

**STATE OF NEW YORK
COUNTY OF RENSSELAER**

In the Matter of the Arbitration by and between

**CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
LOCAL 1000, AFSCME, AFL-CIO (Toby J. Goodall),**

**STIPULATION OF
SETTLEMENT**

Grievant,

PERB Case No. A2022-152

-and-

THE TOWN OF SCHODACK,

Employer.

THIS IS AN AGREEMENT by and between the CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME, AFL-CIO (“CSEA”) and the TOWN OF SCHODACK (“Town”).

WHEREAS, the Town and CSEA are parties to a collective bargaining agreement covering the dates January 1, 2020, through December 31, 2022;

WHEREAS, CSEA represents employees in the Town’s highway department, water sewer department, and transfer station;

WHEREAS, CSEA filed a grievance on behalf of an employee who was not called out for an overtime assignment on July 30, 2022;

WHEREAS, the grievance alleged that the Town did not exhaust the call out list for the assignment before using nonunion personnel;

WHEREAS, the grievance was denied by the Town on the grounds that the event in question, the Household Hazardous Waste Day, was not a Town event, but was rather an event run by Rensselaer County;

WHEREAS, the response to the grievance from the Town indicated that the Town had no role in who the County used as employees on the event;

WHEREAS, CSEA has continued to pursue the grievance, to include the scheduling of an arbitration hearing on the matter;

WHEREAS, the parties have discussed the grievance pursuant to the grievance procedure outlined in the parties' agreement;

WHEREAS, the parties have agreed to resolve this matter.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, it is agreed by and between the parties as follows:

1. The bargaining member for whom CSEA filed the grievance and demand for arbitration in this matter (Toby J. Goodall) shall be paid for eight (8) hours of overtime to deal with the fact that he was not called out for work on the Household Hazardous Waste Day on July 30, 2022. However, the parties agree that the payment of the overtime to Mr. Goodall will not be a precedent on how the parties deal with these matters in the future.

2. The parties agree that, except for Toby J. Goodall, who will be paid the eight (8) hours of overtime pursuant to this agreement, there are no other employees/bargaining unit members who are entitled to any overtime pay for this matter.

3. Any alleged violation of this Agreement shall be grievable through the grievance procedure contained in the CBA.

4. Pursuant to the foregoing conditions, CSEA withdraws the aforementioned grievance and demand for arbitration.

5. Grievant Toby J. Goodall acknowledges that he has been advised of his rights pursuant to the CBA, that he has been fairly represented by CSEA, and that he has entered into this Agreement of his own free will.

6. The foregoing is in full and final settlement of this matter.

7. The parties will deem signatures obtained electronically via facsimile or in pdf format acceptable as originals.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the ____ day of _____, 2022

For the Grievant and CSEA:

For the Employer:

Toby J. Goodall, Grievant and Unit President

Town of Schodack

DAREN J. RYLEWICZ
(Alexandra Menge, of counsel)

Jay E. Girvin
Girvin & Ferlazzo, P.C.

2023-209

June 15, 2023
VIA EMAIL & MAIL

Charles Peter, Supervisor
Town of Schodack
265 Schuurman Road
Castleton, New York 12033

Re: Testing Services Proposals
Water Plant Bridge
Town of Schodack, New York

Dear Supervisor Peter:

As part of the construction of the new structure to replace the access to the Town's water plant, testing services from a qualified testing company are required for soils, compaction, and concrete. We requested proposals from four (4) firms, two (2) of which have responded; Terracon and Advance Testing. We received no proposals from CMI or QA/QC. The proposals received are enclosed.

The proposals are based upon unit quantities and assumed numbers for days on site and tests performed. The actual time and quantities may vary depending upon project requirements. Upon review, we recommend Terracon's proposal be accepted and the Town Board authorized their services in accordance with the rates proposed.

If you concur, please have the Town Board authorize Terracon's services at their next meeting and then execute Terracon's proposal and send it to them with a copy to our office. Please contact us with questions.

