# ARTICLE 1

# CONSULTANT SERVICES

**1.1** The Owner and the Geotechnical Engineer, hereinafter referred to as the Consultant, for the following considerations named, agree as follows:

**1.2** The Consultant agrees to perform professional services for the above‑named project as set forth herein, and in Articles 2 through 5, and as further described in Exhibit A attached hereto.

**1.3** The Owner agrees to pay the Consultant for Basic Services as set forth and defined in this Agreement, including other payments and reimbursements as provided. The fee for Basic Services being called the "Basic Rate".

**1.4** Basic Services shall include all aspects of conducting the geotechnical investigation and engineering services (including the furnishing of materials, apparatus, supervision, labor and required insurance) for soil boring and other exploration procedures, sampling, field and laboratory testing, and preparing and submitting boring logs and geotechnical report(s) for the project as stated herein.

**1.5** The Consultant shall provide the Owner with an hourly rate schedule, a schedule of footage or cubic yard prices for core drilling, field borings or pit excavations in soil and rock, and unit prices for field and laboratory tests. The schedules shall be submitted for the Owner's approval before commencement of field work.

**1.6** Written authorization from the Owner shall be required prior to performing work in excess of Basic Services. For work in excess of the Basic Services, payment by the Owner will be in accordance with the previously approved schedule(s) listed in item 1.5 above.

**1.7** The specified investigation shall commence after written Notice to Proceed is received from the Owner. Work shall be completed and the specified number of logs and report(s) delivered to the Owner within the time requirement specified in Exhibit A. The Owner shall be notified immediately of any circumstances that may cause a delay in completing the work on schedule.

**1.8** This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Consultant.

* 1. Nothing contained in this Agreement shall create a contractual relationship between a third party and either the Owner or the Consultant.

**ARTICLE 2**

# TERMS AND CONDITIONS

**2.1** QUALIFICATIONS AND REPORTS:

**2.1.1** Work shall be performed by qualified personnel under the direct supervision of a Registered Professional Engineer, registered in the State of Missouri, and the report(s) submitted shall bear the Engineer's seal and written certification to that effect.

**2.1.2**. The Consultant shall deliver the specified number of copies of the Geotechnical Report(s) and boring logs to the Owner. The Owner may make and distribute copies of the reports and boring logs as necessary in connection with the proposed Project without incurring obligation for additional compensation to the Consultant. All final documentation (drawings, reports, etc.) shall become the property of the Owner whether the project for which they are made is completed or not.

**2.2** CONSULTANT'S LIABILITY AND INSURANCE REQUIREMENTS

**2.2.1** Liability: The Consultant shall indemnify and hold harmless the University and their agents and employees from and against all claims, damages, losses and expense including attorneys’ fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and is caused in whole or in part by any negligent act or omission of the Consultant, any Subconsultant,  anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The parties hereto understand and agree that the University is relying on, and does not waive or intend to waive by any provision of this Contract, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to the University, or its officers, employees, agents or volunteers.

**2.2.2** Insurance: The Consultant shall provide and maintain, during the life of the Agreement, insurance acceptable to the Owner which will afford protection and coverage in accordance with the requirements set forth below. Consultant shall cause each Subconsultant to purchase and maintain insurance of the types and amounts specified herein.  Limits of such coverage may be reduced only upon written agreement of Owner.

**2.2.3** Commercial General Liability Coverage comparable to Comprehensive General Liability coverage to protect the Consultant and any Subconsultant performing work covered by this Agreement from claims for damages for personal injury, bodily injury (including wrongful death), and from claims for property damage which may arise from the operation under the Agreement.

 The coverage will provide protection for all operations by the Consultant or any Subconsultant or by anyone directly or indirectly employed by the Consultant or Subconsultant. In addition, the coverage is to include "The officers, employees, and agents of The Curators of the University of Missouri" as "additional insured". The amount of the insurance shall not be less than a minimum of $1,000,000 combined single limit, per occurrence and $2,000,000 general aggregate, for both bodily injury and property damage combined.

**2.2.4** Comprehensive Automobile Liability coverage will be provided by the Consultant and include coverage for all Owned, Hired, and Non-Owned vehicles. The coverage is to include for protection of the Consultant and Subconsultant or by anyone directly or indirectly employed by either of them. The minimum limit of coverage to be provided is $1,000,000 combined single limit for bodily injury and property damage, per occurrence and aggregate.

