



# HAYWOOD COUNTY BOARD OF COMMISSIONERS

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## AGENDA REQUEST

***Must be presented to the County Manager's Office  
NO LATER THAN 5 P.M. FRIDAY THE WEEK BEFORE THE MEETING***

DATE OF REQUEST: January 27, 2017,

FROM: DBF

MEETING DATE REQUESTED: February 6, 2017

SUBJECT: Mauney Cove Convenience Center

REQUEST: Requesting approval of the contract for construction of the new Mauney Cove Convenience Center (MCCC) by the BOCC in the amount of \$574,016.00 for Cooper Construction and \$9,375.00 for Bunnell Lammons Engineering to perform materials testing and quantity analysis.

BACKGROUND: McGill Associates and Haywood County advertised for bids construction of a new solid waste convenience center including earthwork, grading, paving (asphalt and gravel), concrete pad installation, bio-retention cell construction, erosion control, fencing, and site stabilization.

The proposed plan is a 50 year build out to accommodate the busiest site of the ten convenience centers with over 250,000 annual patrons. In 2016, MCCC received 4,547,000 pounds of waste and 988,180 pounds of recycling.

That's an average of 980 patrons depositing of 18,280 pounds of waste and 3,953 pounds of recycling daily.

Five contractors submitted bids on December 15, 2016. Cooper Construction from Hendersonville, NC was the lowest bidder at \$574,016. Solid Waste Administrator and McGill Associates reviewed the bid with contractor for possible cost savings but were unable to find any savings until possibly during construction on amount of material needed to complete the project.

IMPLEMENTATION PLAN: Solid Waste Administrator, McGill Associates and Bunnell Lammons will monitor daily and meet with the contractor during construction.

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FINANCIAL IMPACT STATEMENT: Funds will have to be moved from Solid Waste Fund Balance

SUPPORTING ATTACHMENTS: YES X NO \_\_\_\_\_ HOW MANY? \_\_\_\_\_

PowerPoint Presentation: YES \_\_\_\_\_ NO \_\_\_\_\_

PERSON MAKING PRESENTATION AT MEETING: David B Francis

TITLE: Solid Waste Administrator

PHONE NUMBER: 356-2602

E-MAIL: dbfrancis@haywoodnc.net



Know what's below.  
Call before you dig.  
N.C. One-Call Center  
Dial 811 or 1-800-532-4949

NOTE: ENTIRE PAVED AREA TO BE UNDERCUT AT 2' (AVERAGE)  
AND REPLACED WITH 2' OF COMPACTED ABC STONE W/ WOVEN GEOTEXTILE FABRIC



