



Geotechnical & Environmental Engineering
Construction Materials Testing
Laboratory Testing

January 17, 2023
Proposal No. 4476-A

Revised February 1, 2023

Tracy Aaron, Chief of Police
Mansfield Police Department
1305 E. Broad Street
Mansfield, Texas 76063

tracy.aaron@mansfieldtexas.gov

**RE: Proposal for Construction Materials Engineering, Testing & Special
Inspection Services
Mansfield Police Station
Mansfield, Texas**

Dear Chief Aaron:

In accordance with your request, we are pleased to submit the following proposal and cost estimate to provide Construction Materials Engineering and Testing Services including Special Inspections for the new Police Station in Mansfield, Texas.

We are providing this proposal based on the understanding that LandTec Engineers has been selected to perform the CMT services listed herein based on qualifications submitted, therefore complying with the Texas Board of Professional Engineers, Engineering Practice Act. LandTec Engineers Professional Engineering Firm No. is F-000329.

Information provided to prepare this proposal included the Plans and Specifications prepared by Brown Reynolds Watford Architects, dated November 4, 2022. The project consists of the construction of a new two-story police headquarters as well as site grading, paving, utilities and two pre-engineered metal buildings. Sheets S0.4 and S0.35 have a list of "Special Inspections" called out by the structural engineer and are based on the 2018 International Building Code (IBC) format. Plans and specifications were provided via email and downloaded January 3, 2023. At the time of this proposal, a construction schedule was not available.

This revised proposal is based on Steele Freeman's construction schedule titled "Mansfield PD Sub Scheduled 11-30-2022". The schedule was provided to LandTec on January 31, 2023.

LandTec's Basic Scope of Services for Special Inspections and Construction Materials Testing services are described in "Basic Scope of Services" attached herein.

Client and LANDTEC may subsequently agree in writing to provide for additional services to be rendered under this agreement for additional, negotiated compensation. Services provided by LANDTEC will be consistent with the engineering standards prevailing at the time and in the area that the work is performed; no other warranty, express or implied, is intended.

COMPENSATION

LANDTEC proposes to perform the "Basic Scope of Services" outlined herein on a **Time and Materials Basis at an estimated cost of \$176,755.00**. The attached Cost Estimate sheet presents the estimated number of hours, tests, transportation, report preparation and review time for the construction project. The spreadsheet also presents the unit rates for the various activities.

These costs represent our best estimate at this time and may change subject to future developments during the project. It is possible that some of the estimated workforce requirements for specific task items may increase while others may not require the entire anticipated effort. This provides us a greater degree of confidence in the overall project estimate, rather than in any given task.

Invoices are detailed as to date and type of sampling, test, observation, etc., and will be submitted monthly. Payment is expected within 30 days or less of the invoice date.

AUTHORIZATION

We appreciate the opportunity to submit this letter agreement and look forward to providing construction materials engineering, testing and Special inspection services. If additional information is needed or if you have questions, please call.

Please indicate your approval by signing one copy of the proposal and returning to us. Any modifications to the attached language must be accepted by both parties.

Sincerely,



G. Scott Graves, P.E., M.Eng.
Sr. Geotechnical Engineer



Thomas D. Baker, P.E., RPLS
Principal Engineer

Texas Board of Professional Engineers - PE Firm No. F-000329

LANDTEC ENGINEERS

Distribution by PDF: Chief Aaron

Attachments: Basic Scope of Services
Cost Estimate
Terms & Conditions
GBA Statement

The above proposal, including all attachments, has been read and understood and is hereby agreed to and accepted. It is agreed that the attached "General Terms and Conditions" (which contains a limitation of liability provision), and Addendum(s), if any, form an express part of the Contract, as evidenced by my signature below:

Please provide a purchase order to LandTec Engineers, LLC or indicate your approval by signing one copy of the proposal and returning to us.

Mansfield Police Department

By: _____ (Signature)

Name: _____ (Please Print)

Title: _____

Date: _____

BASIC SCOPE OF SERVICES

The following paragraphs and attachments detail our Basic Scope of Services and Estimated Cost for the construction materials engineering, testing and Special Inspection coordination of field technicians and related engineering review of testing for the project. The required "Special Inspections" will be completed per the Special Inspection Program, as defined in the Construction Documents.