**2.2.5** Professional Liability Insurance will be provided by the Consultant to cover claims arising out of the negligent acts, errors and omissions by the Consultant, Subconsultant, or anyone directly or indirectly employed by them. The coverage provided shall not be less than $1,000,000 aggregate or the value noted on Exhibit A.

**2.2.6** Worker's Compensation Insurance Coverage A: Worker's Compensation Insurance for all the Consultant's employees at the site of the project, and in case any work is sublet, the Consultant shall require any Subconsultant similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Consultant. This coverage shall comply in all respects with the requirement of the Statutes of the State of Missouri. Coverage B: Employer's Liability, in a limit no less than $500,000 for each of the three coverages listed for Employer’s Liability.

**2.2.7** All insurance shall be procured through agencies and be written by insurance companies which are acceptable to and approved by the Owner, e.g., all coverages should be placed with Insurance Carriers that are licensed to do business in the state of Missouri as an admitted Carrier and all coverages placed are subject to the Owner's approval as to form and content, as well as Carrier. All required coverages shall be obtained and paid for by the Consultant.

**2.2.8** The Consultant shall furnish the Owner with certificates,  Additional Insured endorsements, policies, or binders which indicate the Consultant and/or the Owner and other Consultants (where required) are covered by the required insurance showing type, amount, class of operations covered, effective dates and dates of expiration of policies prior to commencement of the work.  Consultant is required to maintain coverages as stated and required to notify the University of a Carrier Change or cancellation within 2 business days. The University reserves the right to request a copy of the policy.  Consultant fails to provide, procure and deliver acceptable policies of insurance or satisfactory certificates or other evidence thereof, the Owner may obtain such insurance at the cost and expense of the Consultant without notice to the Consultant.

**2.2.9** It is understood and agreed that the insurance required by the provisions of this article is required in the public interest and that the Owner does not assume any liability for acts of the Consultant, any Subconsultant or their employees in the performance of the Agreement.

## ARTICLE 3

## SAMPLING AND TESTING

**3.1** LOCATION OF BORINGS AND PITS:

**3.1.1** The Consultant shall determine the number, sizes, depth and proposed location of borings and/or pits by consulta­tion with the Project Architect, the Project Structural Engineer, and the Owner. This information shall be shown, with dimen­sions, on a plot plan to be submitted in two (2) copies by the Consultant to the Owner at least five (5) working days prior to the proposed sampling. This plot plan shall show a graphic scale, north arrow, location of existing buildings, trees, above and below ground service/utility lines (both utility company and Owner‑owned lines), pavement areas, established benchmark(s) with elevation(s) noted, and locations of proposed borings and pits. Existing site features, not specifically mentioned, that impact boring or pit locations shall also be shown on the plot plan.

**3.2** BORINGS:

**3.2.1** The number, size, depth and location of the borings shall not be changed without the Owner's approval.

**3.2.2** If conditions are encountered, including but not limited to, unanticipated materials which cannot be penetrated by sampling equipment, the Consultant shall immediately consult with the Owner. When requested by the Owner, the Consultant shall core drill into the material as required to establish recommended footing elevations.

**3.2.3** The Consultant shall advise the Owner if work beyond the Basic Services is required to obtain information that is required for a professional interpretation of subsurface conditions at the project site, and shall perform such additional work as authorized in writing by the Owner.

If such work will result in additional charges to the Owner, written approval shall be obtained from the Owner for the amount of additional charges before proceeding.

The extent of exploration undertaken shall be consistent with the scope of the Project indicated by the information given herein and any documents attached hereto. Sampling operations for both disturbed and undisturbed samples shall be in accor­dance with approved American Society for Testing Materials (ASTM) standards, or other procedures previously approved by the Owner, as necessary to produce the information required for the report(s).

**3.3** DRILLING AND SAMPLING METHODS:

**3.3.1** Unless otherwise specified or approved by the Owner, drilling and sampling shall be performed in accordance with the applicable ASTM standards, current at the time of Agreement signing, including, but not limited to, ASTM D1586, D1587 and D2113. Soil samples shall be taken at the ground surface, at two feet below existing grade, and at each change in soil stratification or soil consistency, but not further apart than five feet in each of the borings unless otherwise specified on the boring plot plan(s). Where clay cohesive soils are encoun­tered, thin‑walled tube samples shall be taken of repre­sentative strata. Split‑spoon samples shall be placed in sealed jars labeled with the following information: (1) boring number, (2) sample number, (3) sample depth, (4) blows per foot required to drive sample, (5) date, (6) Project name, and (7) Consultant's name.