Very truly yours,
LABERGE GROUP

By: Richard F. Laberge P.E.
Richard F. Laberge, P.E.
President

Encs.
RFL: cjb

C: Dawne Kelly (via email only)
Paul Harter, Comptroller (via email only)

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30 Corporate Circle, Suite 201
Albany, NY 12203
P (518) 266-0310
F (518) 805-6001
Terracon.com

June 5, 2023

Mr. Charles Peter
Supervisor
Town of Schodack NY
265 Schuurman Road
Castleton, NY 12033

RE: Proposal for Construction Materials Testing Services
Water Plant Bridge
Town Hall Lane
Castleton, NY 12033
Terracon Proposal No. PJB231110

Dear Mr. Peter:

Terracon Consultants - NY, Inc. (Terracon) is pleased to present this proposal for construction materials testing services for the referenced project. This proposal describes our understanding of the project, discusses the scope of services to be provided and presents applicable fees for your consideration.

1.0 PROJECT INFORMATION

The project is located on Town Hall Road north of Route 150 in the town of Castleton, NY and will consist of the construction of a corrugated steel culvert bridge over the Moordener Kill. Our understanding of the project was developed through review of documents provided by Mr. Jason Krzanowski of The Laberge Group in his May 30, 2023 email which included:

- "Water Plant Bridge" Structural drawings containing 19 pages, dated September 2022
- "Contract Documents, Town of Schodack, Rensselaer County, New York, Water Plant Bridge" containing 192 pages, dated October 2022

The project entails construction of a long-span corrugated aluminum bridge with cast in place concrete foundations bearing on micro-piles, corrugated aluminum head/wing-walls, and WMA approaches and bridge surface.

The site preparation for development will include removal of remnants of an old bridge structure.

It is our understanding based on e-mail correspondence with Jason Krzanowski of The Laberge Group that the micro-pile installation and any engineering services required are solely the responsibility of the contractor and not a part of our scope of services.

If our assumptions or understanding of the project are incorrect, we request the opportunity to review this proposal and modify it accordingly for re-submittal to your attention.

2.0 SCOPE OF SERVICES

Based on our present understanding of this project, we anticipate the scope of our services to include the following:

- Earthwork observation, sampling and testing
- Cast-in-place concrete observation, sampling and testing
- Laboratory testing of fill materials and concrete
- Asphalt pavement observation and testing
- Administration and project management

Earthwork Observation, Sampling and Testing

We anticipate the scope of earthwork related observation to include the items listed below:

- Collect samples of proposed fill, backfill and subbase material and test in our laboratory. Reports will be issued indicating the soil's gradation, maximum dry density and optimum moisture content for compaction in accordance with ASTM standards.
- Observe fill placement for conformance with project requirements and perform moisture/density testing and document moisture/density test results during foundation and wall backfill operations.

Cast-in-Place Concrete Observation, Sampling and Testing

Terracon does not verify formwork for specific location nor verify finish grade elevations. We anticipate the scope of concrete related observation and testing to include the items listed below:

- Obtain one composite sample for each day's pour of each concrete mixture, plus one set for each additional 50 cubic yards or fraction thereof and cast sets of six (6) - 4x8-inch compressive strength specimens, unless otherwise specified. Additional cylinders will be made upon request at an additional cost.
- Observe placement of reinforcing steel installation for size, spacing, and bar clearances (and in the case of slabs-on-grade, welded wire and/or reinforcing steel).
- Observe dimensions of concrete formwork for general conformance with drawings.
- Review concrete batch delivery tickets to verify that the approved mix is placed.
- Perform tests on fresh concrete for mix temperature, slump and air content (unit weight, when applicable) when cylinders are made.
- After initial curing, we will transport the cylinders to our laboratory for final moist curing and compressive strength testing. The following ages for compressive strength testing will be scheduled unless otherwise specified: 1 at 7 days, 3 at 28 days and 2 hold cylinders

Proposal for Materials Testing Services

Water Plant Bridge ■ Schodack, NY

June 5, 2023 ■ Terracon Proposal No. PJB231110



Asphalt Pavement Observation and Testing

We anticipate the scope of asphalt pavement related observation and testing to include the items listed below:

- Measure thickness of asphalt courses during placement.
- Observe asphalt placement techniques and perform field measurements of subgrade and asphalt temperatures during placement.
- Perform in place density testing of asphalt via nuclear methods.

Administration and Project Management

Our scope of services also includes:

- Administration for project setup and scheduling/dispatching of field staff.
- Project management for attendance at meetings, review and distribution of test reports, review and response to RFIs as requested, preparation of invoices.