- Serve as the project Geotechnical Engineer of Record (GER) per the Special Inspections Specification.
- Special Inspections: The Geotechnical Engineer of Record will provide inspection service during foundation installation including earthwork, drilled piers, structural concrete, structural steel, and masonry including the storm shelter.
- Inspection and Materials Testing Services Per Specifications provided by Brown Reynolds Watford Architects and JQ Engineering.
- The Project Specifications list items requiring Special Inspections per International Building Code (IBC) 2018 and ICC 500 for storm shelter related tasks.
- Provide experienced engineering technicians to perform on site and laboratory testing services.
- Provide an experienced Project Manager under the supervision of a geotechnical/materials engineer (Registered Professional Engineer in Texas) to provide oversight and coordination of the engineering technician's daily work, review test data, review test report submittals and prepare Special Inspection reports and letters.
- Under the supervision of a geotechnical/materials engineer (Registered Professional Engineer in Texas), LandTec's administrative staff will distribute reports to personnel as determined by the Client.
- The Geotechnical Engineer of Record will provide final acceptance reports for each category tested at the completion of the project in accordance with the City of Mansfield requirements.

The following descriptions provide a general overview of our scope of services which includes the list from the Project Manual Section 01 40 00 – Quality Requirements, 1.02 SUMMARY, Item B, 4., Quality Control Inspections Include:

- a. Earthwork and Testing
- b. Drilled Pier Inspection
- c. Concrete Reinforcement Testing and Inspection
- d. Cast-in-Place Concrete Testing and Inspection
- e. Masonry Mortar and Grouts
- f. Inspecting Structural Steel
- g. Inspection of Open Web Steel Joists
- h. Inspection of Metal Deck
- i. Inspection of Cold Formed Metal Framing

Earthwork and Testing

Site Grading: Standard Proctor and classification tests will be performed for the on-site and off-site soils proposed for fill. In-place moisture-density (compaction) tests will be taken in each 6-to-8-inch lift of compacted fill material using a Troxler nuclear density gauge. Tests will be taken at a frequency of one test per 5000 square feet with a minimum of two tests per lift.

Utility Trenches: Field moisture-density (compaction) tests will be performed at the rate of one test per approximately each 200 linear feet of trench backfill each lift, with a minimum of two tests per lift. Tests will be performed for the sanitary sewer; storm drain and water lines.

Pavement Subgrade: Observation and testing of the pavement subgrade will include use of a Troxler nuclear density gauge to determine the moisture and density of the subgrade, and verify it is compacted as per the specifications. Field moisture-density (compaction) tests will be performed at the rate of one test per approximately each 5,000 square feet, with a minimum of two tests per section. Gradation tests will also be performed on the prepared subgrade once the chemical additive is applied at the rate of approximately one per three compaction tests.

Drilled Pier Observation & Testing

Per Special Inspection Requirements, an engineering technician will observe the construction of drilled piers including the reinforcing steel cage, bearing material, depth, cleaning of the pier hole, removal of subsurface seepage, installation, and removal of temporary steel casing (if required), preparation of the pier log and placement of structural concrete. Samples of plastic concrete will be obtained for slump measurements and casting of compressive strength specimens. Structural concrete will be sampled each approximate 100 cy or fraction thereof. Observation and testing will be performed on a "continuous" basis.

Concrete Reinforcement & Cast-in-Place Concrete Testing and Inspection

An experienced engineering technician will observe the size, spacing, cover, positioning and grade of the steel as well as verify the bars are free of deleterious material. The technician will also check bar laps and splices to determine they are adequately tied and supported. Observation of reinforcing steel will be performed on a "periodic" basis.

Per Special Inspection Requirements, an ACI certified engineering technician will test the concrete for compressive strength, slump, air content and temperature for all concrete placed including slabs, walls, and paved areas. Samples of plastic concrete will be obtained for slump measurements, air and temperature, and casting of compressive strength specimens. Concrete will be sampled each 50 to 100 cy or fraction thereof for slump and a set of cylinders (5 each) will be cast and tested per each 50 to 100 cy or fraction thereof. The cylinders will be tested with one cylinder at 7-days, three at 28 days, and one held in reserve. Testing and observation of concrete placement will be performed on a "continuous" basis.

