the Project and Project location are complete and accurate to the best of Client's knowledge.
 - (b) Client agrees to furnish Consultant, its agents, employees, and subcontractors a right-of-entry and any authorizations needed for Consultant to enter onto the project site to perform the Services included in this Agreement.
 - (c) Client recognizes that the performance of the Services included in this Agreement may cause alteration or damage to the Site. Client acknowledges that some site disturbance is inherent in the work for which Consultant will not be responsible. Should Client not be owner of the property, then Client agrees to notify the owner of the aforementioned possibility of unavoidable alteration and damage and arrange for the repair of any alteration and damage.
 - (d) Client agrees to disclose the identity of all utilities serving the Project Site, the presence and accurate location of hidden or obscured man-made objects known to Client that may be in Consultant's work area and the nature and location of any known or suspected hazardous materials that may exist on the property.

(e) Our job site activities do not change any agreement between Client and any other party. Only Client has the right to reject or stop work of its contractors or agents. Our presence on site does not in any way guarantee the completion, quality or performance of the work by any other party retained by Client to provide field or construction/remediation services. We are not responsible for, and do not have control or charge of, the specific means, methods, techniques, sequences or procedures of construction or remediation selected by any contractor or agent of Client.

(f) Provide prompt written notice to CONSULTANT if CLIENT becomes aware of any fault or problem in the PROJECT, including any errors or omissions in CONSULTANT'S work.

14. **CERTIFICATIONS:** Client agrees not to require that Consultant execute any certification with regard to work performed, tested or observed under this Agreement unless: 1) Consultant believes that it has performed sufficient work to provide a sufficient basis to issue the certification; 2) Consultant believes that the work performed, tested or observed meets the criteria of the certification; and 3) Consultant has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Consultant is limited to an expression of professional opinion based upon the Services performed by the Consultant, and does not constitute a warranty or guarantee, either expressed or implied.
15. **FAILURE TO FOLLOW RECOMMENDATIONS:** The Client agrees that it would be unfair to hold the Consultant liable for problems that may occur if the Consultant's recommendations are not followed. Accordingly, the Client waives any claim against the Consultant, and agrees to indemnify, and hold harmless the Consultant from any claim or liability for injury or loss that results from failure to implement the Consultant's recommendations or from implementation of the Consultant's recommendations in a manner that is not in strict accordance with them.
16. **TERMINATION:**
For Convenience - Upon written notice, Client or Consultant may terminate the performance of any further Services included in this Agreement if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, Consultant shall stop work on all Services included in this Agreement and deliver any Instruments of Service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the dispatch or receipt of the termination notice. Upon Termination for Convenience, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

For Cause -In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, Consultant shall stop work on all Services included in this Agreement and deliver any instruments of service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the termination. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.
17. **UNFORESEEN CONDITIONS OR OCCURRENCES:** If, during the performance of Services ,any unforeseen hazardous substance, material, element or constituent or other unforeseen conditions or occurrences are encountered which, in Consultant's judgment, significantly affects or may affect the Services, the risk involved in providing the Services, or the recommended Scope of Services, Consultant will promptly notify Client. Subsequent to that notification, Consultant may: (a) If practicable, in Consultant's judgment and with approval of Client, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with Client to modify the Scope of Services and the estimate of charges to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated into this Agreement; or (c) Terminate the Services effective on the date of notification pursuant to the terms of TERMINATION FOR CONVENIENCE. Client is responsible for reporting any releases of hazardous substances to appropriate government agencies as required by law. Client acknowledges that Consultant also may have reporting obligations under controlling law and regulations. Client waives any claim against Consultant and will indemnify and hold Consultant harmless from any claim, injury or loss arising from the discovery of unforeseen hazardous substances.
18. **FORCE MAJEURE:** Consultant shall not be deemed to be in default of this Agreement to the extent that any delay or failure in the performance of the Scope of Work results from any causes beyond its reasonable control.

For this purpose, such acts or events shall include, but are not limited to, storms, floods, unusually severe weather, epidemics, civil disturbances, war, riot, strikes, lockouts or other industrial disturbances, and the inability within reasonable diligence to supply personnel, equipment, information or material to the Project. In the event that such acts or events occur, it is agreed that Consultant shall attempt to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit of the Services covered by this Agreement.

19. **INSURANCE:** Consultant shall maintain at its own expense, during the term of this Agreement, the following insurance: (1) Workers' Compensation providing statutory coverages required by the state where services are provided, (2) Employer's Liability with limits of \$1,000,000 each accident, (3) Commercial General Liability with limits of \$1,000,000 each occurrence / \$2,000,000 aggregate, (4) Commercial Automobile with limits of \$1,000,000 each accident, (5) Umbrella Excess Liability with limits of \$5,000,000 each occurrence and (6) Professional Liability with limits of \$5,000,000 each claim.
20. **INDEMNITY:** Client agrees to indemnify Consultant, its employees and subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees), which Consultant, its employees and subcontractors may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Client's negligence or willful misconduct. Consultant agrees to indemnify Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Client may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Client and Consultant shall, in the event of liability arising out of their joint negligence or willful misconduct indemnify each other in proportion to their relative degree of fault. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against Consultant, the Client and the party initiating such action shall pay to Consultant the costs and expenses incurred by Consultant to investigate, answer and defend it, including reasonable attorney's and witness fees and court costs to the extent that Consultant shall prevail in such suit.
21. **DISPUTE RESOLUTION:** Consultant may, in Consultant's sole discretion, pursue collection of past due invoices by litigation in a court of competent jurisdiction. Other than Consultant's collection of past due invoices, if a dispute arises out of or relates to this contract, or the breach thereof, the parties will attempt to settle the matter through amicable discussion. If no agreement can be reached, the parties agree to use non-binding mediation before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, reasonable costs and attorneys' fees will be awarded to the prevailing party. All questions as to the interpretation or enforceability of this Agreement shall be governed in accordance with the laws of the state where the project is located. In the event of any litigation involving this Agreement or the performance by the parties thereto, such actions shall be brought in a court of competent jurisdiction in the state where the project is located. Notwithstanding the foregoing, Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services.
22. **ASSIGNMENT AND SUBCONTRACTS:** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Consultant may subcontract for the Services of others without obtaining Client's consent if Consultant deems it necessary or desirable to have others perform Services.
23. **NO WAIVER:** No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.
24. **MISCELLANEOUS:** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state where project is located. This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and Agreements, whether written or oral, between the parties regarding same. No amendment or modification to this Agreement or any waiver of any provisions hereof shall be effective unless in writing, signed by both Parties. If any part of this subcontract is found to be unenforceable, then the parties' intent is to have such part rewritten to attain as close as possible the original intent of the unenforceable provision.

25. **TIME BAR:** Notwithstanding any applicable state statute of repose or statute of limitation, the Parties agree that all legal actions by either party against the other concerning this Agreement or the work performed in relation to this Agreement, will become barred two (2) years from the time the party knew or should have known of the claim, or two (2) years after completion of Consultant's services, whichever occurs earlier.
26. **NO DISCRIMINATION:** To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and the posting requirement under 29 CFR Part 471, appendix A to subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

CONSULTANT HEREBY ADVISES CLIENT THAT ITS PERFORMANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED ON CLIENT'S ASSENT TO THE TERMS AND CONDITIONS DETAILED HEREIN.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative.			
CLIENT:			
The Kleingers Group		S&ME, Inc.	
_____		_____	
BY:	_____	BY:	_____
	(Signature)		(Signature)
	_____		_____
	(Print Name / Title)		(Print Name / Title)
DATE:	_____	DATE:	_____
PROPOSAL NUMBER: 11-2000249A			

<u>Client's DIGITAL signature to be treated as original signature</u>			



Via email: nick.yeretzian@kleingers.com

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August 6, 2020

Mr. Nick Yeretzian, PE
The Kleingers Group
6219 Centre Park Drive
West Chester, Ohio 45069

Re: Proposal for Geotechnical Exploration
Tyler Avenue Detention Basin
Milford, Ohio
Geotechnology Proposal No. P037314.01

Dear Yeretzian:

In response to your request, Geotechnology, Inc. (Geotechnology) is pleased to submit this proposal to perform a geotechnical exploration for the proposed stormwater underground detention basin on a vacant lot between 634 and 644 Tyler Avenue in Milford, Ohio. We have prepared this proposal based on our review of your August 3, 2020 request for proposal (RFP) email, a review of our archival geotechnical data, and our experience as geotechnical engineers in the Greater Cincinnati area.

Our scope of services will assist The Kleingers Group (Kleingers) in evaluating the feasibility of stormwater infiltration into the subsurface soils surrounding the underground detention basin by exploring the subsurface soils and evaluating their permeability in order to accept infiltrating water. Based on our archival geotechnical data from surrounding job sites, surficial fine-grained alluvial deposits vary from 3 to 15 feet thick and overlie typically coarser-grained sand and gravels. However, occasional fine-grained alluvial deposits are interlayered with the coarser-grained deposits. With the residential houses along the referenced streets, the presence of impermeable layers (such as clays or even relatively low permeability silts) may retard the infiltration of stormwater, causing water to accumulate around below-grade portions of the existing houses. Our exploration services would aid in identifying such layers.

1.0 PROJECT INFORMATION

Our understanding of the project characteristics was derived from the following information:

- The preliminary site plan, which was titled "Tyler Avenue Drainage, Existing Condition", prepared by Kleingers and received electronically on August 3, 2020; and
- Correspondence with you.



We understand that this project involves improving the storm sewer system by installing an underground detention basin on a vacant lot between the referenced addresses with the bottom of the basin below the basements of the houses on the adjacent properties (estimated at 8 to 10 feet below existing grade).