After review and approval, we recommend that the scope of work described in this proposal be provided to the person(s) who will be responsible for scheduling Terracon so that they are aware of the required services for this project. Our services specifically exclude job site safety responsibility beyond those of our own employees and our services do not relieve any contractor/subcontractor from complying with project specifications.

We also recommend that a protocol for communicating observation and testing reports as well as resolving discrepancies be discussed at pre-construction meetings, typically attended by representatives of the Owner, Architect, Structural/Civil Engineer of Record, General Contractor and any subcontractors the General Contractor believes appropriate.

Our proposal does not include ladders, man lifts, scaffolds and other means necessary to access the areas to perform our inspections and tests. For us to safely and efficiently perform our scope of services, others will need to provide all necessary means to access the areas for our work. Our scope does not include shoring, temporary bracing, construction aids or monitoring of safety practices of the Contractor.

3.0 COORDINATION AND OVERSIGHT

Our services will be performed on an as-requested basis as scheduled by an authorized client representative. We request our services be scheduled 24 to 48 hours in advance unless otherwise specified in the contract documents. All requests for periodic services should be submitted to our office at (518) 266-0310 between 7:00 am and 5:00 pm, Monday through Friday. Messages left on the scheduling line outside of these hours on weekdays, weekends or holidays may be received the next business day.

We will designate a Project Manager to oversee our scope of work for the project and review laboratory and field tests and reports. A Senior Engineer/Manager will be available to provide oversight and technical review, if required.

We plan to utilize our proprietary software, CMELMS™ (Construction Materials Engineering Laboratory Management System) and laptop PCs and mobile devices equipped with wireless communication technology to provide the testing and inspection information to all parties as quickly as possible. As a result, we can provide timely reporting of test results and field observations.

After review by the Terracon Project Engineer/Manager, electronic copies of final field and laboratory reports will be distributed to the personnel designated by the client. Reports will be in PDF format and can be received either by email or allowing access to Terracon's Client Document Website. Terracon's Client Document Website acts as a cloud where all reports can be stored and filed as the user sees fit. Upon being added to the distribution list, the client will receive an email providing a link with a temporary password to the Client Document Website.

We request a copy of the current/revised drawings, details, and specifications, and any other clarifying or modifying communication that affect our scope of services. We would also like the opportunity to attend pre-construction and periodic project meetings during which issues related to our scope of services may be discussed.

Employee safety is a core value of Terracon, and we are committed to achieving a zero-incident workplace. Terracon will dedicate the time, resources and equipment necessary to achieve a zero-incident environment, and no employee will be required to work in unsafe conditions. Terracon employs a full-time Safety and Health Department whose sole responsibility is to administer and refine the Terracon safety program. Safety is a priority in the management of our business, and all employees are expected to perform their job assignments with maintaining an incident and injury free environment as our primary objective.

4.0 COMPENSATION

The actual cost of our services will be billed on a time and materials basis and will be highly dependent on the actual construction schedule, over which we have no control. Based on the project information provided to us, we have prepared the attached estimate of \$7,431. The number of trips required and hours per trip are an estimate and may not be reflective of the actual number of trips and hours required for this project. Services not included in our proposed scope can be provided as requested by the client or client's representative at the unit price listed on the unit fee schedule, attached to this proposal. Only those services actually provided will be invoiced. This proposal is subject to the terms and conditions of the Agreement of Services, attached hereto.

5.0 AUTHORIZATION

You may formally enter into an agreement with us by signing the attached Agreement for Services and returning it to our office. A signed copy of the Agreement for Services, or other form of agreement suitable to both parties, must be returned to our office before the initiation of our services.

We thank you for the opportunity to offer our services and look forward to working with you on this project. If you have questions or require additional information, please contact the undersigned.

Proposal for Materials Testing Services
Water Plant Bridge □ Schodack, NY
June 5, 2023 □ Terracon Proposal No. PJB231110



Sincerely,
Terracon Consultants - NY, Inc.

A handwritten signature in black ink that reads 'Mark Erceg'.

Mark Erceg
Project Manager – Material Services

A handwritten signature in black ink that reads 'Joseph Robichaud Jr.'.