Masonry Mortar & Grouts

Per Special Inspection Requirements, an experienced engineering technician will be responsible for the inspection of the construction of mortar joints, reinforcement placement and structural elements. An experienced engineering technician will also be responsible for the inspection of grout to ensure the grouting area is clean, placement of reinforcement, and grout placement. Grout will be sampled each day and a set of prisms (4 each) will be cast; the prisms will be tested for compressive strength with one at 7-days, two at 28 days, and one held in reserve. Testing and observation of masonry will be performed on a "periodic" basis.

Inspecting Structural Steel including Inspection of Open Web Steel Joists,

Inspection of Metal Deck and Inspection of Cold Formed Metal Framing

Per Special Inspection Requirements, inspections and tests will be conducted by an AWS-Certified Welding Inspector. Structural steel inspections include the following.

- Bolts
- Welds
- Connections
- Open web steel joist
- Metal deck
- Cold formed metal framing

Structural steel inspections will be conducted on-site using structural plans and specifications and approved shop drawings provided by the contractor. During steel erection, "periodic" visits will be made to the site as scheduled by the contractor to visually inspect the installation and tightening of high strength bolts on bearing type connections. Inspectors are to verify size, length, and location of welds at the completion of welding on a continuous basis.

Inspectors will also visually inspect on a continuous basis, single pass fillet welds, floor and deck welds, and shear connections. The inspector will inspect the steel frame for compliance with structural drawings including bracing, member configurations and connection details. During steel erection, continuous inspection will be performed for complete and partial penetration welds, multipass fillet welds and single pass fillet welds greater than 5/16".

The General Contractor (GC) and Architect or Structural Engineer will need to confirm that "a qualified fabricator who participates in the AISC Quality Certification Program and is designated an AISC Certified Plant, Category STD at the time of bid" was purchased.

Our scope of services and cost estimate do not include inspection of structural steel at the fabrication plant. If the GC has not selected a steel fabricator and plant for this project, LandTec can provide a scope and cost estimate for fabrication plant inspection services.

Sprayed Fire-Resistant Material

Our field personnel will observe the fireproofing material spray-applied to the building frame. Thickness, density, and bond strength tests will be performed on the fireproofing material.

Storm Shelter Construction

Inspection and testing of structural elements during the construction of the storm shelter will be performed. Specific elements to be observed and tested include cast-in-place concrete, reinforcing steel, grout and structural steel observation and inspection.

ADDITIONAL SERVICES / EXCLUSIONS

The following services are not included in the *Basic Scope of Services* and will be considered as *Additional Services* when required or requested:

- Additional hours or trips for the engineering technician beyond the specific hours/trips detailed on the attached spreadsheets.
- Additional engineering, site visits, report review and preparation time beyond what is outlined in Basic Scope of Services and detailed on the attached spreadsheets.
- Additional testing beyond that outlined in *Basic Scope of Services* on the attached spreadsheets due to changes in testing or inspection requirements by the City.
- The services of specialty sub consultants or other special outside services other than those described in *Basic Scope of Services*.
- Any other services not specifically included in *Basic Scope of Services* and on the attached spreadsheets.

This proposal does not include the following testing.

- Inspection of precast elements for this project which are cast off-site. Precast is typically inspected by an independent local testing agency hired by the precast company in the city where the precast is made.
- Testing contractor-built concrete masonry units
- Inspection and/or testing of MEP equipment
- Roofing
- Envelope Analysis
- Pressure testing or other types of testing on utility lines. Typically performed by the plumber or subcontractor/ general contractor.
- And any other items not specifically listed in Basic Scope of Services.

GENERAL INFORMATION

It is the contractors responsibility to contact LandTec to schedule testing services by calling 817-572-2818 and/or email to Ann Long at along@landteceng.com and Julie McCormack at jmccormack@landteceng.com during regular business hours between 8:00 am and 5:00 pm (central time zone). The contractor should not schedule testing services with the on-site engineering technician.

Request must be made a minimum of 24 hours in advance of work being performed and the request should state the specific testing and/or observation services needed including type of testing, location, name, and mobile phone number of the onsite contact person.