2.0 SCOPE OF SERVICES

The purposes of our services are to explore the subsurface conditions and to provide geotechnical recommendations for the design and construction of the project. Geotechnology proposes the following scope of services for the geotechnical exploration:

- Perform a site reconnaissance.
- Drill two borings, as requested by Kleingers. We have selected 20-foot-deep borings to extend at least 10 feet below the basement floor elevations of the nearby houses to evaluate the presence of impermeable layers that may retard infiltration causing water to accumulate around the nearby houses. In each boring, soil will be obtained by split-spoon sampling methods at regular intervals.
- Install a 2-inch PVC piezometer in each of the borings.
 - In one of the borings, the piezometer will extend down to a depth of 20 feet below grade in order to measure the groundwater levels within the upper 20 feet of the subsurface profile. A 5-foot-long screen will be placed at that bottom of the piezometer in this borehole.
 - In the second boring, a piezometer will be installed to a depth of approximately 10 feet and will be used to perform a falling head infiltration test near the bottom of the proposed underground detention basin. The lower 8 feet of this borehole will be backfill with bentonite chips in order to isolate the infiltrating water to the area where the detention basin would be discharging. Above the 8 feet of bentonite, the borehole will be backfilled with 2 feet of sand before installing the piezometer pipe. A 5-foot-long screen will be placed at that bottom of the piezometer followed by a solid riser pipe to the ground surface. Sand/gravel backfill will be placed around the piezometer pipe to approximately 2 feet below the ground surface. A bentonite seal will be provided above the sand/gravel backfill. During the infiltration test, the pipe will be filled with water, and the drop in water level will be measured with time.
 - Flush mount covers with bolt-down lids will be provided at the ground surface at both piezometers to allow for future readings, if desired. Our scope of services includes reading the piezometers upon installation and approximately 2 weeks after installation. We may be retained to read the groundwater in the piezometer additional times under a separate scope of services.



- It should be noted that reading the piezometers over a 2-week timeframe will not likely produce the seasonal high-water level, particularly if the exploration is completed in the late summer/fall months, which are historically drier and expected to have lower groundwater levels. To have a better representation of the seasonal high-water level, the piezometers should be read multiple times over at least a 12-month timeframe. Since our scope involves installing piezometers, groundwater level measurements will be able to be repeated in the future to better define the seasonal high-water level, and measurements before and after installation of the underground detention basin could be used to assess the impact that infiltration from the basin may have on the groundwater level.
- Perform particle-size analysis tests on selected soil samples.
- Prepare a report that summarizes the results of the borings (including the presence and depths of relatively impermeable layers, where encountered), field infiltration test, laboratory tests, and our interpretation of the soil permeability from the field infiltration test, and that provides geotechnical design and construction recommendations for the underground detention basin.
- Distribute the report in pdf format to Kleingers.

Our scope will also include the following auxiliary services to support the primary geotechnical services described previously:

- Staking and approximately locating the borings in the field by tape measurements from existing physical features. Ground surface elevations will be approximated from a topographic plan to be provided by the Client.
- Contacting Ohio Utilities Protection Services in order for member utility companies to locate public utilities within the proximity of the borings prior to drilling. **We note that it is common for member utility companies to decline locating public utilities on private properties, and that member utility companies will not locate any private utilities. If such utilities are present (i.e., private utilities or public utilities that will not be marked by member utility companies), these utilities must be located by others prior to drilling; the locating of these utilities is not included in our scope of services. At your request, we can subcontract with a private underground utility locating company to provide these services for an additional fee.**

Our scope of services does not include any environmental assessment, investigation, or study for the presence or absence of wetlands or hazardous or toxic materials in the soil, bedrock, surface water, groundwater, or air, on or below or around the site. However, we can provide environmental services if needed for this project. Please advise if you prefer that we either revise this proposal or prepare a separate proposal to include environmental services.



A copy of "Important Information about This Geotechnical Engineering Proposal" that is published by the Geoprofessional Business Association (GBA) is enclosed for your review.

2.1 Site Access and Restoration

Any restrictions or requirements imposed by governmental agencies or others with regard to site clearing, access limitation, utility clearance, or restoration are considered beyond our scope of services. Drill rig access to boring locations in unpaved areas may leave ruts in the soil or grass. Our scope does not include restoration of ruts or other disturbance caused by the drill rig. We will spread the auger cuttings out around each of the boreholes.

2.2 Anticipated Subsurface Conditions

The budgeted linear footage of drilling and sampling is based on an anticipated subsurface profile of intermittent fill soils beneath the ground surface followed by finer-grained alluvial soils followed by coarser-grained alluvial soils. Our archival boring information in the proximity of the site indicates that the finer- and coarser-grained alluvial soils may be interlayered. In the event that unusual or erratic subsurface conditions are encountered, we will contact you to discuss our recommended changes prior to expanding the scope of services.

3.0 SCHEDULE AND FEE

With our present work schedule, drilling could commence within three to four weeks after receipt of authorization to proceed and after the boring locations are staked in the field, weather and site conditions permitting. Normally an allowance of three weeks following completion of fieldwork is allotted for submittal of the geotechnical exploration report.

Our services are offered in accordance with the accompanying Terms for Geotechnology's Services (Terms). The cost of our services will be a lump sum fee of **Six Thousand Nine Hundred Dollars (\$6,900.00)**. If this work is authorized simultaneously such that the field work can be completed concurrently with the geotechnical exploration for the infiltration trenches on Laurel, Oak, and Hickory Streets, a **\$1,050 deduct** may be applied to the combined lump sum fees (refer to Proposal P037313.01).

This proposal and fee estimate have been prepared using Geotechnology's standard fee schedule and with the assumption that Geotechnology's Terms will be used as the contract mechanism. Geotechnology reserves the right to revise this proposal and increase our fee estimate, at any time, if our Terms are not used or if any flow down and/or contract provisions are required by Client or Owner to conform with any local, state or federal wage act requirements, including but not limited to the Davis Bacon Act, as Amended, the McNamara-O'Hara Service Contract Act, etc., the required use of union labor, or for any required safety, security, vehicle, drug and alcohol testing, or any third party payment fees, or other requirements not specified in the Client's request for proposal or not defined in Geotechnology's scope of services.



4.0 ACCEPTANCE

If this proposal, including the contractual terms, is acceptable, please sign in the space provided on the following Terms and return one executed copy of the Terms and this proposal to our office as your authorization for us to proceed.

* * * * *

We appreciate the opportunity to submit this proposal for the referenced project and look forward to hearing from you soon. If you have any questions or comments concerning this proposal, or if we may be of any other service to you, please do not hesitate to contact us.

Respectfully submitted,
GEOTECHNOLOGY, INC.

Joseph D. Hauber, PE
Geotechnical Manager

JDH/LJC:jdh

Enclosures: GBA's Important Information about This Geotechnical Engineering Proposal

TERMS FOR GEOTECHNOLOGY'S SERVICES

1. THE AGREEMENT

- a. This AGREEMENT is made by and between: **Geotechnology, Inc.**, hereinafter referred to as **GEOTECHNOLOGY**, and **The Kleingers Group**, hereinafter referred to as **CLIENT**.
- b. The AGREEMENT between the parties consists of these TERMS, the PROPOSAL identified as Proposal No. **P037314.01**, dated **August 6, 2020**, and any exhibits or attachments noted in the PROPOSAL. In the event of a conflict between the TERMS and the PROPOSAL, the provisions of the TERMS shall govern unless the PROPOSAL specifically indicates that it is to govern. Together, these elements will constitute the entire AGREEMENT superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this AGREEMENT must be mutually agreed to in writing.
- c. This proposal is valid for 90 days from **August 6, 2020**.
- d. The technical pricing information contained in this PROPOSAL submitted by **GEOTECHNOLOGY** is to be considered confidential and proprietary and shall not be released or otherwise made available to any third party without the express written consent of **GEOTECHNOLOGY**.
- e. It is intended by the parties to this AGREEMENT that **GEOTECHNOLOGY'S** services in connection with the project shall not subject **GEOTECHNOLOGY'S** individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, **CLIENT** agrees that as the **CLIENT'S** sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against **GEOTECHNOLOGY**, a Missouri corporation, and **CLIENT** expressly waives **CLIENT'S** rights against any of **GEOTECHNOLOGY'S** employees, officers or directors.

2. STANDARD OF CARE

- a. **CLIENT** recognizes that conditions may vary from those observed at locations where borings, surveys, observations, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by **GEOTECHNOLOGY** will be based solely on information available to **GEOTECHNOLOGY**. **GEOTECHNOLOGY** is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.
- b. **GEOTECHNOLOGY** offers different levels of services to suit the desires and needs of different clients. Although the possibility of error can never be eliminated, more detailed and extensive services yield more information and reduce the probability of error, but at increased cost. **CLIENT** has reviewed the scope of services and has determined that it does not need or want a greater level of service than that being provided.
- c. The standard of care for all professional engineering and related services performed under this AGREEMENT will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. **GEOTECHNOLOGY** makes no warranties, express or implied, under this AGREEMENT or otherwise, in connection with any services performed or furnished by **GEOTECHNOLOGY**.

3. SITE ACCESS AND SITE CONDITIONS

- a. **CLIENT** will grant or obtain free access to the site for all equipment and personnel necessary for **GEOTECHNOLOGY** to perform the services set forth in this AGREEMENT. **CLIENT** will notify any and all possessors of the project site that **CLIENT** has granted **GEOTECHNOLOGY** free access to the site. **GEOTECHNOLOGY** will take reasonable precautions to reduce damage to the site, but it is understood by **CLIENT** that, in the normal course of the services, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.
- b. Unless indicated otherwise in the PROPOSAL, **CLIENT** is responsible for accurately delineating the locations of all subterranean structures and utilities. **GEOTECHNOLOGY** will take reasonable precautions to avoid known subterranean structures, and **CLIENT** waives any claim against **GEOTECHNOLOGY** arising from damage done to subterranean structures and utilities not identified or accurately located.