Joseph Robichaud Jr., P.E.
Principal / Office Manager

Attachments: Unit Fee Schedule
Fee Estimate
Agreement for Services



SERVICE DESCRIPTION – <i>Unit rates are inclusive of equipment unless otherwise noted</i>	UNIT RATE
Jr. Engineering Technician – ACI Level I and Troxler Certified to perform in place soil density or field concrete tests, pick up and transport samples to our laboratory, assist Sr. Eng. Tech.	\$55.00 / Hour
Sr. Engineering Technician – ACI Level I/II and Troxler Certified to perform observation and/or testing of earthwork, reinforcing steel, structural masonry, asphalt pavement, fireproofing, fire caulking/stopping, shotcrete, install/read RH probes and moisture vapor emission test kits	\$70.00 / Hour \$75.00 / Probe \$75.00 / Kit
Certified Welding Inspector (AWS) for Visual, Magnetic Particle or Ultrasonic Testing of Welds, observation of Structural Steel Framing / Bolting, CFMF, Wood Framing (Min. 4 hours / visit)	\$120.00 / Hour
Sr. Engineering Technician for pull testing of embedded anchors, asphalt/concrete coring Calibrated Hollow Ram Jack and Load Testing Equipment for pull testing	\$100.00 / Hour \$150.00 / Day
Sr. Engineering Technician to perform floor flatness / floor levelness testing of slabs Face Dipstick Profiler equipment and software	\$75.00 / Hour \$250.00 / Day
Field Engineer / Field Geologist / Project Manager / Administrative	\$130.00 / Hour
Sr. Geotechnical Engineer, P.E.	\$195.00 / Hour
Senior Associate or Principal Engineer, P.E.	\$205.00 / Hour
Notes: All site visits incur a minimum 2-hour charge unless noted otherwise. Overtime rate is 1.5 times the base hourly rate shown above. Overtime is defined as any hours worked over 8 in one day, all day on Saturday and Sunday, and for services prior to 6:00 AM or after 5:00 PM on weekdays. Expendables will be invoiced at cost +15%.	
Laboratory Services (Soils) – additional services available on request	
A. Sieve Analysis – ASTM D6913	\$75.00 / Each
B. Sieve Analysis w/ Hydrometer – ASTM D421 / 422	\$150.00 / Each
C. Standard / Modified Proctor – ASTM D698 / D1557	\$200.00 / Each
D. pH of Topsoil – ASTM D4972	\$30.00 / Each
E. Organic Matter Combustion Method – ASTM D2974	\$75.00 / Each
Laboratory Services (Concrete / Masonry) – additional services available on request	
A. Curing and Compression Testing of 4" x 8" or 6" x 12" cylinders – ASTM C39	\$18.00 / Each
B. Compression Testing of Grout Prism Samples – ASTM C1019	\$30.00 / Each
C. Compression Testing of Grout or Mortar Samples (2" cubes) – ASTM C109	\$30.00 / Each
Transportation – Portal to portal	\$0.85 / Mile
Per Diem – Meals Only / Overnight Stay, per day	\$60.00 / \$200.00

Explore with us

Fee Estimate

Materials Services

Water Plant Bridge-Schodack

Terracon Proposal No. PJB231110

DESCRIPTION	RATE	QUANTITY	UNITS	TRIPS	TOTAL QUANTITY	TOTAL
Earthwork						
Field Density Testing	\$ 55.00	40	Hours	5	40	\$2,200.00
Soil sample pick-up	\$ 55.00	6	Hours	3	6	\$330.00
Company Mileage (Travel)	\$ 0.85	40	Miles	8	320	\$272.00
Concrete Testing						
Concrete Testing	\$ 55.00	8	Hours	2	8	\$440.00
Reinforcing Steel	\$ 70.00	2	Hours	2	2	\$140.00
Concrete Sample Pick-Up	\$ 55.00	4	Hours	2	4	\$220.00
Company Mileage (Travel)	\$ 0.85	40	Miles	4	160	\$136.00
Asphalt Testing						
Asphalt Testing	\$ 70.00	24	Hours	3	24	\$1,680.00
Company Mileage (Travel)	\$ 0.85	40	Miles	3	120	\$102.00
Laboratory Testing						
Sieve/Gradation (Soil)	\$ 75.00	3	Tests		3	\$225.00
Modified Proctor	\$ 200.00	3	Tests		3	\$600.00
Compressive Strength of 4" x 8" Cylinder	\$ 18.00	12	Tests		12	\$216.00
Project Management/Administration						
Project Management	\$ 130.00	5	Hours		5	\$650.00
Administration	\$ 130.00	2	Hours		2	\$260.00
Total						\$7,431.00

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Schodack NY ("Client") and Terracon Consultants - NY, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Water Plant Bridge-Schodack project ("Project"), as described in Consultant's Proposal dated 06/05/2023 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. 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.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. 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, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$25,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, 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.
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 occ / \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. Dispute Resolution.** 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. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

Consultant: Terracon Consultants - NY, Inc.