Our engineering technicians are not sent to project construction sites to determine if the contractor and/or sub-contractors are working and if testing services are needed.

The General Contractor and all Subcontractor's should have a **Quality Control Representative** onsite to verify construction personnel follow the project plans and specifications for each of the construction items.

Tests will be conducted in all areas designated by the contractor's superintendent to be ready for testing at the time LandTec's testing representative is on site. Field test results will be given verbally to the superintendent. Test reports will be submitted after the results are reviewed by the project geotechnical/materials engineer.

The presence of our field representative will be for the purpose of providing observation and field testing. Our work does not include supervision or direction of the actual work of the contractor, employees, or agents of the contractor. LandTec Engineers does not have the obligation or authority to stop Contractor's work. Neither the presence of our field representative nor the observation and testing by our firm shall excuse the contractor in any way for defects discovered in his work.

LandTec will not be responsible for the job or site safety on this project. Job and site safety will be the sole responsibility of the Contractor.

The term "Observation, Observe" is defined based on consultant's professional judgment, the act of visual evaluation or visually evaluating general conformance with requirements.

The term "Inspect, Inspection" is defined as visual determination of conformance with specific requirements.

The term "Test(s), Testing is defined as measurement, examination, and other activities to assess the characteristics of performance of materials.

The term "Certification" is defined as the consultant's expression of a professional opinion based upon the services consultant performed. A certification does not constitute a warranty or guarantee, either express or implied.

COMPENSATION

The actual cost for Construction Materials Engineering, Testing and Special Inspection services is dependent on the following typical items which are beyond LandTec's control.

- The contractor's rate of work and how the work is sequenced
- Quantity of equipment and experience of personnel on site

- Delays due to shortage of construction workers
- Cubic yards of soil placed per day
- Number of drilled piers completed per day
- Delays in concrete delivery and/or cubic yards of concrete placed per day
- Weather conditions impacting daily work and the overall schedule

If unforeseen circumstances should arise which indicate that more time is required, LandTec will provide a written estimate of additional required time and cost. LandTec will not proceed with work beyond the estimated amount indicated on the spreadsheets without a written authorization from the client. Charges to the project will be made for actual time spent on the project at the rates indicated on the cost estimate.

Notes for the cost estimate are as follows:

1. Field test rates are charged per test in addition to technician hourly rates.
2. A minimum of four hours technician time and transportation charge will be billed for each call out, sample or specimen pickup.
3. A minimum of five hours applies to the AWS-Certified Welding inspectors time and transportation charge will be billed for each call out, sample or specimen pickup.
4. A minimum of five concrete cylinders (per ACI) will be charged for each concrete placement.
5. Overtime rates are 1.5 times the regular rate for hours worked over 8 hours per day or hours before 7:00 AM and/or after 5:00 PM. Lab and field services performed on Saturday, Sunday and holidays will be charged at 1.5 times the regular rate.
6. Additional tests not included in this proposal will be quoted upon request.

Construction Materials Engineering and Testing (CoMET) and Special Inspections - Cost Estimate
Mansfield Police Station
January 17, 2023

Item No.	Description	Unit	Estimated Quantity	Unit Price	Estimated Amount
Labor Cost					
	Sr. Engineering Technician	hr	300	75.00	22,500.00
	Sr. Engineering Technician (OT)	hr	60	112.50	6,750.00
	Engineering Technician	hr	500	70.00	35,000.00
	Engineering Technician (OT)	hr	100	105.00	10,500.00
	CWI (Certified Welding Inspector)	hr	150	85.00	12,750.00
	CWI (Certified Welding Inspector) (OT)	hr	10	127.50	1,275.00
	Project Manager (Site Visits)	ea	100	125.00	12,500.00
	Project Engineer (Site Visits)	ea	40	175.00	7,000.00
	Transportation	ea	200	60.00	12,000.00
	Troxler Moisture Density Gauge	ea	20	125.00	2,500.00
Subtotal =					122,775.00
	Testing Units (Concrete Cylinders, Proctors, Etc.)				24,000.00
	Project Engineering / Management / Administration				20,000.00
	Contingency				10,000.00
Subtotal =					54,000.00
Total Estimate =					\$ 176,775.00