4. CHANGED CONDITIONS

- a. If, during the course of performance of this AGREEMENT, conditions or circumstances are discovered which were not contemplated by **GEOTECHNOLOGY** at the commencement of this AGREEMENT, **GEOTECHNOLOGY** shall notify **CLIENT** in writing of the newly discovered conditions or circumstances, and **CLIENT** and **GEOTECHNOLOGY** shall renegotiate, in good faith, the terms and conditions of this AGREEMENT.

5. SAMPLES AND CUTTINGS

- a. **GEOTECHNOLOGY** will dispose of soil and rock samples ninety (90) days after submittal of the report covering those samples. Further storage or transfer of samples can be made at **CLIENT'S** expense upon **CLIENT'S** prior written request.
- b. Cuttings, rinse water, well development and other wastes will be left on site and are **CLIENT'S** responsibility to dispose unless specifically addressed in the PROPOSAL.
- c. **Client** shall take custody of all monitoring wells, probe holes and borings installed by **GEOTECHNOLOGY** and shall take any and all necessary steps for the proper maintenance, repair or closure for such wells, probes, or borings at **CLIENT'S** expense.

6. OBSERVATION

- a. **CLIENT** recognizes that unanticipated or changed conditions may be encountered during construction and, principally for this reason, **CLIENT** shall retain **GEOTECHNOLOGY** to observe construction when **GEOTECHNOLOGY** has provided engineering services. **CLIENT** understands that construction observation is conducted to reduce – not eliminate – the risk of problems arising during construction and that provision of the service does not create a warranty or guarantee of any type. In all cases, contractors shall retain responsibility for the quality and completeness of their work and for adhering to the plans, specifications, and recommendations on which their work is based. Should **GEOTECHNOLOGY** for any reason not provide construction observation during the implementation of **GEOTECHNOLOGY'S** plans, specifications, and recommendations, or should **CLIENT** restrict **GEOTECHNOLOGY'S** assignment of observation personnel, **CLIENT** shall, to the fullest extent permitted by law, waive any claim against **GEOTECHNOLOGY**, and indemnify, defend, and hold **GEOTECHNOLOGY** harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans, or specifications developed by **GEOTECHNOLOGY**.
- b. If **GEOTECHNOLOGY** is retained by **CLIENT** to provide a site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the PROPOSAL, then this paragraph applies. For the specified assignment, **GEOTECHNOLOGY** will report observations and professional opinions to **CLIENT**. No action of **GEOTECHNOLOGY'S** site representative can be construed as altering any AGREEMENT between **CLIENT** and others. **GEOTECHNOLOGY** will report to **CLIENT** observed conditions related to services for which **GEOTECHNOLOGY** has been retained to perform which, in **GEOTECHNOLOGY'S** professional opinion, do not conform with plans and specifications. **GEOTECHNOLOGY** has no right to reject or

stop work of any agent of the CLIENT. Such rights are reserved solely for CLIENT. Furthermore, GEOTECHNOLOGY's presence on site does not in any way guarantee the completion or quality of the work of any party retained by CLIENT to provide field or construction-related services.

- c. GEOTECHNOLOGY shall not be required to sign any document, no matter by whom requested, that would result in GEOTECHNOLOGY having to certify, guarantee, or warrant the existence of conditions whose existence GEOTECHNOLOGY cannot ascertain. CLIENT agrees not to make resolution of any dispute with GEOTECHNOLOGY or payment of any amount due to GEOTECHNOLOGY in any way contingent upon GEOTECHNOLOGY signing any such document.
- d. The use of the word "certify" or "certification" by a registered professional engineer in the practice of professional engineering constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either express or implied. The definition and legal effect of any and all certifications shall be limited as stated herein.
- e. GEOTECHNOLOGY will strive to perform its construction materials testing services under this AGREEMENT in accordance with generally accepted testing procedures unless other procedures are specifically referenced in the text of the Project plans and/or specifications.
- f. GEOTECHNOLOGY will provide materials testing for samples specified by CLIENT or at a frequency specified by CLIENT and/or will collect samples for materials testing or conduct materials testing when contacted by the CLIENT. GEOTECHNOLOGY will provide foundation testing and/or television camera inspections on drilled shafts or piles constructed by and at a frequency specified by CLIENT. Engineering evaluation of the suitability of the number or types of samples is not provided by GEOTECHNOLOGY.
- g. Construction materials tests performed by GEOTECHNOLOGY on site are taken intermittently and indicate the general acceptability of materials on a statistical basis. GEOTECHNOLOGY'S tests and observation of materials are not a guarantee of the quality of other parties' work and do not relieve other parties from the responsibility to perform their work in accordance with applicable plans, specifications and requirements.

7. JOBSITE

- a. Unless specifically set forth in the PROPOSAL, GEOTECHNOLOGY will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any other person or entity, or safety precautions and programs incident thereto. GEOTECHNOLOGY shall be responsible only for its activities and that of its employees on any site. Neither the professional activities nor the presence of GEOTECHNOLOGY or its employees or its subcontractors on a site shall imply that GEOTECHNOLOGY controls the operations of others, nor shall this be construed to be acceptance by GEOTECHNOLOGY of any responsibility for jobsite safety.
- b. Unless indicated otherwise in the PROPOSAL, GEOTECHNOLOGY'S services under this AGREEMENT are limited to geotechnical engineering, geophysical surveying, drilling, construction materials testing or deep foundation testing and GEOTECHNOLOGY shall have no responsibility to locate, identify, evaluate, treat or otherwise consider or deal with hazardous materials.
- c. CLIENT represents that CLIENT has made a reasonable effort to evaluate if hazardous materials are on or near the project site, and that CLIENT has informed GEOTECHNOLOGY of CLIENT's findings relative to the possible presence of such materials.
- d. Hazardous materials may exist at a site where there is no reason to believe they could or should be present. GEOTECHNOLOGY and CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. GEOTECHNOLOGY and CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for GEOTECHNOLOGY to take immediate measures to protect health and safety. CLIENT agrees to compensate GEOTECHNOLOGY for measures taken to protect health and safety and/or any equipment decontamination or other costs incidental to the discovery of unanticipated hazardous materials.
- e. GEOTECHNOLOGY agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold GEOTECHNOLOGY harmless for any and all consequences of disclosures made by GEOTECHNOLOGY, which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is CLIENT's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.
- f. CLIENT will be responsible for ultimate disposal of any samples secured by GEOTECHNOLOGY, which are found to be contaminated.

8. BILLING AND PAYMENT

- a. CLIENT will pay GEOTECHNOLOGY in accordance with the procedures indicated in the PROPOSAL and its attachments. Invoices will be submitted to CLIENT by GEOTECHNOLOGY, and will be due and payable upon presentation. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify GEOTECHNOLOGY in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The absence of written notification described above, shall constitute an unqualified acceptance of the invoice amount due and payable, and waiver by CLIENT of all claims with respect thereto.
- b. CLIENT recognizes that late payment of invoices results in extra expenses for GEOTECHNOLOGY. GEOTECHNOLOGY retains the right to assess CLIENT interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of GEOTECHNOLOGY'S invoices are not paid when due, GEOTECHNOLOGY reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this AGREEMENT until all past due amounts have been paid in full.
- c. If test results that indicate failure of a material to meet the intended specification require retesting of the material after additional work by parties responsible for that material, the cost of retesting will be invoiced to the CLIENT.
- d. GEOTECHNOLOGY may elect to adjust its rates under this AGREEMENT to account for changes in overhead rates and salary adjustments no sooner than one year from the date of this AGREEMENT, and no more often than once per year at the end of each subsequent year.

9. TERMINATION

- a. This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by the other party, or if CLIENT suspends the work for more than three (3) months. Both parties shall have the opportunity to initiate a mutually agreeable remedy for failure of performance within fifteen (15) days after notice of termination. In the event of termination, GEOTECHNOLOGY will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to the cost of cleanup, demobilization, completing analyses, records, and reports necessary to document job status at the time of termination.

10. ALLOCATION OF RISK

10.1 LIMITATION OF LIABILITY

- a. GEOTECHNOLOGY and CLIENT have evaluated the risks and rewards associated with this project, including GEOTECHNOLOGY'S fee relative to the risks assumed, and agree to allocate certain of the risks, so, to the fullest extent permitted by law, the total aggregate liability of GEOTECHNOLOGY to CLIENT and third parties granted reliance is limited to the greater of \$50,000 or GEOTECHNOLOGY'S fee, for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of GEOTECHNOLOGY'S services or this agreement regardless of cause or causes. Such causes include, but are not limited to, GEOTECHNOLOGY'S negligence, errors, omissions, strict liability, statutory liability, negligent misrepresentation, breach of contract, breach of warranty, or other acts giving rise to liability based on contract, tort or statute. If CLIENT prefers to have higher limits of liability coverage, GEOTECHNOLOGY agrees, upon receipt of CLIENT'S written request at the time of accepting our PROPOSAL, to increase the limits of liability up to a maximum of \$1,000,000.00 at an additional cost of 5 percent of our total fee or \$1,000.00, whichever is greater.
- b. Neither party shall have any liability to the other party for loss of product, loss of profit, loss of use, or any other indirect, incidental, special or consequential damages incurred by the other party.