**3.3.2** Rock cores shall be not less than 1 3/8" in diameter, and shall be placed in core boxes properly labeled as indicated in 3.3.1. Cores shall be advanced to the depth specified in Exhibit A.

**3.3.3** The samples shall be preserved and remain subject to inspection for a period of six (6) months as specified by the Owner. Field logs shall be prepared either by the Consultant or by an experienced Geotechnical Technician acting under the direct supervision of the Consultant.

**3.4** PITS:

**3.4.1** Shallow depth sampling or exploration necessitating open pit excavation shall be conducted in a safe and workmanlike manner. Requirements of the Williams‑Steiger Occupation­al Safety and Health Act of 1970 (OSHA) shall apply.

**3.4.2** The number, size, depth and location of the pit(s) shall not be changed without the Owner's approval. The Consultant shall notify the Owner if provisions of paragraphs 3.2.2 and/or 3.2.3 apply to pit excavation(s).

**3.5** NOTIFICATION

**3.5.1** The Consultant shall coordinate access to the site with the Owner and notify the Owner two (2) days before drilling or excavation begins. The Consultant shall notify the Owner before equipment is removed from the site and advise the Owner as to the field description of soil conditions encountered. The Consultant shall perform such additional borings or other exploration as may be authorized by the Owner.

**3.5.2** The Consultant shall immediately stop work and notify the Owner if known, or suspected hazardous or toxic substances are encountered during soils exploration. Work shall not be resumed without prior written approval from the Owner.

**3.6** PROTECTION OF PROPERTY

**3.6.1** The Owner will be responsible for providing record location information and assisting in the location of the Owner's underground utility lines and structures. The Owner will assist driller/excavator with location of, but will not be responsible for location of underground facilities owned by Public Utility, Municipal Corporation or other persons, for which the driller/excavator hired or owned by the Consultant shall be responsible. The Consultant and driller/excavator shall comply with all requirements of Chapter 319 of the Revised Missouri Statutes concerning notice to utilities, municipalities, et.al.

**3.6.2** The Consultant shall take precautions to prevent damage to property, visible and concealed, and shall restore the site to the condition existing prior to the Consultant's entry, including, but not limited to, backfilling of borings and pits, patching of slabs and pavements, and repair or replacement of lawns, plantings, and structures. Each boring shall be plugged temporarily, pending additional ground water readings. At the completion of the ground water readings, the borings shall be permanently plugged, including patching of slabs and pavements, unless instructed otherwise, in writing, by the Owner.

**ARTICLE 4**

## FIELD AND LABORATORY REPORT

**4.1** FORMAT:

* + 1. All segments of the report covering the investigations and analyses shall be made on white paper, 8” x 11”, suitable for photocopying and bound in booklet form. If larger drawings are necessary, copies shall be folded and bound into the booklet and a mylar original provided to the Owner. Written reports and analyses shall be on the Consultant's letterhead. Each drawing shall include a title block which contains the Project name and location, the Consultant's name and address, the date of the subsurface investigation, the date of the drawings, the initials of the person in charge of the crew making the investigation, the initials of the drafter, and the initials of the Professional Engineer who is the responsible checker.

**4.2** FIELD AND LABORATORY REPORTS **4.2.1** All data required to be recorded according to the ASTM or other pre‑approved standard test methods employed shall be obtained, recorded in the field, and referenced to boring numbers. Soil shall be classified in the field logs in accordance with Owner approved current applicable standards, such as ASTM D2488. Classification for the final logs shall be based on the field information, results of tests, and inspection of the samples in the laboratory by the Consultant preparing the report.

**4.2.2** The report shall include a chart illustrating the soil classification criteria and the terminology and symbols used on the boring logs.

**4.2.3** The Consultant shall identify the ASTM or other recognized standard sampling and test methods utilized and indicate the latest revision date for the standards referenced.

**4.2.4** The Consultant shall provide a plot plan giving dimensioned locations of test borings and pits as referenced in paragraph 3.1.1.

**4.2.5** The Consultant shall provide vertical sections for each boring, plotted and graphically presented, showing number of boring, sampling method used, date of start and finish, surface elevations, description of soil and thickness of each layer, depth to loss or gain of drilling fluid, hydraulic pressure required or number of blows per foot (N value), and, where applicable, depth to wet cave‑in, depth to artesian head, ground water elevation and time when water reading was made (repeat observation after 24 hours), and presence of gases. Note the location of strata containing organic materials, wet materials or other inconsistencies that might affect engineering conclusions and recommendations.