Basis for our Cost Estimate: *Estimated cost for construction materials engineering and testing services is based on LandTec's interpretation of durations for each work item based on Steele Freemans's construction schedule titled "Mansfield PD Sub Schedule 11-30-2022".*

LANDTEC ENGINEERS, LLC

GENERAL TERMS AND CONDITIONS

1 PROFESSIONAL RESPONSIBILITY.

LANDTEC shall perform services consistent with skill and care ordinarily exercised by other professional consultants under similar circumstances at the time services are performed, subject to any limitations established by CLIENT as to degree of care, time, or expense to be incurred or other limitations of this Agreement. No other representation, warranty, or guaranty, express or implied, is included in or intended by LANDTEC's services, proposals, agreements, or reports.

2 DISPUTE RESOLUTION.

Any claims or disputes made during design, construction, or post-construction between the Client and LANDTEC shall be submitted to non-binding mediation. Client and LANDTEC agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties. Parties agree to attempt to resolve all disputes in good faith for a period of 30 days before initiating any legal proceedings.

3 BILLING/PAYMENTS.

Invoices for LANDTEC'S services shall be submitted, at LANDTEC'S option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, LANDTEC may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice.

4 LATE PAYMENTS.

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. Any amount not paid but contested in writing and in good faith shall not be subject to any late fee, interest, or other penalty; such amount shall not constitute and breach or trigger any provision of paragraph 3.

5 INITIATION.

LANDTEC is authorized to proceed upon receipt of an executed copy of the Agreement or Notice to Proceed. If verbal notice to proceed is given, the terms of these provisions will apply whether or not a signed agreement is returned. Client shall provide LANDTEC right-of-entry to property. Client shall notify LANDTEC of all known health and safety hazards on the site. Client shall correctly identify the location of known subsurface structures and utilities. LANDTEC shall not be responsible for damage to underground structures or utilities.

6 LIMITATION OF LIABILITY.

In consideration of potential liabilities which may be disproportionate to the fees to be earned by LANDTEC, CLIENT agrees to limit the liability of LANDTEC, its officers, directors, shareholders, employees, agents, and representatives to CLIENT for all claims or legal proceedings of any type arising out of or relating to the performance of services under this Agreement (including but not limited to LANDTEC's breach of the Agreement, its professional negligence, errors and omissions and other acts) to the greater of \$150,000 or the amount of LANDTEC's fee. Failure of CLIENT to give written notice to LANDTEC of any claim of negligent act, error or omission within one (1) year of performance shall constitute a waiver of such claim by CLIENT. Neither party shall be liable for any indirect, special, or consequential loss or damages arising from this Agreement.

7 INDEMNIFICATION.

Subject to the limitation of liability above, to the extent permitted by law each party agrees to indemnify, defend and hold harmless the other from any claim, suit, liability, damage, injury, cost or expense, including attorneys' fees, (hereafter collectively called "Loss") arising out of a) breach of this Agreement or b) willful misconduct or negligence in connection with the performance of this Agreement.

8 CERTIFICATIONS.

Guarantees and Warranties: LANDTEC shall not be required to execute any document that would result in its certifying, guaranteeing, or warranting the existence of conditions whose existence LANDTEC cannot ascertain.

9 CHANGED CONDITIONS.

If, during the course of the performance of Services, conditions or circumstances develop or are discovered which were not contemplated by LANDTEC and which materially affect LANDTEC's ability to perform or which would materially increase the costs to LANDTEC of performing, then LANDTEC will notify CLIENT in writing, and LANDTEC and CLIENT shall renegotiate in good faith the terms of this Agreement within thirty (30) days. Alternatively, either party shall thereupon have the right to terminate the Agreement; provided, however, that upon any such termination, LANDTEC shall be compensated for services rendered to the date of termination.

10 HAZARDOUS OR UNSAFE CONDITIONS.

CLIENT has fully informed LANDTEC of and shall immediately inform LANDTEC when it becomes aware of any new information regarding, the type, quantity and location of any hazardous, toxic or dangerous materials or unsafe or unhealthy conditions known or suspected at all real property where services are to be performed ("the Project Site"). Fees shall be adjusted to compensate LANDTEC if conditions require LANDTEC to take emergency measures to protect the health and safety of the parties, the public or the environment.