VICINITY MAP

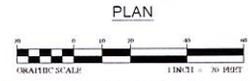
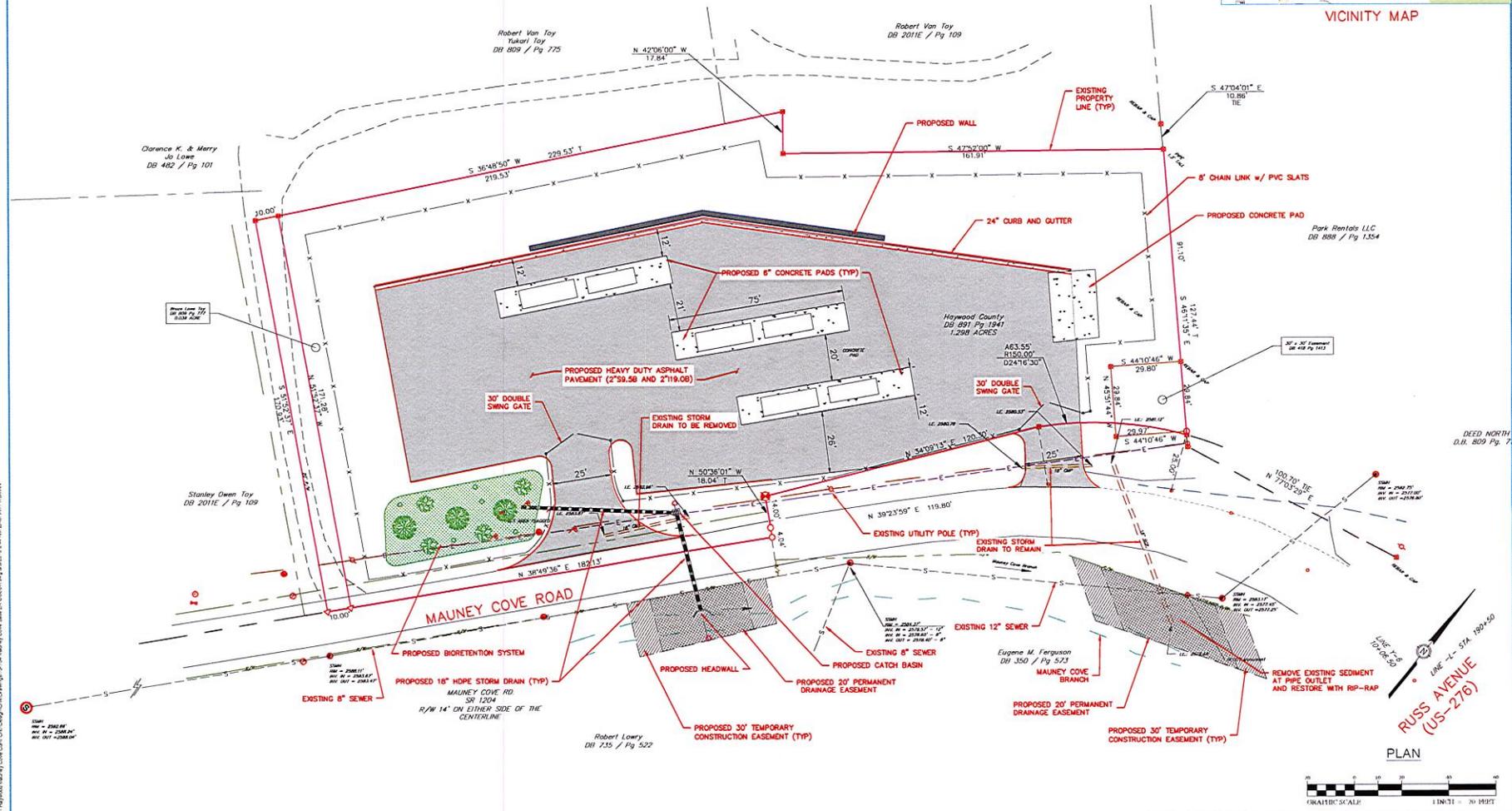


MAUNEY COVE ROAD CONVENIENCE CENTER  
**HAYWOOD COUNTY**  
HAYWOOD COUNTY, NORTH CAROLINA

ASB NO. 15-00705  
DATE AUGUST 2018  
DESIGNED BY SEB  
CHECKED BY JEB  
CADD REVIEW  
CONSTR. REVIEW  
FILE NAME C-101-180818.dwg  
PLT COLOR 180818

SITE LAYOUT PLAN

SHEET  
C-101



NO.	DATE	BY	REVISION DESCRIPTION

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**CONTRACT DOCUMENTS**

**Mauney Cove Road Convenience Center**

**HAYWOOD COUNTY**

**HAYWOOD COUNTY, NORTH CAROLINA**



**McGill**  
ASSOCIATES

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CONSULTING ENGINEERS  
ASHEVILLE, NORTH CAROLINA

**CONTRACT DOCUMENTS**  
**MAUNEY COVE ROAD CONVENIENCE CENTER**  
**HAYWOOD COUNTY**  
**HAYWOOD COUNTY, NORTH CAROLINA**

**SCOTT E. BURWELL, PE**



Engineering • Planning • Finance  
*Post Office Box 2259*  
*Asheville, North Carolina 28802*

**JANUARY 2017**

**15.00709**

**TABLE OF CONTENTS**

**DIVISION 00 - BIDDING AND CONTRACT REQUIREMENTS**

ADVERTISEMENT TO BID  
MODIFIED INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION  
CONTRACTS (EJCDC Form C-200)  
BID FORM (EJCDC Form C-410) AND BID SCHEDULE  
BID BOND (EJCDC Form C-430)  
E-VERIFY AFFIDAVIT  
IRAN DIVESTMENT CERTIFICATION  
NOTICE OF AWARD (EJCDC Form C-510)  
MODIFIED AGREEMENT BETWEEN OWNER AND CONTRACTOR (EJCDC Form C-520)  
PERFORMANCE BOND (EJCDC Form C-610)  
PAYMENT BOND (EJCDC Form C-615)  
INSURANCE CERTIFICATES  
NOTICE TO PROCEED (EJCDC Form C-550)  
MODIFIED STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT (EJCDC Form C-700)  
NC ONE CALL NOTIFICATION  
CONTRACTOR'S APPLICATION FOR PAYMENT (EJCDC Form C-620)  
CERTIFICATE OF SUBSTANTIAL COMPLETION (EJCDC Form C-625)  
REPORT OF GEOTECHNICAL EXPLORATION  
ADDENDA 1 THROUGH 2