10.2 INDEMNIFICATION

- a. Subject to the provisions of the Limitation of Liability described in 10.1a. above, CLIENT and GEOTECHNOLOGY each agree to indemnify and hold harmless the other party and the other party's officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are legally determined to be caused by a negligent act, error, or omission of the indemnifying party or any of the indemnifying party's officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this AGREEMENT. If claims, losses, damages, and judgments are legally determined to be caused by the joint or concurrent negligence of CLIENT and GEOTECHNOLOGY, they shall be borne by each party in proportion to its negligence.
- b. CLIENT shall indemnify and hold harmless GEOTECHNOLOGY, its agents, subcontractors, directors, officers, and employees, from and against any and all claims, suits, liability, damages, injunctive or equitable relief, expenses, including reasonable attorney's fees or other loss arising from damage to subterranean structures or utilities which were not identified or located by CLIENT to GEOTECHNOLOGY in advance of our work or the discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any costs associated with possible reduction of the property's value.
- c. For the purposes of this AGREEMENT only, and except as provided under Paragraph 10.2 (a) above regarding the negligent performance of GEOTECHNOLOGY, CLIENT shall reimburse GEOTECHNOLOGY for or otherwise indemnify, defend, and save GEOTECHNOLOGY, its agents, subcontractors, directors, officers and employees harmless from any and all demands, suits, judgment, expenses, attorney's fees, and losses arising out of or in connection with bodily injury (including death) to persons or damage to property which may arise from the presence or origination of hazardous substances, pollutants, or contaminants on CLIENT'S property, irrespective of whether such materials were generated or introduced before or after execution of this AGREEMENT; provided, however, that nothing hereinabove set forth is intended to shift any responsibility for employee claims that the parties may bear under the Worker's Compensation laws of the state in which the work is to be performed.
- d. GEOTECHNOLOGY shall under no circumstances be considered the generator of any hazardous substances, pollutants, or contaminants encountered or handled in the performance of the work. Without contradiction of any assertion by CLIENT or third party liability as described in Paragraph 10.2 (b) above and for the purposes of this AGREEMENT only, it is agreed that any hazardous materials, pollutants, or contaminants generated or encountered in the performance of the work shall be the responsibility of CLIENT.

11. CONTINUING AGREEMENT

- a. The indemnity obligations and limitations of liabilities established throughout this AGREEMENT, regardless of paragraph number, shall survive the assignment, transfer, expiration or termination of this AGREEMENT.

12. PREVAILING WAGE AND UNION MEMBERSHIP

- a. Unless CLIENT specifically informs GEOTECHNOLOGY in writing or it is specifically identified in our PROPOSAL and/or WORK AUTHORIZATION that prevailing wage regulations or union membership are required for the Project and the Scope of Services identifies it as covered, CLIENT will reimburse, defend, indemnify and hold harmless GEOTECHNOLOGY from and against any liability resulting from a subsequent determination that prevailing wage regulations or union membership cover the Project, including all additional costs, fines and attorneys' fees.

13. THIRD PARTY RELIANCE UPON REPORTS

- a. All Documents are prepared solely for use by CLIENT (and Owner, if applicable) and shall not be provided to any other person or entity without GEOTECHNOLOGY'S written consent. CLIENT shall defend, indemnify and hold harmless GEOTECHNOLOGY, its officers, shareholders and employees, from and against any action or proceeding brought by any person or entity claiming to rely upon information or opinions contained in reports or other documents provided to such person or entity, published, disclosed or referred to without GEOTECHNOLOGY'S written consent.

14. NON-SOLICITATION OF EMPLOYEES

- a. CLIENT recognizes that GEOTECHNOLOGY, as a part of the services covered by this AGREEMENT, may provide one or more of its employees to work with members of CLIENT'S project staff or specifically on a CLIENT'S project. For purposes of this AGREEMENT, an employee of GEOTECHNOLOGY may be a permanent or temporary employee assigned to provide services to CLIENT. CLIENT hereby agrees that CLIENT will not hire, either directly or indirectly, or provide inducement to hire an employee of GEOTECHNOLOGY either as an employee of CLIENT or as an employee of a subcontractor or supplier to CLIENT, such suppliers to include providers of contract labor, during the term of this AGREEMENT and for a period of six months after the termination of this AGREEMENT. Any hiring or inducement to hire any GEOTECHNOLOGY employee during the term of this AGREEMENT and for a period of six months after termination of this AGREEMENT will be subject to a fee equal to 25% of the total fee for services generated by that employee during a nominal 12-month period.

15. DISPUTES RESOLUTION

- a. All claims, disputes, and other matters in controversy between GEOTECHNOLOGY and CLIENT arising out of or in any way related to this AGREEMENT will be submitted to mediation as a condition precedent to litigation. Notwithstanding any other provision of the Agreement, unless prohibited by law, GEOTECHNOLOGY shall have, in addition to any other right or option set forth herein, the right to proceed in creating a lien upon the building or other

improvements and upon the real estate on which the building or improvements are situated for the work and labor done and the labor and materials furnished on and to said real estate and to enforce its mechanic's lien pursuant to all rights and remedies available to it under law.

- b. If a dispute at law arises from matters related to the services provided under this AGREEMENT and that dispute requires litigation, then:
- (1) the claim will be brought and tried in St. Louis County, Missouri and CLIENT waives the right to move the action to any other county or judicial jurisdiction, and
 - (2) the prevailing party in any arbitration or litigation between GEOTECHNOLOGY and CLIENT shall be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, expert witness costs, and other claim related expenses. For purposes of this paragraph, a party prevails if (i) the judgment is equal to or in excess of the Plaintiff's last written demand for settlement, the Plaintiff shall also be entitled to recover its costs, expenses and reasonable attorney's fees from Defendant; (ii) the judgment is equal to or less than the Defendant's last written offer of settlement, the Defendant shall be entitled to recover its costs, expenses and reasonable attorney's fees from the Plaintiff; (iii) the judgment is in between the Plaintiff's last written demand for settlement and the Defendant's last offer of settlement, then neither party shall recover any of its costs, expenses or attorney's fees from the other.

16. GOVERNING LAW AND SURVIVAL

- a. The law of the State of Missouri will govern the validity of these TERMS, their interpretation and performance.
- b. If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired.

17. SUCCESSORS AND ASSIGNS

- a. This AGREEMENT shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Neither party may assign its interests herein (unless assignee assumes in writing assignor's obligations hereunder) without the prior written consent of the other party, which consent will not be unreasonably withheld. No assignment shall operate to relieve the assignor of its obligations under the AGREEMENT.

18. OTHER PROVISIONS

- a. It is agreed that this AGREEMENT is entered into by the parties for the sole benefit of the parties to the AGREEMENT, and that nothing in the AGREEMENT shall be construed to create a right or benefit for any third party.
- b. Neither party shall hold the other responsible for damages or delay in performance caused by weather and other acts of God, strikes, lockouts, accidents, or other events beyond the reasonable control of the other or the other's employees and agents.
- c. The titles used in this AGREEMENT are for general reference only and are not part of the AGREEMENT.

19. FUTURE SERVICES

- a. All future services rendered by GEOTECHNOLOGY at CLIENT'S request for the project described in the PROPOSAL and/or WORK AUTHORIZATION shall be conducted under the terms of this AGREEMENT.

20. SIGNATURES

- a. The parties have read the foregoing, including any attachments thereto, understand completely the terms, and willingly enter into this AGREEMENT that will become effective on the date signed below by CLIENT.

THE KLEINGERS GROUP

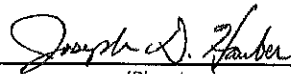
(Signature)

(Printed Name)

(Position)

(Date)

GEOTECHNOLOGY, INC.



(Signature)

Joseph D. Hauber, PE
(Printed Name)

Geotechnical Manager
(Position)

August 6, 2020
(Date)

Important Information about This Geotechnical Engineering Proposal

Subsurface problems are a principal cause of construction delays, cost overruns, claims, and disputes.

While you cannot eliminate all such risks, you can manage them. The following information is provided to help.

Participate in Development of the Subsurface Exploration Plan

Geotechnical engineering begins with the creation of an effective subsurface exploration plan. This proposal starts the process by presenting an initial plan. While that plan may consider the unique physical attributes of the site and the improvements you have in mind, it probably does not consider your unique goals, objectives, and risk management preferences. Subsurface exploration plans that are finalized without considering such factors presuppose that clients' needs are unimportant, or that all clients have the same needs. *Avoid the problems that can stem from such assumptions* by finalizing the plan and other scope elements directly with the geotechnical engineer you feel is best qualified for the project, along with the other project professionals whose plans are affected by the geotechnical engineer's findings and recommendations. If you have been told that this step is unnecessary; that client preferences do not influence the scope of geotechnical engineering service or that someone else can articulate your needs as well as you, you have been told wrong. No one else can discuss your geotechnical options better than an experienced geotechnical engineer, and no one else can provide the input you can. Thus, while you certainly are at liberty to accept a proposed scope "as is," recognize that it could be a unilateral scope developed without direct client/engineer discussion; that authorizing a unilateral scope will force the geotechnical engineer to accept all assumptions it contains; that assumptions create risk. *Manage your risk. Get involved.*

Expect the Unexpected

The nature of geotechnical engineering is such that planning needs to *anticipate the unexpected*. During the design phase of a project, more or deeper borings may be required, additional tests may become necessary, or someone associated with your organization may request a service that was not included in the final scope. During the construction phase, additional services may be needed to respond quickly to unanticipated conditions. In the past, geotechnical engineers commonly did whatever was required to oblige their clients' representatives and safeguard their clients' interests, taking it on faith that their clients wanted them to do so. But some, evidently, did not, and refused to pay for legitimate extras on the ground that the engineer proceeded without proper authorization, or failed to submit notice in a timely manner, or failed to provide proper documentation. *What are your preferences? Who is permitted to authorize additional geotechnical services on your project? What type of documentation do you require? To whom should it be sent? When? How?* By addressing these and similar issues sooner rather than later, you and your geotechnical engineer will be prepared for the unexpected, to help prevent molehills from growing into mountains.