11 NO THIRD PARTY BENEFICIARIES.

There are no third-party beneficiaries of this Agreement entitled to rely on any work performed or reports prepared by LANDTEC hereunder for any purpose. CLIENT shall indemnify and hold LANDTEC harmless against any liability for any Loss arising out of or relating to reliance by any third party on any work performed or reports issued hereunder. Any such indemnification shall be limited by applicable law and shall not constitute a waiver of any immunity or other defense available to the City either now or in the future.

12 TERMINATION OF SERVICES.

This agreement may be terminated by the Client or LANDTEC should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay LANDTEC for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

13 OWNERSHIP OF DOCUMENTS.

All documents produced and paid for shall become the property of the City of Mansfield, Texas. However, any use of such documents by the City shall be without warranty of any kind and at Cities sole risk.

14 APPLICABLE LAW.

All general terms and conditions shall be governed by the laws of the State of Texas.

15 SAMPLE DISPOSAL.

LANDTEC will retain samples transported to the geotechnical laboratory for testing for a period of thirty (30) days following submission 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.

16 MONITORING.

If LANDTEC 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 phrase applies. For the specified assignment, LANDTEC will report observations and professional opinions to CLIENT. No action of LANDTEC or LANDTEC'S site representative can be construed as altering any AGREEMENT between CLIENT and others. LANDTEC will report to CLIENT any observed geotechnically-related work which, in LANDTEC'S professional opinion, does not conform with plans and specifications. LANDTEC has no right to reject or stop work of any agent of the CLIENT. Such rights are reserved solely for CLIENT. Furthermore, LANDTEC'S presence on site does not in any way guarantee the completion or quality of the performance of the work of any party retained by CLIENT to provide field or construction-related services.

LANDTEC 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 agent or agreement or CLIENT, or safety precautions and programs incident thereto.

Important Information about Quality Assurance

The Geoprofessional Business Association (GBA) prepared this advisory for the exclusive use of GBA-Member Firms that provide construction materials engineering and testing (CoMET) services. CoMET consultants and other geoprofessional-service firms become members of GBA to enhance their business abilities, so they can provide superior service to their clients and other project-team members.

Understand the Difference between Relying on Something and Having a Right To Rely on Something.

When you rely on something, you use it to help you achieve your intended outcome. For example, you may rely on a GPS “navigation” device for guidance on getting from point A to point B. As it so happens, however, any number of unforeseeable circumstances can make following the device’s guidance problematic, and – for that reason – you rely on GPS devices *at your own risk*. However, were the manufacturer to grant you a *right* to rely on the device’s guidance, the manufacturer could be held liable if the device failed to fulfill its purpose, no matter why, and you were damaged as a result.

Like other professionals, CoMET consultants give their clients the right to rely on their instruments of professional service, meaning that CoMET consultants could be liable to a client if their data, findings, or recommendations failed to fulfill their purpose. CoMET consultants and their clients identify that purpose in their contract, to help prevent misunderstandings and use of CoMET “deliverables” for purposes they were not intended for. Most such contracts also include a scope of service that spells out exactly what a CoMET consultant will do to achieve the client’s purpose. When that purpose is quality assurance (QA) – a real-time assessment of the degree to which a constructor is achieving

the specified conditions the constructor has agreed to achieve – the “proper” scope of CoMET service is whatever the client decides is proper to achieve its own, specific needs and risk-management preferences: how many tests, observations, and inspections the CoMET consultant will perform; the specific tests, equipment, and personnel required; and where and when they will be applied. CoMET consultants can provide guidance about these issues, but owners make the decisions.

All other things being equal, the extent to which a client should rely on a QA report is determined by the scope of QA service. For example, if a client authorizes CoMET personnel to spend no more than 30 minutes observing the construction of a retaining wall that takes ten days to build, the CoMET consultant should advise its client that its report has limited value; that the client should not rely on the report to judge such things as the constructor’s compliance with specifications, code requirements, and standards.

If You Have Not Been Formally Authorized To Rely on a CoMET QA Report, Do Not Rely on It.