**DIVISION 01 - GENERAL REQUIREMENTS**

012000 SPECIAL CONDITIONS  
013000 MEASUREMENT AND PAYMENT

**DIVISION 02 - EXISTING CONDITIONS**

024116 DEMOLITION

**DIVISION 03 - CONCRETE**

033000 CAST IN PLACE CONCRETE

**DIVISION 26 - ELECTRICAL**

260519 LOW VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES  
260526 GROUNDING AND BONDING FOR ELECTRICAL SYSTEMS  
260529 HANGERS AND SUPPORTS FOR ELECTRICAL SYSTEMS  
260533 RACEWAYS AND BOXES FOR ELECTRICAL SYSTEMS  
260543 UNDERGROUND DUCTS AND RACEWAYS FOR ELECTRICAL SYSTEMS  
260548.16 SEISMIC CONTROLS FOR ELECTRICAL SYSTEMS  
260553 IDENTIFICATION FOR ELECTRICAL SYSTEMS  
262200 LOW VOLTAGE TRANSFORMERS  
262416 PANELBOARDS  
262726 WIRING DEVICES  
262816 ENCLOSED SWITCHES AND CIRCUIT BREAKERS

**DIVISION 31 - EARTHWORK**

311000 SITE CLEARING  
312000 EARTHWORK  
312010 EXCAVATION AND BACKFILL  
312230 AGGREGATE BASE COURSE

MAUNEY COVE ROAD CONVENIENCE  
CENTER HAYWOOD COUNTY

**DIVISION 32 - EXTERIOR IMPROVEMENTS**

321216	BITUMINOUS PAVING
321313	CONCRETE PAVING
322905	RESTORATION OF SURFACES
323113	FENCING
329200	TURF AND GRASSES
329300	PLANTS

**DIVISION 33 - UTILITIES**

334100	STORM DRAINAGE MATERIALS
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# BID FORM

Mauney Cove Road Convenience Center  
Haywood County

McGill Project No. 15.00709

## TABLE OF ARTICLES

<u>Article</u>	<u>Article No.</u>
Bid Recipient .....	1
Bidder's Acknowledgements .....	2
Bidder's Representations .....	3
Further Representations .....	4
Basis of Bid .....	5
Time of Completion .....	6
Attachments to this Bid .....	7
Defined Terms .....	8
Bid Submittal .....	9

**ARTICLE 1 – BID RECIPIENT**

This Bid is submitted to:

David Francis - Haywood County  
Historic Court Room at  
215 North Main Street  
Waynesville, North Carolina 28746  
Re: Mauney Cove Road Convenience Center

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

**ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS**

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the date of the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**ARTICLE 3 – BIDDER'S REPRESENTATIONS**

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>12/9/16</u>
<u>2</u>	<u>12/13/16</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

B. Bidder has visited the Project Site and has become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures, including Underground Facilities, at or contiguous to the Site which have been included as a part of the Contract Documents.

E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning

conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder or, if no written response was made by Engineer, that Bidder has resolved the issue to its satisfaction prior to the submittal of its Bid.
- J. The Bidding Documents are sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.
- L. Bidder has not relied upon any information provided by the Engineer except information which is part of the Bidding Documents and is in writing and in the form of a formal addendum.
- M. The submission of a Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of the Bid Documents and the Instructions to Bidders, and that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents.

#### ARTICLE 4 – FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

**BASIS OF BID**

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

**UNIT PRICE BID**

*See Attached Bid Schedule*

Unit Prices have been computed in accordance with Paragraph 11.03.B of the Modified General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

**ARTICLE 5 – TIME OF COMPLETION**

- 5.01 Bidder agrees that the Work will be substantially complete within 100 calendar days after the date when the Contract Times commence to run as provided in the Modified General Conditions, and will be completed and ready for final payment in accordance with the Modified General Conditions within 115 calendar days after the date when the Contract Times commence to run.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the Contract Times.