By: Date: 6/5/2023

Name/Title: Joseph L. Robichaud, Jr. / Office Manager I

Address: 30 Corporate Cir Ste 201
Albany, NY 12203-5169

Phone: (518) 266-0310 Fax: _____

Email: Joe.Robichaud@terracon.com

Client: Town of Schodack NY

By: _____ Date: _____

Name/Title: Charles Peter / Supervisor

Address: 265 Schuurman Road
Castleton, NY 12033

Phone: _____ Fax: _____

Email: charles.peter@schodack.org

— Since — **Advance Testing** — 1984 —

CONSTRUCTION MATERIALS TESTING & INSPECTION SERVICES

June 14, 2023

LaBerge Engineering & Consulting Group, Ltd.
4 Computer Drive West
Albany, NY 12205
Attention: James Krzanowski

Re: 2021094 (T) Schodack - Water Plant Bridge


Dear Mr. Krzanowski,

On behalf of Advance Testing, I would like to thank you for giving us the opportunity to submit a proposal for the Schodack Water Plant Bridge. Advance Testing has been providing construction materials testing and inspection services for over thirty-nine years, and our commitment to providing the best service our industry has to offer continues to grow. I encourage you to review our company's history and project experience, or even schedule a visit to our accredited laboratory to see the attention we give to each of our clients' projects.

I have attached a fee schedule and contract for your review. If you have any questions or would like more information, please do not hesitate to contact me at (845) 496-1600 ext. 201 or email me at charrison@advancetesting.com.

Thank you again for considering Advance Testing.

Sincerely,



Christopher Harrison
Business Development Associate

CONSTRUCTION MATERIALS TESTING & INSPECTION SERVICES

James Krzanowski
 LaBerge Engineering & Consulting Group, Ltd.
 June 14, 2023

2021094 (T) Schodack - Water Plant Bridge
 Proposal #P23_0772

FEE SCHEDULE

Technician Type:	Half Day Rate	Full Day Rate
Asphalt & Soil Compaction Technician	\$ 470.00	\$ 820.00
Concrete** Technician	\$ 470.00	\$ 820.00
Reinforcing Steel Inspector	\$ 530.00	\$ 930.00
Bearing Capacity Inspector	\$ 620.00	\$ 1,095.00

Other Services:	Rate
Professional Engineer (if needed), per hour	\$ 225.00

***Technician Notes:**

- Rate is per each inspector, Monday-Friday. Half day rate includes travel time, mileage, and up to four hours of time on site. Full day rate includes travel time, mileage, and up to eight hours of time on site. Overtime and Saturday rates will be charged at 1.5 times the regular rate. Sunday and Holiday rates will be charged at 2.0 times the regular rate. Any necessary travel/hotel/parking expenses will be billed to client at cost. Please call Advance Testing for all contracted inspection services 24 hours in advance.

****Concrete Notes:**

- In accordance with ACI 318-11 and ACI 301-10, Building Code Requirements for Structural Concrete, Advance Testing copies the concrete supplier on all concrete compressive strength results. If you would prefer that Advance Testing not send these results to the supplier, please inform Advance Testing of this preference in writing prior to the start of the project.
- Concrete cylinders are required to be picked up from the project site within 48 hours of being cast. Advance Testing will follow this procedure and pick up any cylinders cast within 48 hours, unless otherwise requested not to do so in writing. Cylinder pick-ups are invoiced at the noted sample pick-up rates as shown on the Fee Schedule.
- Except as otherwise required by the project specifications, Advance Testing will cast one set of cylinders per 50 yards³ of concrete placed.
- Advance Testing is not responsible for the mix design or for the QC/QA at the producer unless expressly set forth in Advance Testing's Scope of Work annexed hereto; or for the supplier or contractor's failure to comply with the design, the drawings and specifications, or applicable codes and standards; or for the contractor's means and methods of construction.
- This Fee Schedule is subject to the terms and conditions of the annexed Service Agreement, which is incorporated as if set forth fully herein.