Have Realistic Expectations; Apply Appropriate Preventives

The recommendations included in a geotechnical engineering report are *not final*, because they are based on opinions that can be verified only during construction. For that reason, most geotechnical engineering proposals offer the construction observation services that permit the geotechnical engineer of record to confirm that subsurface conditions are what they were expected to be, or to modify recommendations when actual conditions were not anticipated. *An offer to provide construction observation*

is an offer to better manage your risk. Clients who do not take advantage of such an offer; clients who retain a second firm to observe construction, can create a high-risk "Catch-22" situation for themselves. *The geotechnical engineer of record cannot assume responsibility or liability for a report's recommendations when another firm performs the services needed to evaluate the recommendations' adequacy.* The second firm is also likely to disavow liability for the recommendations, because of the substantial and possibly uninsurable risk of assuming responsibility for services it did not perform. Recognize, too, that no firm other than the geotechnical engineer of record can possibly have as intimate an understanding of your project's geotechnical issues. As such, reliance on a second firm to perform construction observation can elevate risk still more, because its personnel may not have the wherewithal to recognize subtle, but sometimes critically important unanticipated conditions, or to respond to them in a manner consistent with your goals, objectives, and risk management preferences.

Realize That Geoenvironmental Issues Have Not Been Covered

The equipment, techniques, and personnel used to perform a geoenvironmental study differ significantly from those used to perform a geotechnical study. *Geoenvironmental services are not being offered in this proposal. The report that results will not relate any geoenvironmental findings, conclusions, or recommendations.* Unanticipated environmental problems have led to numerous project failures. If you have not yet obtained your own geoenvironmental information, ask your geotechnical consultant for risk management guidance. *Do not rely on an environmental report prepared for someone else.*

Obtain Professional Assistance To Deal with Mold

Diverse strategies can be applied during building design, construction, operation, and maintenance to prevent significant amounts of mold from growing on indoor surfaces. To be effective, all such strategies should be devised for the express purpose of mold prevention, integrated into a comprehensive plan, and executed with diligent oversight by a professional mold prevention consultant. Because just a small amount of water or moisture can lead to the development of severe mold infestations, a number of mold prevention strategies focus on keeping building surfaces dry. While groundwater, water infiltration, and similar issues may be addressed as part of the geotechnical engineering study described in this proposal, the geotechnical engineer who would lead this project *is not* a mold prevention consultant; *none of the services being offered have been designed or proposed for the purpose of mold prevention.*

Have the Geotechnical Engineer Work with Other Design Professionals and Constructors

Other design team members' misinterpretation of a geotechnical engineering report has resulted in costly problems. Manage that risk by having your geotechnical engineer confer with appropriate members of the design team before finalizing the scope of geotechnical service (as suggested above), and, again, after submitting the report. *Also retain your geotechnical engineer to review pertinent elements of the design team members' plans and specifications.*

Reduce the risk of unanticipated conditions claims that can occur when constructors misinterpret or misunderstand the purposes of a geotechnical engineering report. Use appropriate language in your contract documents. Retain your geotechnical engineer to participate in prebid and preconstruction conferences, and to perform construction observation.

Read Responsibility Provisions Closely

Clients, design professionals, and constructors who do not recognize that geotechnical engineering is far less exact than other engineering disciplines can develop unrealistic expectations. Unrealistic expectations can lead to disappointments, claims, and disputes. To help reduce the risk of such outcomes, geotechnical engineers commonly include a variety of explanatory provisions in their proposals. Sometimes labeled "limitations," many of these provisions indicate where geotechnical engineers' responsibilities begin and end, to help others recognize their own responsibilities and risks, thus to encourage more effective scopes of service. *Read this proposal's provisions closely.* Ask questions. Your geotechnical engineer should respond fully and frankly.

Rely on Your Geotechnical Engineer for Additional Assistance

Membership in the Geoprofessional Business Association (GBA) exposes geotechnical engineers to a wide array of risk management techniques that can be of genuine benefit to everyone involved with a construction project. Confer with a GBA-member geotechnical engineer for more information. Confirm a firm's membership in GBA by contacting GBA directly or at its website.



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Via email: nick.yeretzian@kleingers.com

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August 6, 2020

Mr. Nick Yeretzian, PE
The Kleingers Group
6219 Centre Park Drive
West Chester, Ohio 45069

Re: Proposal for Geotechnical Exploration
Laurel Street - Infiltration Trenches
Milford, Ohio
Geotechnology Proposal No. P037313.01

Dear Yeretzian:

In response to your request, Geotechnology, Inc. (Geotechnology) is pleased to submit this proposal to perform a geotechnical exploration for the proposed stormwater infiltration trenches along Laurel, Oak, and Hickory Streets in Milford, Ohio. We have prepared this proposal based on our review of your August 3, 2020 request for proposal (RFP) email, a review of our archival geotechnical data, and our experience as geotechnical engineers in the Greater Cincinnati area.

Our scope of services will assist The Kleingers Group (Kleingers) in evaluating the feasibility of infiltration trenches by exploring the subsurface soils and evaluating their permeability in order to accept infiltrating water. Based on our archival geotechnical data from surrounding job sites, surficial fine-grained alluvial deposits vary from 3 to 15 feet thick and overlie typically coarser-grained sand and gravels. However, occasional fine-grained alluvial deposits are interlayered with the coarser-grained deposits. With the residential houses along the referenced streets, the presence of impermeable layers (such as clays or even relatively low permeability silts) may retard the infiltration of stormwater, causing water to accumulate around below-grade portions of the existing houses. Our exploration services would aid in identifying such layers.

1.0 PROJECT INFORMATION

Our understanding of the project characteristics was derived from the following information:

- The preliminary site plan, which was titled "Cleveland Avenue & Laurel Street Drainage, Drainage Option", prepared by Kleingers and received electronically on August 3, 2020; and
- Correspondence with you.



We understand that this project involves improving the storm sewer system by installing infiltration trenches along the referenced streets (as shown on the preliminary site plan) with the bottoms of the trenches extending 3 to 4 feet below existing pavement grades.

2.0 SCOPE OF SERVICES

The purposes of our services are to explore the subsurface conditions and to provide geotechnical recommendations for the design and construction of the project. Geotechnology proposes the following scope of services for the geotechnical exploration:

- Perform a site reconnaissance.
- Drill three borings, as requested by Kleingers. While the infiltration trenches are only preliminarily scheduled to extend 3 to 4 feet below grade, we have selected 20-foot-deep borings to extend at least 10 feet below the basement floor elevations of the nearby houses to evaluate the presence of impermeable layers that may retard infiltration causing water to accumulate around the nearby houses. In each boring, soil will be obtained by split-spoon sampling methods at regular intervals.
- Install a 2-inch PVC piezometer in one of the borings to measure the groundwater level over a longer duration. A flush mount cover will be provided at the ground surface with a bolt-down lid to allow for future readings if desired. Our scope of services includes reading the piezometer upon installation and approximately 2 weeks after installation. We may be retained to read the groundwater in the piezometer additional times under a separate scope of services.
 - It should be noted that reading the piezometer over a 2-week timeframe will not likely produce the seasonal high-water level, particularly if the exploration is completed in the late summer/fall months, which are historically drier and expected to have lower groundwater levels. To have a better representation of the seasonal high-water level, the piezometer should be read multiple times over at least a 12-month timeframe. Since our scope involves installing a piezometer, groundwater level measurements will be able to be repeated in the future to better define the seasonal high-water level, and measurements before and after installation of the infiltration trenches could be used to assess the impact that infiltration from the trenches may have on the groundwater level.
- Drill a 5-foot-deep borehole adjacent to one of the 20-foot-deep borings, and perform a falling head infiltration test in the borehole. A 5-foot-long, 1- or 2-inch-diameter PVC screen will be placed in the borehole. A 6-inch-thick sand pack will be placed beneath the screened pipe, and sand/gravel backfill will be placed around the screened section of pipe. During the infiltration test, the pipe will be filled with water, and the drop in water level will be measured with time. Upon completion of the infiltration test, the pipe will be pulled or cut off at/below grade, and the borehole backfilled with auger cuttings.



- Perform particle-size analysis tests on selected soil samples.
- Prepare a report that summarizes the results of the borings (including the presence and depths of relatively impermeable layers, where encountered), field infiltration test, laboratory tests, and our interpretation of the soil permeability from the field infiltration test, and that provides geotechnical construction recommendations for utility trenches.
- Distribute the report in pdf format to Kleingers.

Our scope will also include the following auxiliary services to support the primary geotechnical services described previously:

- Staking and approximately locating the borings in the field by tape measurements from existing physical features. Ground surface elevations will be approximated from a topographic plan to be provided by the Client.
- Contacting Ohio Utilities Protection Services in order for member utility companies to locate public utilities within the proximity of the borings prior to drilling.
- Backfilling the borings with auger cuttings and plastic hole plugs upon completion of the drilling activities. Asphalt pavement will be patched with cold-patch asphalt.

Our scope of services does not include any environmental assessment, investigation, or study for the presence or absence of wetlands or hazardous or toxic materials in the soil, bedrock, surface water, groundwater, or air, on or below or around the site. However, we can provide environmental services if needed for this project. Please advise if you prefer that we either revise this proposal or prepare a separate proposal to include environmental services.

A copy of "Important Information about This Geotechnical Engineering Proposal" that is published by the Geoprofessional Business Association (GBA) is enclosed for your review.

2.1 Site Access and Restoration

Any restrictions or requirements imposed by governmental agencies or others with regard to site clearing, access limitation, utility clearance, or restoration are considered beyond our scope of services. Drill rig access to boring locations in unpaved areas may leave ruts in the soil or grass. Our scope does not include restoration of ruts or other disturbance caused by the drill rig.