**ARTICLE 6 – ATTACHMENTS TO THIS BID**

- 6.01 The following documents are attached to and made a condition of this Bid:
  - A. Required Bid security in the form of a certified check, money order, or Bid Bond.
  - B. Completed Bid Schedule
  - C. E-Verify Affidavit
  - D. Iran Divestment Certification

**ARTICLE 7 – BID SUBMITTAL**

7.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
*(Individual's signature)*

Doing business as: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of general partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

A Corporation

Corporation Name: Cooper Construction Company, Inc. (SEAL)

State of Incorporation: North Carolina  
Type (General Business, Professional, Service, Limited Liability): General Business

By: \_\_\_\_\_  
*(Signature -- attach evidence of authority to sign)*

Name (typed or printed): Thomas L. Cooper

Title: President/CEO (CORPORATE SEAL)

Attest James M. Cooper  
James M. Cooper, Executive Vice President and Secretary

Date of Authorization to do business in [State Where Project is Located] is North Carolina

A Joint Venture

Name of Joint Venture: \_\_\_\_\_

First Joint Venturer Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

Second Joint Venturer Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address \_\_\_\_\_  
\_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

SUBMITTED on \_\_\_\_\_, 2015.

State Contractor License No. \_\_\_\_\_.



**BID SCHEDULE**

ITEM #	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	Mobilization/General Requirements	LS	1	13,050.-	13,050.-
2	Traffic Control	LS	1	1,665.-	1,665.-
3	Clearing and Grubbing	LS	1	6,660.-	6,660.-
4	Erosion Control Measures	LS	1	8,880.-	8,880.-
5	Demolition	LS	1	11,100.-	11,100.-
6	Earthwork	LS	1	40,700.-	40,700.-
7	Undercut Excavation and Remove Offsite	CY	2200	8.-	17,600.-
8	ABC Stone for Base Stabilization	TN	4100	26.64	109,724.-
9	Woven Geotextile Fabric	SY	3300	3.33	10,989.-
10	6" Perforated HDPE Underdrain	LF	400	16.65	6,660.-
11	Open Throat Inlet	EA	1	3,885.-	3,885.-
12	18" HDPE	LF	120	55.50	6,660.-
13	18" CMP	LF	40	111.-	4,440.-
14	Stormwater Outlet Modifications	LS	1	1,665.-	1,665.-
15	Pre-cast Concrete Headwalls	LS	1	10,544.-	10,544.-
16	Rip Rap Outlet Protection	TN	45	84.-	3,780.-
17	NCDOT Asphalt Road Trench Repair	LF	20	166.50	3,330.-
18	Bioretention Cell	LS	1	27,200.-	27,200.-
19	Concrete Pads	SY	490	66.60	32,634.-
20	Angle Stop	LF	48	111.-	5,328.-
21	8" Bollards	EA	31	333.-	10,323.-
22	8" ABC Stone	SY	2850	14.16	40,356.-
23	2" I19.0B Asphalt Intermediate Course	SY	2850	12.26	34,941.-
24	2" S9.5B Asphalt Surface Course	SY	2850	13.-	37,050.-
25	24-inch Curb and Gutter	LF	85	19.40	1,649.-
26	4" SCH 40 PVC Sewer Service Line	LF	345	23.-	7,935.-
27	3/4" Type K Copper Water Service Line	LF	800	16.-	12,800.-
28	Yard Hydrant	EA	2	601.-	1,202.-
29	Electrical Installation, Complete	LS	1	41,066.-	41,066.-
30	Slope Matting	SY	1020	1.15	1,173.-
31	Ditch Matting	SY	110	6.-	660.-
32	Landscaping	LS	1	18,868.-	18,868.-
33	Seeding, Fertilizing, and Mulching	LS	1	4,440.-	4,440.-
34	8-foot Chain Link Fencing w/ Vinyl Slats (75% Privacy)	LF	420	26.65	11,193.-
35	8-foot Chain Link Fencing w/ Vinyl Slats (90% Privacy)	LF	530	28.80	15,264.-
36	30-foot Double Swing Gate	EA	2	3,885.-	7,770.-
37	Striping and Signage	LS	1	1,332.-	1,332.-
<b>TOTAL BID PRICE</b>					<b>574,016.-</b>

# BID BOND

Any singular reference to Bidder, Surety, owner or other party shall be considered plural where applicable.