CONSTRUCTION MATERIALS TESTING & INSPECTION SERVICES

James Krzanowski
 LaBerge Engineering & Consulting Group, Ltd.
 June 14, 2023

2021094 (T) Schodack - Water Plant Bridge
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FEE SCHEDULE

Sample Pick-up:	Per Trip
Sample Pick-up Charges (<i>as needed</i>)	\$ 185.00
Equipment:	Per Day
Density Gauge	\$ 100.00
Laboratory Testing:	Price Per Test
Soil Gradation Analysis	\$ 65.00
Wash Sieve Analysis	\$ 45.00
Full Standard or Modified Proctor Test for Soils (min. of 4 points)	\$ 240.00
Compressive Strength of Advance Testing-cast Concrete Cylinders	\$ 19.00

**To indicate acceptance of this fee schedule for the above-mentioned project,
 Please return a signed copy to our office via email at your earliest convenience.**

Payment Terms: Advance Testing Company will prepare a bi-weekly bill which will set forth services rendered and other charges. The amount is due upon receipt of the bill. All amounts not paid within thirty (30) days after the invoice date shall bear an additional charge of one and one-half (1 ½) percent per month until paid.

Respectfully submitted by: Christopher Harrison

Proposal Accepted and Work Authorized for: LaBerge Engineering & Consulting Group, Ltd.

 Signature/Date

 Name

CONSTRUCTION MATERIALS TESTING & INSPECTION SERVICES

James Krzanowski
LaBerge Engineering & Consulting Group, Ltd.
June 14, 2023

2021094 (T) Schodack - Water Plant Bridge
Proposal #P23_0772

SERVICE AGREEMENT

This Agreement was made as of June 14, 2023 by and between ADVANCE TESTING COMPANY, INC., which is a Delaware corporation with principal offices located at 3348 Route 208, Campbell Hall, NY (Hereinafter called "ADVANCE"), and LaBerge Engineering & Consulting Group, Ltd. (Hereinafter called "CLIENT"). CLIENT'S project is 2021094 (T) Schodack - Water Plant Bridge (Hereinafter called "PROJECT").

The CLIENT and ADVANCE, for mutual considerations hereinafter set forth, agree as follows:

1. **SCOPE OF SERVICES AND SCHEDULE OF PERFORMANCE:** As per attached Proposal dated June 14, 2023.
2. **COMPENSATION:** In consideration of the services rendered, the CLIENT agrees to pay ADVANCE as per attached Fee Schedule to the extent ADVANCE performs the services requested.
3. **COMMENCEMENT OF SERVICES:** ADVANCE shall not begin work until ADVANCE has received a fully executed AGREEMENT; and an advance payment of \$ N/A.
4. **PAYMENT TERMS:** ADVANCE will prepare a bi-weekly bill which will set forth services rendered and other charges. The amount is due upon receipt of the bill. All amounts not paid within thirty (30) days after the bill's mailing date shall bear an additional charge of one and one-half (1 ½) percent per month until paid. Whenever the amount is past due more than forty-five (45) days after bill mailing, ADVANCE may suspend any further work or document delivery called for by this AGREEMENT until such account is made current. The fact that ADVANCE may continue to work beyond the time during which it may have suspended the work shall not be deemed to be a waiver of its rights hereunder. The CLIENT shall be responsible and shall pay ADVANCE for all costs, including attorney's fees, incurred as a result of the collection of any overdue balances. Any advance payment shall be applied to the last charges on the project.
5. **INSURANCE AND LIMITATIONS:** ADVANCE will maintain statutory workman's compensation insurance, and auto liability insurance to the extent required by law; and general liability insurance as may be reasonably available in the insurance market.
 - a. ADVANCE'S liability for damages resulting from Professional Services errors and omissions shall be limited to a sum not to exceed \$5,000.00 or ADVANCE'S fee, whichever is greater.
 - b. In the event the CLIENT makes a claim in litigation against ADVANCE under the provisions of this AGREEMENT and the CLIENT fails to prove such claim, then the CLIENT shall pay all reasonable charges for ADVANCE'S work, and all costs and expense incurred by ADVANCE in defending itself against the claim, including reasonable attorney fees.
6. ADVANCE shall have the right to declare this AGREEMENT null and void if not executed and returned to ADVANCE by the CLIENT within 30 days.
7. The unit rates in this proposal are based upon the work being performed during regular daytime shifts, Monday through Friday.
8. An automatic increase of 4% will be added at the end of each year.
9. Management time will be billed at \$ 95.00 per hour (minimum 4 hour charge/meeting) for attendance at jobsite meetings, if we are requested to be there by the CLIENT.
10. If overtime, weekend or holiday work is required, the following rates shall apply:
 - a. Monday – Friday: overtime shall apply after the initial 8 hours of work, and equal 1.5 times the regular rate of the task(s) being performed
 - b. Saturday: all time worked shall be billed at 1.5x the regular rate for the task(s) being performed
 - c. Sunday and Holidays: all time worked shall be billed at 2.0 times the regular rate for the task(s) being performed.