If you are an authorized representative of the CoMET consultant’s client, the client/CoMET-consultant contract gives you formal authority to rely on a QA report. If you are not an authorized representative, you can become one by requesting authorization – the right to rely on the report(s) – from the CoMET consultant and the CoMET consultant’s client. In considering whether or not to grant authorization, the CoMET consultant will consider the extent to which the scope designed to achieve the client’s purpose might achieve yours as well. Obviously, the CoMET consultant – being a professional – does not want you to rely on findings, data, or recommendations that are inadequate for your needs. As you probably are aware, however, some third parties

– parties other than the two that entered into the client/CoMET-consultant contract – rely on a report nonetheless, even though it was not prepared for them or to address their needs, and even though they have not been granted a right to rely on the report. ***This is a dangerous practice*** that is closely akin to relying on someone else's prescription medications because your symptoms seem similar. There's a lot more than symptoms to consider (like medical history, allergies, age) and the results of not considering them – or not having a qualified professional consider them – could be fatal. And bear in mind that neither the CoMET consultant nor the CoMET consultant's client can be held liable for the consequences of a third-party's unauthorized reliance.

Recognizing the Difference between Quality Assurance (QA) and Quality Control (QC) Can Help All Parties Avoid Misunderstandings.

Quality assurance (QA) and quality-control (QC) are fundamentally different services. Owners, design professionals, and other project principals use QA to assess constructors' performance in general; constructors apply QC to *ensure they meet every project requirement* they are contractually obligated to meet. As such, effective QC is not limited to ensuring compliance with specifications using CoMET procedures. It also includes activities like qualifying subcontractors, reviewing subcontractors' bids and submittals, and providing competent jobsite supervision. Some constructors perform outstanding QC. Some perform little or no QC at all, creating an obvious risk *they must bear on their own*. When that risk materializes, however; when a constructor is required to demolish and then replace something it built improperly, it's not at all uncommon for the constructor to look for another party to blame, so it can use litigation or the threat of litigation to extract a "contribution" to reduce its loss. The project's CoMET QA consultant is often the target in such instances, and so must defend a claim that it owed a duty to the constructor because the constructor had a legal right to rely on the CoMET consultant's QA report, even though the constructor was never granted that right by either the CoMET consultant or the consultant's client. Or maybe the constructor will allege the QA consultant should be responsible because its field representatives were on site performing QA services and failed to notify the constructor that it had made a mistake, even though the field representatives never had an opportunity to see the mistake. Once the claim is filed, the CoMET consultant notifies its professional liability insurance (PLI) carrier and the carrier, in turn, assigns lawyers to "take

it from here," a process that often results in new claims and counterclaims, and years of drag-on litigation. Through contract language or otherwise, owners should make it known that, while other parties they select may review CoMET QA reports, ***no other party is authorized to rely on those reports and neither the CoMET consultant nor its client shall bear liability for the consequences of another party's decision to ignore clear warnings.***

The Scope of QA Services May Differ from Project Specifications.

Clients' unique needs and preferences can result in variances from requirements set forth in the contract documents. As such, a CoMET consultant may be required to perform sampling, testing, observation, or inspection more or less frequently than required by the contract documents, or not at all, at the client's discretion.

CoMET Consultants Deal with Noncompliance as Required by Their Contract.

Although a CoMET consultant's QA contract may require it to notify a constructor's representative of a noncompliance – i.e., a constructor's failure to comply with project requirements – the CoMET consultant will perform additional services *only* if the client representative authorizes them. Additional services often include observing correction of the noncompliance and/or performing follow-up sampling, testing, observation, or inspection. CoMET consultants track the fees involved closely, permitting their clients to back-charge appropriate parties.

CoMET Consultants Owe a Duty of Care Only to Authorized Parties.

Because CoMET services are performed under the direction of a licensed engineer, CoMET consultants owe a duty of care to any party that could foreseeably be injured or damaged by their professional acts. Because the only parties that have a legal right to rely on QA reports are those formally authorized to do so, and because this notice (possibly among others) informs other parties of that fact and the dangers created by unauthorized reliance, those that have been formally authorized to rely on a CoMET consultant's QA report(s) are the only parties that could foreseeably be injured or damaged by a negligent error in a CoMET consultant's QA report. As such, *nothing* in a CoMET consultant's QA reports relieves a constructor from achieving the project requirements it contractually agreed to achieve.