2.2 Anticipated Subsurface Conditions

The budgeted linear footage of drilling and sampling is based on an anticipated subsurface profile of intermittent fill soils beneath the pavement followed by finer-grained alluvial soils followed by coarser-grained alluvial soils. Our archival boring information in the proximity of the site indicates that the finer- and coarser-grained alluvial soils may be interlayered. In the event that unusual or erratic subsurface conditions are encountered, we will contact you to discuss our recommended changes prior to expanding the scope of services.



2.3 Optional Boring Backfill

As an optional service, the borings, where a piezometer is not installed, could be backfilled with a specialty material to mitigate the risks of creating a groundwater pathway that might promote leakage or the spread of future contamination. Authorization of this options should be indicated in the Acceptance Section of this proposal by your initials.

3.0 SCHEDULE AND FEE

With our present work schedule, drilling could commence within three to four weeks after receipt of authorization to proceed and after the boring locations are staked in the field, weather and site conditions permitting. Normally an allowance of three weeks following completion of fieldwork is allotted for submittal of the geotechnical exploration report.

Our services are offered in accordance with the accompanying Terms for Geotechnology's Services (Terms). The cost of our services, excluding the optional service, will be a lump sum fee of **Seven Thousand Five Hundred Dollars (\$7,500.00)**. If this work is authorized simultaneously such that the field work can be completed concurrently with the geotechnical exploration for the underground detention basin on Tyler Avenue, a **\$1,050 deduct** may be applied to the combined lump sum fees (refer to Proposal P037314.01).

This proposal and fee estimate have been prepared using Geotechnology's standard fee schedule and with the assumption that Geotechnology's Terms will be used as the contract mechanism. Geotechnology reserves the right to revise this proposal and increase our fee estimate, at any time, if our Terms are not used or if any flow down and/or contract provisions are required by Client or Owner to conform with any local, state or federal wage act requirements, including but not limited to the Davis Bacon Act, as Amended, the McNamara-O'Hara Service Contract Act, etc., the required use of union labor, or for any required safety, security, vehicle, drug and alcohol testing, or any third party payment fees, or other requirements not specified in the Client's request for proposal or not defined in Geotechnology's scope of services.

4.0 ACCEPTANCE

If this proposal, including the contractual terms, is acceptable, please sign in the space provided on the following Terms and return one executed copy of the Terms and this proposal to our office as your authorization for us to proceed. For the optional service described in Section 2.3 of this proposal, please initial the line to designate authorization for the option. If the line is not initialed, it will be assumed that the optional service is not authorized.

_____ Option 1 for Specialty Backfill is authorized for an estimated total of \$360.00 based on a unit rate of \$8.00 per foot.

* * * * *



We appreciate the opportunity to submit this proposal for the referenced project and look forward to hearing from you soon. If you have any questions or comments concerning this proposal, or if we may be of any other service to you, please do not hesitate to contact us.

Respectfully submitted,
GEOTECHNOLOGY, INC.

Joseph D. Hauber, PE
Geotechnical Manager

JDH/LJC:jdj

Enclosures: GBA's Important Information about This Geotechnical Engineering Proposal

TERMS FOR GEOTECHNOLOGY'S SERVICES

1. THE AGREEMENT

- a. This AGREEMENT is made by and between: **Geotechnology, Inc.**, hereinafter referred to as **GEOTECHNOLOGY**, and **The Kleingers Group**, hereinafter referred to as **CLIENT**.
- b. The AGREEMENT between the parties consists of these TERMS, the PROPOSAL identified as Proposal No. **P037313.01**, dated **August 6, 2020**, and any exhibits or attachments noted in the PROPOSAL. In the event of a conflict between the TERMS and the PROPOSAL, the provisions of the TERMS shall govern unless the PROPOSAL specifically indicates that it is to govern. Together, these elements will constitute the entire AGREEMENT superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this AGREEMENT must be mutually agreed to in writing.
- c. This proposal is valid for 90 days from **August 6, 2020**.
- d. The technical pricing information contained in this PROPOSAL submitted by GEOTECHNOLOGY is to be considered confidential and proprietary and shall not be released or otherwise made available to any third party without the express written consent of GEOTECHNOLOGY.
- e. It is intended by the parties to this AGREEMENT that GEOTECHNOLOGY'S services in connection with the project shall not subject GEOTECHNOLOGY'S individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, CLIENT agrees that as the CLIENT'S sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against GEOTECHNOLOGY, a Missouri corporation, and CLIENT expressly waives CLIENT'S rights against any of GEOTECHNOLOGY'S employees, officers or directors.

2. STANDARD OF CARE

- a. CLIENT recognizes that conditions may vary from those observed at locations where borings, surveys, observations, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by GEOTECHNOLOGY will be based solely on information available to GEOTECHNOLOGY. GEOTECHNOLOGY is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.
- b. GEOTECHNOLOGY offers different levels of services to suit the desires and needs of different clients. Although the possibility of error can never be eliminated, more detailed and extensive services yield more information and reduce the probability of error, but at increased cost. CLIENT has reviewed the scope of services and has determined that it does not need or want a greater level of service than that being provided.
- c. The standard of care for all professional engineering and related services performed under this AGREEMENT will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. GEOTECHNOLOGY makes no warranties, express or implied, under this AGREEMENT or otherwise, in connection with any services performed or furnished by GEOTECHNOLOGY.

3. SITE ACCESS AND SITE CONDITIONS

- a. CLIENT will grant or obtain free access to the site for all equipment and personnel necessary for GEOTECHNOLOGY to perform the services set forth in this AGREEMENT. CLIENT will notify any and all possessors of the project site that CLIENT has granted GEOTECHNOLOGY free access to the site. GEOTECHNOLOGY will take reasonable precautions to reduce damage to the site, but it is understood by CLIENT that, in the normal course of the services, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.
- b. Unless indicated otherwise in the PROPOSAL, CLIENT is responsible for accurately delineating the locations of all subterranean structures and utilities. GEOTECHNOLOGY will take reasonable precautions to avoid known subterranean structures, and CLIENT waives any claim against GEOTECHNOLOGY arising from damage done to subterranean structures and utilities not identified or accurately located.

4. CHANGED CONDITIONS

- a. If, during the course of performance of this AGREEMENT, conditions or circumstances are discovered which were not contemplated by GEOTECHNOLOGY at the commencement of this AGREEMENT, GEOTECHNOLOGY shall notify CLIENT in writing of the newly discovered conditions or circumstances, and CLIENT and GEOTECHNOLOGY shall renegotiate, in good faith, the terms and conditions of this AGREEMENT.

5. SAMPLES AND CUTTINGS

- a. GEOTECHNOLOGY will dispose of soil and rock samples ninety (90) days after submittal of the report covering those samples. Further storage or transfer of samples can be made at CLIENT'S expense upon CLIENT'S prior written request.
- b. Cuttings, rinse water, well development and other wastes will be left on site and are CLIENT's responsibility to dispose unless specifically addressed in the PROPOSAL.
- c. Client shall take custody of all monitoring wells, probe holes and borings installed by GEOTECHNOLOGY and shall take any and all necessary steps for the proper maintenance, repair or closure for such wells, probes, or borings at CLIENT'S expense.

6. OBSERVATION

- a. CLIENT recognizes that unanticipated or changed conditions may be encountered during construction and, principally for this reason, CLIENT shall retain GEOTECHNOLOGY to observe construction when GEOTECHNOLOGY has provided engineering services. CLIENT understands that construction observation is conducted to reduce – not eliminate – the risk of problems arising during construction and that provision of the service does not create a warranty or guarantee of any type. In all cases, contractors shall retain responsibility for the quality and completeness of their work and for adhering to the plans, specifications, and recommendations on which their work is based. Should GEOTECHNOLOGY for any reason not provide construction observation during the implementation of GEOTECHNOLOGY'S plans, specifications, and recommendations, or should CLIENT restrict GEOTECHNOLOGY'S assignment of observation personnel, CLIENT shall, to the fullest extent permitted by law, waive any claim against GEOTECHNOLOGY, and indemnify, defend, and hold GEOTECHNOLOGY harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans, or specifications developed by GEOTECHNOLOGY.
- b. If GEOTECHNOLOGY is retained by CLIENT to provide a site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the PROPOSAL, then this paragraph applies. For the specified assignment, GEOTECHNOLOGY will report observations and professional opinions to CLIENT. No action of GEOTECHNOLOGY'S site representative can be construed as altering any AGREEMENT between CLIENT and others. GEOTECHNOLOGY will report to CLIENT observed conditions related to services for which GEOTECHNOLOGY has been retained to perform which, in GEOTECHNOLOGY'S professional opinion, do not conform with plans and specifications. GEOTECHNOLOGY has no right to reject or

stop work of any agent of the CLIENT. Such rights are reserved solely for CLIENT. Furthermore, GEOTECHNOLOGY's presence on site does not in any way guarantee the completion or quality of the work of any party retained by CLIENT to provide field or construction-related services.

- c. GEOTECHNOLOGY shall not be required to sign any document, no matter by whom requested, that would result in GEOTECHNOLOGY having to certify, guarantee, or warrant the existence of conditions whose existence GEOTECHNOLOGY cannot ascertain. CLIENT agrees not to make resolution of any dispute with GEOTECHNOLOGY or payment of any amount due to GEOTECHNOLOGY in any way contingent upon GEOTECHNOLOGY signing any such document.
- d. The use of the word "certify" or "certification" by a registered professional engineer in the practice of professional engineering constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either express or implied. The definition and legal effect of any and all certifications shall be limited as stated herein.
- e. GEOTECHNOLOGY will strive to perform its construction materials testing services under this AGREEMENT in accordance with generally accepted testing procedures unless other procedures are specifically referenced in the text of the Project plans and/or specifications.
- f. GEOTECHNOLOGY will provide materials testing for samples specified by CLIENT or at a frequency specified by CLIENT and/or will collect samples for materials testing or conduct materials testing when contacted by the CLIENT. GEOTECHNOLOGY will provide foundation testing and/or television camera inspections on drilled shafts or piles constructed by and at a frequency specified by CLIENT. Engineering evaluation of the suitability of the number or types of samples is not provided by GEOTECHNOLOGY.
- g. Construction materials tests performed by GEOTECHNOLOGY on site are taken intermittently and indicate the general acceptability of materials on a statistical basis. GEOTECHNOLOGY'S tests and observation of materials are not a guarantee of the quality of other parties' work and do not relieve other parties from the responsibility to perform their work in accordance with applicable plans, specifications and requirements.