**BIDDER (Name and Address):**

Cooper Construction Company, Inc.  
PO Box 806  
Hendersonville, NC 28793

**SURETY (Name, and Address of Principal Place of Business):**

Western Surety Company  
333 S. Wabash Avenue, 41st Floor  
Chicago, Illinois 60604

**OWNER (Name and Address):**

David Francis  
Haywood County  
215 North Main Street  
Waynesville, North Carolina 28746

**BID**

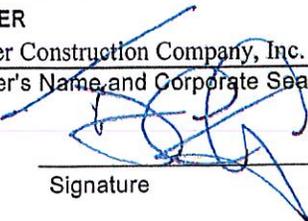
Bid Due Date: December 15, 2016  
Description: Mauney Cove Road Convenience Center

**BOND**

Bond Number: Bid Bond  
Date: December 15, 2016  
Penal sum Five Percent of the Attached Bid Dollars \$ 5%  
(Words) (Figures)

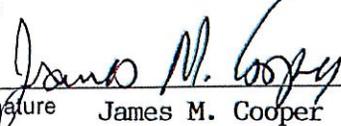
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

**BIDDER** Cooper Construction Company, Inc. (Seal) **SURETY** Western Surety Company (Seal)  
Bidder's Name and Corporate Seal Surety's Name and Corporate Seal

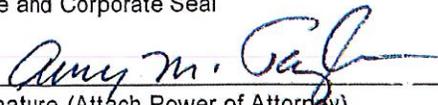
By:   
Signature

Thomas L. Cooper  
Print Name

President/CEO  
Title

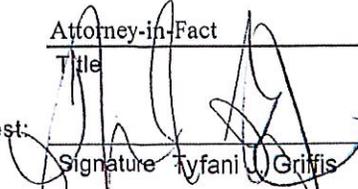
Attest:   
Signature James M. Cooper

Title Executive Vice President  
& Secretary

By:   
Signature (Attach Power of Attorney)

Amy M. Tayler,  
Print Name

Attorney-in-Fact  
Title

Attest:   
Signature Tyfani U. Griffis

Title CSR

*Note: Addresses are to be used for giving any required notice.*

*Provide execution by any additional parties, such as joint venturers, if necessary.*

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2 All Bids are rejected by Owner, or
  - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Fay N Ryan, David G Shaffer, Joyce C Biddix, Amy M Tayler, David Brett Shaffer, Individually**

of Hendersonville, NC, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 9th day of August, 2016.

WESTERN SURETY COMPANY

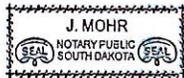


Paul T. Bruflat  
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 9th day of August, 2016, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires  
June 23, 2021



J. Mohr  
J. Mohr, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 15<sup>th</sup> day of December, 2016.



WESTERN SURETY COMPANY

L. Nelson  
L. Nelson, Assistant Secretary

**MODIFIED AGREEMENT  
BETWEEN OWNER AND CONTRACTOR**

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
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**MODIFIED AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between \_\_\_\_\_ Haywood County \_\_\_\_\_ (“Owner”) and  
\_\_\_\_\_ Cooper Construction Company, Inc. \_\_\_\_\_ (“Contractor”).

Effective Date of Agreement: \_\_\_\_\_

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:
- 1.02 Construction of a solid waste convenience center including earthwork, grading, paving (asphalt and gravel), concrete pad installation, erosion control, and site stabilization.

**ARTICLE 2 – ENGINEER**

- 2.01 The Project has been designed by McGill Associates, P.A. (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 3 – CONTRACT TIMES**

3.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

- A. The Work will be substantially completed within 100 calendar days, and completed and ready for final payment in accordance with the Modified General Conditions within 115 calendar days.

### 3.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with Article 12 of the Modified General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$500.00** for each calendar day that expires after the time specified in Paragraph 3.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$500.00** for each calendar day that expires after the time specified in Paragraph 3.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

## ARTICLE 4 – CONTRACT PRICE

- 4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount equal to the sum of the amounts determined pursuant to Paragraphs 4.01.A, and 4.01.B below:
- A. For lump sum work an amount equal to the percentage completed of specific items of work provided by the Contractor as a schedule of values for the Lump Sum work, or as a lump sum pay item on the Bid Schedule.
- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item. The unit price for each item is as supplied on the Bid Schedule for the project.
- 4.02 The stipulated price shall be \$574,016.00 as described in the Notice of Award included in the Contract Documents.

## ARTICLE 5 – PAYMENT PROCEDURES

### 5.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the Modified General Conditions. Applications for Payment will be processed by Engineer as provided in the Modified General Conditions.