**4.2.6** The Consultant shall describe the existing surface conditions and summarize the subsurface conditions found to be present.

**4.2.7** The Consultant shall provide a profile and/or topographic map of rock or other bearing stratum.

**ARTICLE 5**

## FOUNDATION ENGINEERING EVALUATION

* 1. The Consultant shall analyze the information developed by investigation or otherwise available, including any aspects of the soil and subsurface conditions which may affect design and construction of proposed structures. The Consultant shall consult with the Owner on the design requirements of the Project and based on such analysis and consultation, the Consultant shall submit professional evaluations and recommendations for necessary areas of consideration.

# ARTICLE 6

**PAYMENTS**

**6.1** The Basic Rate will cover the compensation for Basic Services to be rendered by the Consultant or their representatives while in the discharge of duties connected with the project, or where specific provision is otherwise made in this Agreement.

**6.2** Payments will be paid in proportion to the services performed unless otherwise stated in Exhibit A. Payments toward Basic Rate will be made monthly, providing project progress in satisfactory to the Owner, up to an aggregate amount not to exceed 90% of the maximum fee stated in Exhibit A. Final payment of the 10% retainment will be made following acceptance of the final soils report(s).

**6.3** Payments for previously approved extra work will be made promptly upon presentation, to the Owner, of the Consultant's statement of services rendered, and subsequent approval by the Owner.

**6.4** Payment requests shall be submitted on University of Missouri vouchers accompanied by the Consultant's statement of services rendered.

**6.5** EXAMINATION OF RECORDS

The Owner, or any parties it deems necessary, shall have access to and the right to examine any accounting records of the consultant involving transactions and work related to this Agreement for three years after final payment hereunder.

**6.6** REIMBURSABLE EXPENSES

**6.6.1** Reimbursable expenses are in addition to the professional fee determined by the Basic Rate. They will include furnishing additional copies of the Soils Report, if requested, at the Consultant's direct cost without Consultant overhead and profit.

**6.6.2** If authorized in advance by the Owner, the direct expense of Subconsultants or special instruments/ equipment required for other than normal services furnished by the Consultant will be reimbursable expenses.

* + 1. Telephone calls, mileage and/or other travel costs, meals and lodging for out‑of‑town trips, photocopying costs, and expenses of a similar nature will not be considered reimbursable expense under this Agreement unless such items are specifically authorized in advance by the Owner in writing.

# ARTICLE 7

# ADMINISTRATIVE REVIEW

* 1. Disputes between the Consultant and the Owner can be submitted in writing to administrative review as provided in this article. All requests for administrative review shall be routed through the UM Director of Facilities Planning & Development, Suite 9, Old Alumni Building, 1105 Carrie Francke Drive, University of Missouri, Columbia, Missouri 6521.

**7.2** Upon written request from the Consultant, the Campus Facilities Administrator will convene a meeting between the Project Manager and the Consultant. After reviewing the facts presented, the Campus Facilities Administrator will issue a written opinion to the Consultant and Project Manager regarding the disputes.

**7.3** If the Consultant is not in agreement with the opinion of the Campus Facilities Administrator, the Owner's Contracting Officer or designee will convene a meeting with the Campus Facilities Administrator and the Consultant. After reviewing the facts, the Owner's Contracting Officer or designee will issue a written opinion to the Consultant and Campus Facilities Administrator regarding the disputes. This written opinion will conclude the Administrative Review process.

**ARTICLE 8**

**TERMINATION OF AGREEMENT**

**8.1** The Owner may terminate this Agreement at any time and for any cause by a notice in writing to the Consultant. Upon receipt of such notice, the Consultant shall, unless notice directs otherwise, immediately discontinue all services and work, the entering into contracts for assistance in connection with the performance of this Agreement, and shall proceed to cancel promptly all existing contracts insofar as such contracts are chargeable to this Agreement.

**8.2** Should the Agreement be terminated due to the fault of the Consultant, no further payments on the fee account will thereafter be made except for services previously authorized and performed which are of value to the Owner. Should the Agreement be terminated due to no fault of the Consultant, the Consultant will be paid promptly any unpaid fees and approved reimbursables for work actually authorized and performed under the Agreement.

**8.3** The notice required under Paragraph 8.1 will be delivered or served upon the Consultant or mailed to the Consultant's last known address by registered mail, and in case the notice is so mailed, it shall be deemed delivered within forty-eight (48) hours after the same is postmarked.