7. JOBSITE

- a. Unless specifically set forth in the PROPOSAL, GEOTECHNOLOGY will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any other person or entity, or safety precautions and programs incident thereto. GEOTECHNOLOGY shall be responsible only for its activities and that of its employees on any site. Neither the professional activities nor the presence of GEOTECHNOLOGY or its employees or its subcontractors on a site shall imply that GEOTECHNOLOGY controls the operations of others, nor shall this be construed to be acceptance by GEOTECHNOLOGY of any responsibility for jobsite safety.
- b. Unless indicated otherwise in the PROPOSAL, GEOTECHNOLOGY'S services under this AGREEMENT are limited to geotechnical engineering, geophysical surveying, drilling, construction materials testing or deep foundation testing and GEOTECHNOLOGY shall have no responsibility to locate, identify, evaluate, treat or otherwise consider or deal with hazardous materials.
- c. CLIENT represents that CLIENT has made a reasonable effort to evaluate if hazardous materials are on or near the project site, and that CLIENT has informed GEOTECHNOLOGY of CLIENT's findings relative to the possible presence of such materials.
- d. Hazardous materials may exist at a site where there is no reason to believe they could or should be present. GEOTECHNOLOGY and CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. GEOTECHNOLOGY and CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for GEOTECHNOLOGY to take immediate measures to protect health and safety. CLIENT agrees to compensate GEOTECHNOLOGY for measures taken to protect health and safety and/or any equipment decontamination or other costs incidental to the discovery of unanticipated hazardous materials.
- e. GEOTECHNOLOGY agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold GEOTECHNOLOGY harmless for any and all consequences of disclosures made by GEOTECHNOLOGY, which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is CLIENT's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.
- f. CLIENT will be responsible for ultimate disposal of any samples secured by GEOTECHNOLOGY, which are found to be contaminated.

8. BILLING AND PAYMENT

- a. CLIENT will pay GEOTECHNOLOGY in accordance with the procedures indicated in the PROPOSAL and its attachments. Invoices will be submitted to CLIENT by GEOTECHNOLOGY, and will be due and payable upon presentation. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify GEOTECHNOLOGY in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The absence of written notification described above, shall constitute an unqualified acceptance of the invoice amount due and payable, and waiver by CLIENT of all claims with respect thereto.
- b. CLIENT recognizes that late payment of invoices results in extra expenses for GEOTECHNOLOGY. GEOTECHNOLOGY retains the right to assess CLIENT interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of GEOTECHNOLOGY'S invoices are not paid when due, GEOTECHNOLOGY reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this AGREEMENT until all past due amounts have been paid in full.
- c. If test results that indicate failure of a material to meet the intended specification require retesting of the material after additional work by parties responsible for that material, the cost of retesting will be invoiced to the CLIENT.
- d. GEOTECHNOLOGY may elect to adjust its rates under this AGREEMENT to account for changes in overhead rates and salary adjustments no sooner than one year from the date of this AGREEMENT, and no more often than once per year at the end of each subsequent year.

9. TERMINATION

- a. This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by the other party, or if CLIENT suspends the work for more than three (3) months. Both parties shall have the opportunity to initiate a mutually agreeable remedy for failure of performance within fifteen (15) days after notice of termination. In the event of termination, GEOTECHNOLOGY will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to the cost of cleanup, demobilization, completing analyses, records, and reports necessary to document job status at the time of termination.

10. ALLOCATION OF RISK

10.1 LIMITATION OF LIABILITY

- a. GEOTECHNOLOGY and CLIENT have evaluated the risks and rewards associated with this project, including GEOTECHNOLOGY'S fee relative to the risks assumed, and agree to allocate certain of the risks, so, to the fullest extent permitted by law, the total aggregate liability of GEOTECHNOLOGY to CLIENT and third parties granted reliance is limited to the greater of \$50,000 or GEOTECHNOLOGY'S fee, for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of GEOTECHNOLOGY'S services or this agreement regardless of cause or causes. Such causes include, but are not limited to, GEOTECHNOLOGY'S negligence, errors, omissions, strict liability, statutory liability, negligent misrepresentation, breach of contract, breach of warranty, or other acts giving rise to liability based on contract, tort or statute. If CLIENT prefers to have higher limits of liability coverage, GEOTECHNOLOGY agrees, upon receipt of CLIENT'S written request at the time of accepting our PROPOSAL, to increase the limits of liability up to a maximum of \$1,000,000.00 at an additional cost of 5 percent of our total fee or \$1,000.00, whichever is greater.
- b. Neither party shall have any liability to the other party for loss of product, loss of profit, loss of use, or any other indirect, incidental, special or consequential damages incurred by the other party.

10.2 INDEMNIFICATION

- a. Subject to the provisions of the Limitation of Liability described in 10.1a. above, CLIENT and GEOTECHNOLOGY each agree to indemnify and hold harmless the other party and the other party's officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are legally determined to be caused by a negligent act, error, or omission of the indemnifying party or any of the indemnifying party's officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this AGREEMENT. If claims, losses, damages, and judgments are legally determined to be caused by the joint or concurrent negligence of CLIENT and GEOTECHNOLOGY, they shall be borne by each party in proportion to its negligence.
- b. CLIENT shall indemnify and hold harmless GEOTECHNOLOGY, its agents, subcontractors, directors, officers, and employees, from and against any and all claims, suits, liability, damages, injunctive or equitable relief, expenses, including reasonable attorney's fees or other loss arising from damage to subterranean structures or utilities which were not identified or located by CLIENT to GEOTECHNOLOGY in advance of our work or the discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any costs associated with possible reduction of the property's value.
- c. For the purposes of this AGREEMENT only, and except as provided under Paragraph 10.2 (a) above regarding the negligent performance of GEOTECHNOLOGY, CLIENT shall reimburse GEOTECHNOLOGY for or otherwise indemnify, defend, and save GEOTECHNOLOGY, its agents, subcontractors, directors, officers and employees harmless from any and all demands, suits, judgment, expenses, attorney's fees, and losses arising out of or in connection with bodily injury (including death) to persons or damage to property which may arise from the presence or origination of hazardous substances, pollutants, or contaminants on CLIENT'S property, irrespective of whether such materials were generated or introduced before or after execution of this AGREEMENT; provided, however, that nothing hereinabove set forth is intended to shift any responsibility for employee claims that the parties may bear under the Worker's Compensation laws of the state in which the work is to be performed.
- d. GEOTECHNOLOGY shall under no circumstances be considered the generator of any hazardous substances, pollutants, or contaminants encountered or handled in the performance of the work. Without contradiction of any assertion by CLIENT or third party liability as described in Paragraph 10.2 (b) above and for the purposes of this AGREEMENT only, it is agreed that any hazardous materials, pollutants, or contaminants generated or encountered in the performance of the work shall be the responsibility of CLIENT.

11. CONTINUING AGREEMENT

- a. The indemnity obligations and limitations of liabilities established throughout this AGREEMENT, regardless of paragraph number, shall survive the assignment, transfer, expiration or termination of this AGREEMENT.

12. PREVAILING WAGE AND UNION MEMBERSHIP

- a. Unless CLIENT specifically informs GEOTECHNOLOGY in writing or it is specifically identified in our PROPOSAL and/or WORK AUTHORIZATION that prevailing wage regulations or union membership are required for the Project and the Scope of Services identifies it as covered, CLIENT will reimburse, defend, indemnify and hold harmless GEOTECHNOLOGY from and against any liability resulting from a subsequent determination that prevailing wage regulations or union membership cover the Project, including all additional costs, fines and attorneys' fees.

13. THIRD PARTY RELIANCE UPON REPORTS

- a. All Documents are prepared solely for use by CLIENT (and Owner, if applicable) and shall not be provided to any other person or entity without GEOTECHNOLOGY'S written consent. CLIENT shall defend, indemnify and hold harmless GEOTECHNOLOGY, its officers, shareholders and employees, from and against any action or proceeding brought by any person or entity claiming to rely upon information or opinions contained in reports or other documents provided to such person or entity, published, disclosed or referred to without GEOTECHNOLOGY'S written consent.

14. NON-SOLICITATION OF EMPLOYEES

- a. CLIENT recognizes that GEOTECHNOLOGY, as a part of the services covered by this AGREEMENT, may provide one or more of its employees to work with members of CLIENT'S project staff or specifically on a CLIENT'S project. For purposes of this AGREEMENT, an employee of GEOTECHNOLOGY may be a permanent or temporary employee assigned to provide services to CLIENT. CLIENT hereby agrees that CLIENT will not hire, either directly or indirectly, or provide inducement to hire an employee of GEOTECHNOLOGY either as an employee of CLIENT or as an employee of a subcontractor or supplier to CLIENT, such suppliers to include providers of contract labor, during the term of this AGREEMENT and for a period of six months after the termination of this AGREEMENT. Any hiring or inducement to hire any GEOTECHNOLOGY employee during the term of this AGREEMENT and for a period of six months after termination of this AGREEMENT will be subject to a fee equal to 25% of the total fee for services generated by that employee during a nominal 12-month period.