Do Not Misapply a Review-Only, Courtesy Copy.

If the CoMET consultant's client has directed the CoMET consultant to provide to certain other parties review-only, courtesy copies of a QA report, each such report is subject to all conditions stated in this advisory notice. Unless you or your employer has been formally authorized to rely on this QA report, realize that *relying on a QA report prepared for someone else creates severe risks that must be borne solely by the party that chooses to ignore this warning.*

Overall Conditions Are Inferred. Inferences Are Not Guarantees.

Findings derived from sampling, testing, observation, and inspection indicate conditions only at the exact locations where the sampling, testing, observation, or inspection was performed, and only at the time it was performed. ***Do not infer that findings associated with a given location and time can be relied on to indicate conditions at other locations or times;*** i.e., a test result indicating that a sample complies or fails to comply with specifications *does not mean* that the entire work subject to that requirement complies or fails to comply with specifications. Even when a CoMET consultant provides its services on a full-time basis, it cannot assess all project conditions. Sampling is far from failsafe. CoMET consultants cannot guarantee the existence of conditions they can only infer to exist.

Do Not Assume That Conditions Found Will Stay the Same.

Conditions existing at a given location and time may change, sometimes overnight, because of natural or manmade events. If the project's progress is interrupted by a project suspension or similar circumstance, and/or if the project site is affected by an earthquake, landslide, mudslide, flood or other natural event, and/or if unanticipated construction activity occurs, ***confer with the CoMET consultant to learn if its QA report is still reliable.***

Standards Complied with Are Those That Are Referenced.

CoMET consultants perform some of their sampling, testing, observation, and inspection in strict or general compliance with certain generally accepted standards. The CoMET consultant usually identifies these standards in its contract and/or reports. ***Do not assume the CoMET consultant has conformed to standards that are not identified, or that strict compliance and general compliance are the same.*** If these issues are a concern to you, obtain clarifications from your CoMET consultant.

The Sampling and Testing Locations Shown Have Been Approximated.

Sampling and testing locations, dimensions, depths, and elevations indicated in a CoMET consultant's QA report or shown on sketches are approximations based on information furnished by others or estimates made in the field by the CoMET consultant's field representatives.

A CoMET Consultant's Field Representatives Have a Strictly Limited Role on Site.

The project-site services of a CoMET consultant's field representatives are limited *solely* to obtaining samples, and/or conducting tests, and/or observing or inspecting conditions. Do not for any reason assume that a CoMET consultant's field representatives are somehow responsible for construction management, direction of construction, site safety, supervision of others' personnel, provision of professional guidance or recommendations, or any other activity or service beyond obtaining samples, and/or conducting tests, and/or observing or inspecting conditions. If you have any questions or concerns about this issue, confer with your CoMET consultant.

CoMET Consultants Are Not Authorized To Accept or Reject Constructors' Work or To Modify Requirements.

CoMET consultants engaged to perform QA services have no responsibility or right to accept or reject a constructor's work or to stop construction activities. As such, no action or statement of a CoMET consultant's field representatives can alter any requirement of the project plans, project specifications, or codes applicable to the project, or any contractual agreement between two parties.

Special Inspections Are Not QA Services

The International Building Code, a model building code used throughout North America, defines "Special Inspection" as "the required examination of the materials, installation, fabrication, erection, or placement of components and connections requiring special expertise to ensure compliance with approved construction documents and referenced standards." Because the applicable building code may incorporate some or all IBC requirements, Special Inspection requirements included in the construction documents are subject to procedures and processes established by the jurisdiction involved. And because Special Inspections are

often required to obtain a building permit and certificate of occupancy for a project, conforming to local requirements and documenting that conformance are essential. In most jurisdictions, the building official must authorize a CoMET consultant to serve as a Special Inspection agency, and only the owner or the owner's representative – as opposed to a constructor – may retain that agency.

Contact Your GBA-Member CoMET Consultant for Assistance.

Confer with your GBA-member CoMET consultant if you have any questions about issues discussed in this document.



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