CONSTRUCTION MATERIALS TESTING & INSPECTION SERVICES

James Krzanowski
LaBerge Engineering & Consulting Group, Ltd.
June 14, 2023

2021094 (T) Schodack - Water Plant Bridge
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11. A cancellation charge, equal to half-day unit rate (4 hour minimum), will be charged if the scheduled ADVANCE personnel are en route to jobsite, provided and are not utilized, or cannot perform their work because of weather conditions, site conditions, and/or forces beyond their control.
12. While traveling to and from project site, if Advance Testing technician encounters traffic conditions out of our control that results in additional travel time beyond expected average commute to project site, this additional travel time will be billed.
13. Weekend and holiday cancellation charge will be billed at the applicable full-day rate.
14. Reimbursable expenses shall include transportation and per diem expense for out-of-town work, special delivery services, and unusual reproduction expenses.
15. CLIENT is responsible for notifying ADVANCE of all requested testing and inspection services at least 24 hours prior to the date such services are required, as well as for re-inspection of all non-conforming items.
16. ADVANCE reserves the right to adjust the rates quoted herein if this agreement is not approved and returned by the CLIENT within 30 days.
17. The rates used in this proposal are valid for one (1) year from date of issuance.
18. Professional Engineering services will be invoiced at \$ 225.00 per hour subject to adjustment as provided herein.
19. Free and clear access to the work must be provided to ADVANCE personnel by the CLIENT. The CLIENT represents that it has the full legal right, as an owner, tenant, contractor or representative of such party to engage ADVANCE for the services requested and to provide ADVANCE legal access to the premises in order to perform the services, and shall indemnify and hold harmless ADVANCE and its employees against all claims, loss, injury and damage including without limitation ADVANCE'S reasonable legal fees and costs in the event such representation is not true.
20. CLIENT shall not, whether directly or indirectly, during the time period in which ADVANCE is performing services for CLIENT under this Agreement and for a period of twenty-four (24) months thereafter, offer employment to any employee of ADVANCE, solicit any employee of ADVANCE for employment with CLIENT, or otherwise engage the services of any employee of ADVANCE, without the express written consent of ADVANCE by its President.
21. CLIENT agrees that a scanned and electronically stored version of this document may be employed for all purposes, and shall be admissible in any legal proceeding as if it were an original.
22. ADVANCE shall not be responsible for continuous or exhaustive inspection or testing, it being understood that ADVANCE shall conduct such inspections and testing in accordance with prevailing industry standards.
23. No party other than the CLIENT shall be entitled to rely or claim reliance on services performed by ADVANCE hereunder.
24. This document embodies the complete integration of the parties' agreement and all prior representations, promises and conditions are merged herein. This agreement may not be changed or modified except in a writing signed by both parties.

This AGREEMENT is effective on the last signed date.

LaBerge Engineering & Consulting Group, Ltd.
4 Computer Drive West
Albany, NY 12205

ADVANCE TESTING COMPANY, INC.
3348 Route 208
Campbell Hall, NY 10916

BY: _____
NAME: _____
TITLE: _____
DATE: _____

BY: _____
NAME: James P. Smith, Jr.
TITLE: President
DATE: _____

ADVANCE _____ CLIENT _____
This Page Approved (initials)