15. DISPUTES RESOLUTION

- a. All claims, disputes, and other matters in controversy between GEOTECHNOLOGY and CLIENT arising out of or in any way related to this AGREEMENT will be submitted to mediation as a condition precedent to litigation. Notwithstanding any other provision of the Agreement, unless prohibited by law, GEOTECHNOLOGY shall have, in addition to any other right or option set forth herein, the right to proceed in creating a lien upon the building or other

improvements and upon the real estate on which the building or improvements are situated for the work and labor done and the labor and materials furnished on and to said real estate and to enforce its mechanic's lien pursuant to all rights and remedies available to it under law.

- b. If a dispute at law arises from matters related to the services provided under this AGREEMENT and that dispute requires litigation, then:
- (1) the claim will be brought and tried in St. Louis County, Missouri and CLIENT waives the right to move the action to any other county or judicial jurisdiction, and
 - (2) the prevailing party in any arbitration or litigation between GEOTECHNOLOGY and CLIENT shall be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, expert witness costs, and other claim related expenses. For purposes of this paragraph, a party prevails if (i) the judgment is equal to or in excess of the Plaintiff's last written demand for settlement, the Plaintiff shall also be entitled to recover its costs, expenses and reasonable attorney's fees from Defendant; (ii) the judgment is equal to or less than the Defendant's last written offer of settlement, the Defendant shall be entitled to recover its costs, expenses and reasonable attorney's fees from the Plaintiff; (iii) the judgment is in between the Plaintiff's last written demand for settlement and the Defendant's last offer of settlement, then neither party shall recover any of its costs, expenses or attorney's fees from the other.

16. GOVERNING LAW AND SURVIVAL

- a. The law of the State of Missouri will govern the validity of these TERMS, their interpretation and performance.
- b. If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired.

17. SUCCESSORS AND ASSIGNS

- a. This AGREEMENT shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Neither party may assign its interests herein (unless assignee assumes in writing assignor's obligations hereunder) without the prior written consent of the other party, which consent will not be unreasonably withheld. No assignment shall operate to relieve the assignor of its obligations under the AGREEMENT.

18. OTHER PROVISIONS

- a. It is agreed that this AGREEMENT is entered into by the parties for the sole benefit of the parties to the AGREEMENT, and that nothing in the AGREEMENT shall be construed to create a right or benefit for any third party.
- b. Neither party shall hold the other responsible for damages or delay in performance caused by weather and other acts of God, strikes, lockouts, accidents, or other events beyond the reasonable control of the other or the other's employees and agents.
- c. The titles used in this AGREEMENT are for general reference only and are not part of the AGREEMENT.

19. FUTURE SERVICES

- a. All future services rendered by GEOTECHNOLOGY at CLIENT'S request for the project described in the PROPOSAL and/or WORK AUTHORIZATION shall be conducted under the terms of this AGREEMENT.

20. SIGNATURES

- a. The parties have read the foregoing, including any attachments thereto, understand completely the terms, and willingly enter into this AGREEMENT that will become effective on the date signed below by CLIENT.

THE KLEINGERS GROUP

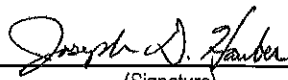
(Signature)

(Printed Name)

(Position)

(Date)

GEOTECHNOLOGY, INC.


(Signature)

Joseph D. Hauber, PE
(Printed Name)

Geotechnical Manager
(Position)

August 6, 2020
(Date)

Important Information about This Geotechnical Engineering Proposal

Subsurface problems are a principal cause of construction delays, cost overruns, claims, and disputes.

While you cannot eliminate all such risks, you can manage them. The following information is provided to help.

Participate in Development of the Subsurface Exploration Plan

Geotechnical engineering begins with the creation of an effective subsurface exploration plan. This proposal starts the process by presenting an initial plan. While that plan may consider the unique physical attributes of the site and the improvements you have in mind, it probably does not consider your unique goals, objectives, and risk management preferences. Subsurface exploration plans that are finalized without considering such factors presuppose that clients' needs are unimportant, or that all clients have the same needs. *Avoid the problems that can stem from such assumptions* by finalizing the plan and other scope elements directly with the geotechnical engineer you feel is best qualified for the project, along with the other project professionals whose plans are affected by the geotechnical engineer's findings and recommendations. If you have been told that this step is unnecessary; that client preferences do not influence the scope of geotechnical engineering service or that someone else can articulate your needs as well as you, you have been told wrong. No one else can discuss your geotechnical options better than an experienced geotechnical engineer, and no one else can provide the input you can. Thus, while you certainly are at liberty to accept a proposed scope "as is," recognize that it could be a unilateral scope developed without direct client/engineer discussion; that authorizing a unilateral scope will force the geotechnical engineer to accept all assumptions it contains; that assumptions create risk. *Manage your risk. Get involved.*

Expect the Unexpected

The nature of geotechnical engineering is such that planning needs to *anticipate the unexpected*. During the design phase of a project, more or deeper borings may be required, additional tests may become necessary, or someone associated with your organization may request a service that was not included in the final scope. During the construction phase, additional services may be needed to respond quickly to unanticipated conditions. In the past, geotechnical engineers commonly did whatever was required to oblige their clients' representatives and safeguard their clients' interests, taking it on faith that their clients wanted them to do so. But some, evidently, did not, and refused to pay for legitimate extras on the ground that the engineer proceeded without proper authorization, or failed to submit notice in a timely manner, or failed to provide proper documentation. *What are your preferences? Who is permitted to authorize additional geotechnical services on your project? What type of documentation do you require? To whom should it be sent? When? How?* By addressing these and similar issues sooner rather than later, you and your geotechnical engineer will be prepared for the unexpected, to help prevent molehills from growing into mountains.

Have Realistic Expectations; Apply Appropriate Preventives

The recommendations included in a geotechnical engineering report are *not final*, because they are based on opinions that can be verified only during construction. For that reason, most geotechnical engineering proposals offer the construction observation services that permit the geotechnical engineer of record to confirm that subsurface conditions are what they were expected to be, or to modify recommendations when actual conditions were not anticipated. *An offer to provide construction observation*

is an offer to better manage your risk. Clients who do not take advantage of such an offer; clients who retain a second firm to observe construction, can create a high-risk "Catch-22" situation for themselves. *The geotechnical engineer of record cannot assume responsibility or liability for a report's recommendations when another firm performs the services needed to evaluate the recommendations' adequacy.* The second firm is also likely to disavow liability for the recommendations, because of the substantial and possibly uninsurable risk of assuming responsibility for services it did not perform. Recognize, too, that no firm other than the geotechnical engineer of record can possibly have as intimate an understanding of your project's geotechnical issues. As such, reliance on a second firm to perform construction observation can elevate risk still more, because its personnel may not have the wherewithal to recognize subtle, but sometimes critically important unanticipated conditions, or to respond to them in a manner consistent with your goals, objectives, and risk management preferences.

Realize That Geoenvironmental Issues Have Not Been Covered

The equipment, techniques, and personnel used to perform a geoenvironmental study differ significantly from those used to perform a geotechnical study. *Geoenvironmental services are not being offered in this proposal. The report that results will not relate any geoenvironmental findings, conclusions, or recommendations.* Unanticipated environmental problems have led to numerous project failures. If you have not yet obtained your own geoenvironmental information, ask your geotechnical consultant for risk management guidance. *Do not rely on an environmental report prepared for someone else.*

Obtain Professional Assistance To Deal with Mold

Diverse strategies can be applied during building design, construction, operation, and maintenance to prevent significant amounts of mold from growing on indoor surfaces. To be effective, all such strategies should be devised for the express purpose of mold prevention, integrated into a comprehensive plan, and executed with diligent oversight by a professional mold prevention consultant. Because just a small amount of water or moisture can lead to the development of severe mold infestations, a number of mold prevention strategies focus on keeping building surfaces dry. While groundwater, water infiltration, and similar issues may be addressed as part of the geotechnical engineering study described in this proposal, the geotechnical engineer who would lead this project *is not* a mold prevention consultant; *none of the services being offered have been designed or proposed for the purpose of mold prevention.*

Have the Geotechnical Engineer Work with Other Design Professionals and Constructors

Other design team members' misinterpretation of a geotechnical engineering report has resulted in costly problems. Manage that risk by having your geotechnical engineer confer with appropriate members of the design team before finalizing the scope of geotechnical service (as suggested above), and, again, after submitting the report. *Also retain your geotechnical engineer to review pertinent elements of the design team members' plans and specifications.*

Reduce the risk of unanticipated conditions claims that can occur when constructors misinterpret or misunderstand the purposes of a geotechnical engineering report. Use appropriate language in your contract documents. Retain your geotechnical engineer to participate in prebid and preconstruction conferences, and to perform construction observation.

Read Responsibility Provisions Closely

Clients, design professionals, and constructors who do not recognize that geotechnical engineering is far less exact than other engineering disciplines can develop unrealistic expectations. Unrealistic expectations can lead to disappointments, claims, and disputes. To help reduce the risk of such outcomes, geotechnical engineers commonly include a variety of explanatory provisions in their proposals. Sometimes labeled "limitations," many of these provisions indicate where geotechnical engineers' responsibilities begin and end, to help others recognize their own responsibilities and risks, thus to encourage more effective scopes of service. *Read this proposal's provisions closely.* Ask questions. Your geotechnical engineer should respond fully and frankly.

Rely on Your Geotechnical Engineer for Additional Assistance

Membership in the Geoprofessional Business Association (GBA) exposes geotechnical engineers to a wide array of risk management techniques that can be of genuine benefit to everyone involved with a construction project. Confer with a GBA-member geotechnical engineer for more information. Confirm a firm's membership in GBA by contacting GBA directly or at its website.



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