## ARTICLE 9

**MISCELLANEOUS PROVISIONS**

**9.1** APPLICABLE LAW DEEMED INSERTED

**9.1.1** This Agreement shall be governed by the laws of the State of Missouri. All applicable provisions required by law shall be deemed to be incorporated herein.

**9.2** CONFLICT OF INTEREST

**9.2.1** The Consultant will not hire any officer or employee of the Owner to perform any service covered by this Agreement. If the work is to be performed, in connection with a federal contract or grant, the Consultant will not hire any employee of the United States government to perform any service covered by this Agreement.

**9.2.2** The Consultant affirms that to the best of their knowledge there exists no actual or potential conflict between the Consultant's family, business or financial interests and the Consultants services under this Agreement, and in the event of change in either the Consultants private interests or service under this Agreement, the Consultant will raise with the Owner any questions regarding possible conflict of interest which may arise as a result of such change.

**9.2.3** The Consultant herein is an independent contractor and shall not act as an agent for the University, nor shall the Consultant be deemed to be an employee of the University for any purpose whatsoever. The Consultant shall not enter into any agreement or incur any obligations on the University's behalf or commit the University in any manner.

**9.3** NONDISCRIMINATION/EQUAL OPPORTUNITY

The University serves from time to time as a contractor for the United States government. Accordingly, the provider of goods and/or services shall comply with federal laws, rules and regulations applicable to subcontractors of government contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706 and Executive Order 11758), and certain veterans (38 USC 4212, formerly [2012]), contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated herein by reference.

**9.4** PATENTS

The Consultant shall hold and save harmless the Owner and its officers, agents, servants and employees, from liability of any nature or kind, including cost and expense, for or on account of infringement or use of any patented or otherwise protected invention, process, or article in the performance of this Agreement, including its use by the Owner.

Whenever any invention or discovery is made or conceived by the Consultant in the course of or in connection with this Agreement, the Consultant shall furnish the Owner with complete information with respect thereto and the Owner will have the sole power to determine whether or where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result. The Consultant shall, at the Owner's expense and the Owner's request, execute all documents and do all things necessary or proper with respect to such patent application.

* 1. COPYRIGHT

The Owner will have the sole power to determine whether or not a copyright application will be filed for any published report or other document which results from the work performed under this Agreement. The Consultant shall, at the Owner's expense and at the Owner's request, execute all documents and do all things necessary or proper with respect to such copyright application.

**9.6** CERTIFICATE

**9.6.1** The Consultant certifies to the best of its knowledge and belief that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency in accordance with Executive Order 12549 (2/18/86).

**9.6.2** If this agreement is for $100,000 or more, and if the Consultant is a company with ten (10) or more employees, then Consultant certifies that it, and any company affiliated with it, does not boycott Israel and will not boycott Israel during the term of this Contract. In this paragraph, the terms “company” and “boycott Israel” shall have the meanings described in Section 34.600 of the Missouri Revised Statutes.

# ARTICLE 10

# ASSIGNMENT

* 1. It is understood that the services to be rendered

by the Consultant hereunder are personal in character and

that this Agreement shall not be assigned by the Consultant without the written approval of the Owner.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the day and year first above written.

**For CONSULTANT: For THE CURATORS OF THE**

**UNIVERSITY OF MISSOURI**

**Title Title**

**Federal Identification Number Date**

**MBE Yes No \_\_\_\_\_**

**WBE Yes No \_\_\_\_\_**

**SDVE Yes No \_\_\_\_\_**

**Veteran Yes No \_\_\_\_\_**

**DBE Yes No \_\_\_\_\_**

**EXHIBIT A - PROJECT DESCRIPTION**

### GEOTECHNICAL SERVICES AGREEMENT

**DATE:**

**PROJECT:**

**PROJECT NO.:**

**CONSULTANT:**

**PROJECT COORDINATOR(S):**

**PROJECT SCOPE:**

**PROJECT SCHEDULE:**

**CONSULTANT'S FEE:**

**PROJECT REQUIREMENTS:**

Amount of Professional Liability Insurance Required (2.2.5) $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Number of Final Logs and Reports Required (1.7) \_\_\_\_\_\_\_\_ Copies

Depth of Rock Cores (if applicable) (3.3.2) \_\_\_\_\_\_\_\_\_\_ Feet

### EXHIBIT B - CONSULTANT BILLING RATES

**GEOTECHNICAL SERVICES AGREEMENT**

**DATE:**

**PROJECT:**

**PROJECT NO.:**

**PROJECT COORDINATOR(S):**

**CONSULTANT:**