### 5.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 5.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A

of the Modified General Conditions (and in the case of Unit Price Work based on the number of units completed).

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the Modified General Conditions.
  - a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 97.5 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the Modified General Conditions and less 250 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

#### 5.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the Modified General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

### **ARTICLE 6 – CONTRACTOR'S REPRESENTATIONS**

- 6.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations and covenants unto Owner as part of this Agreement:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
  - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has reviewed all General and Supplementary Conditions applicable to the Work.
  - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the

effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 6.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor shall ensure that the project will be constructed in accordance with Governmental Permits issued in connection with the project.
- K. Contractor shall be duly licensed at all times during the performance of the work as required by the Contract.
- L. Contractor is hereby required to be in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes concerning e-verification at the time of entering the Contract and at all times during the performance of this Contract. All subcontractors utilized by Contractor are likewise required to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes concerning e-verification at the time of entering this Contract and at all times during the performance of this Contract. Contractor shall take necessary steps to include this provision in all contracts with its subcontractors who will perform any portion of the work covered by this Contract.
- M. Contractor is not listed on the Final Divestment List created by the State Treasurer pursuant to North Carolina General Statutes 143-6A-4 and certifies compliance with North Carolina General Statute 143C-6A-5(a). Contractor shall not utilize any subcontractor found on the State Treasurer's Final Divestment List in accordance with North Carolina General Statute 143C-6A-5(b).

## ARTICLE 7 – MISCELLANEOUS

### 7.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the Modified General Conditions and the Supplementary Conditions.

### 7.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 7.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 7.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

### 7.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 7.05:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

7.06 *Hold Harmless Clause*

- A. The Contractor agrees to indemnify, hold harmless, and defend the County, its present and future affiliates, officers, members, employees, and agents from and against any and all third-party liabilities, claims, penalties, forfeitures, suits, and the costs and expenses related thereto including costs of defense, settlement, and reasonable attorney fees, which the County may hereafter incur, become responsible for or pay out as a result of death or bodily injuries to any person, destruction or damage to any property or any violation of governmental laws, regulations, or orders caused by the negligent or willful act or omission of Contractor, its employees, agents, or servants in the performance of the Work under this Agreement. However, the Contractor shall not be required to indemnify the County for any matter to the extent that it is due in whole, or in part, to the negligence, willful misconduct or wrongful act of the County.
- B. The Contractor agrees to indemnify and hold harmless the County, its present and future officers, agents, servants, and employees from and against any and all suits, sections, legal proceedings, claims, demands, damages, costs, orders (including consent and clean-up orders) and expenses (including engineer and attorney fees) arising from third-party claims for personal injury, including death or disease, and property damage, including environmental contamination, to the extent resulting from willful misconduct, negligent acts, or omissions of the Contractor, its officers, agents, servants and employees related to or arising from Contractor's performance under this Contract.

7.07 *Governing Law*

- A. This Agreement will be governed by and construed according to the laws of the State of North Carolina. The venue of any action by either party to this Agreement to enforce their respective rights hereunder against the other party shall be the General Court of Justice, Superior Court Division for Haywood County, North Carolina.

**ARTICLE 8 – CONTRACT DOCUMENTS**

8.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement
  2. Performance bond
  3. Payment bond
  4. Other bonds
  5. Notice of Award
  6. Modified General Conditions
  7. Specifications as identified in the table of contents of the bound Project Manual.
  8. Appendices 1 through 4 as identified in the table of contents of the bound Project Manual.
  9. Drawings consisting of sheets with each sheet bearing the following general title:  
Mauney Cove Road Convenience Center - Haywood County dated January, 2017.
  10. Addenda (numbers 1 through 2, inclusive).
  11. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid
    - b. Contractor's Bid Schedule
  12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a. Notice to Proceed
    - b. Work Change Directives
    - c. Change Orders

- B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the Modified General Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

OWNER:

Haywood County

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices:

215 North Main Street

Waynesville, North Carolina 28746

\_\_\_\_\_

CONTRACTOR

Cooper Construction Company, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices:

PO Box 806

Hendersonville, North Carolina 28793

License No.: \_\_\_\_\_



**BUNNELL-LAMMONS ENGINEERING, INC.**  
GEOTECHNICAL, ENVIRONMENTAL AND CONSTRUCTION MATERIALS CONSULTANTS

June 3, 2016

Office of the County Manager  
215 N. Main Street  
Waynesville, NC 28786

Attention: Mr. David B. Francis  
Solid Waste and Tax Administrator

Subject: **REPORT OF GEOTECHNICAL EXPLORATION**  
Mauney Cove Road Convenience Center Expansion  
Haywood County, North Carolina  
BLE Project No. J16-10695-01

Dear Mr. Francis:

Bunnell-Lammons Engineering, Incorporated (BLE) is pleased to present this report of geotechnical exploration for the above-referenced project. This report was performed in general accordance with Bunnell-Lammons Engineering (BLE) Proposal Number P16-0420 dated May 9, 2016. The purpose of this exploration was to develop information about the site and subsurface soil conditions that could be used in evaluating the feasibility of prospective construction at the site. This report details the findings of the geotechnical exploration performed. Project information was obtained from a review of the provided drawing (Site Grading, Storm and Erosion Control Plan C-103) prepared by Mc Gill Associates showing the proposed expansion area and the location for six soil test borings and two hand auger boring locations. Additional project information was obtained from a site visit performed by BLE during the course of the geotechnical exploration.

#### **PROJECT INFORMATION**

Haywood County is considering expanding the existing the Mauney Cove Road Convenience Center located at 30 Mauney Cove Road in Waynesville, North Carolina. The existing facility has approximately 15,000 square feet of surface paved with asphalt and concrete along with two entrance/exits to Mauney Cove Road. Current plans are to expand the paved area of the facility to approximately 31,900 square feet along with the construction of an associated storm water basin. We also understand that construction of a retaining wall with a maximum anticipated height of 8 feet is planned to the northwest of the facility. The type of retaining wall construction is not known yet. Based on our review of the provided drawing, cuts and fills of between 3 and 9 feet will be required to achieve the proposed finished grade elevation.



## FIELD EXPLORATION

The site was explored by performing seven (7) soil test borings and one hand auger boring at the approximate locations shown on the attached Boring Location Plan (reference Figure 1). Six soil test borings and two hand auger borings were proposed, however, one of the proposed hand auger boring locations was accessible by the drill rig. The soil test borings were performed using a truck-mounted drill rig turning 2-1/4 inch I.D. hollow-stem augers. The soil test borings ranged in depth from 10 feet to 20 feet below the existing ground surface. Soil samples were obtained in accordance with ASTM D 1586 by driving a 1-3/8 inch I.D. split-spoon sampler with a 140-pound safety hammer.

The hand auger boring was advanced by manually twisting a sharpened steel auger into the soil. At regular intervals, the soils were tested with a dynamic cone penetrometer to provide quantitative data about the soil strength. The dynamic cone penetrometer (DCP) is an instrument composed of a conical point driven with blows from a 15-pound hammer falling 20 inches. The point is driven into the soil in three increments of 1-3/4 inches. The number of hammer blows required to drive each increment is recorded. The average number of blows of the final two increments is an index to soil strength and bearing capacity. The hand auger boring was performed to a depth of 8 feet (hand auger refusal) below existing grade.

The boring locations were established in the field by referencing aerial maps and the provided drawing. As such, locations and elevations reported herein should be considered approximate. The Soil Test Boring Records, Hand Auger Boring Record and a description of our field procedures are attached.

## AREA GEOLOGY

The project site is located in the Blue Ridge Physiographic Province. The bedrock in this region is a complex crystalline formation that has been faulted and contorted by past tectonic movements. The rock has weathered to residual soils which form the mantle for the hillsides and hilltops. The typical residual soil profile in areas not disturbed by erosion or human activities consists of clayey soils near the surface where weathering is more advanced, underlain by sandy silts and silty sands.

The boundary between soil and rock is not sharply defined, and there often is a transitional zone, termed "partially weathered rock," overlying the parent bedrock. Partially weathered rock is defined, for engineering purposes, as residual material with a standard penetration resistance of at least 100 blows per foot (bpf). Weathering is facilitated by fractures, joints, and the presence of less resistant rock types. Consequently, the profile of the partially weathered rock and hard rock is quite irregular and erratic, even over short horizontal distances. Also, it is not unusual to find lenses and boulders of hard rock and/or zones of partially weathered rock within the soil mantle, well above the general bedrock level.

The upper soils along drainage features and in flood plain areas are typically water-deposited (alluvial) materials that have been eroded and washed down from adjacent higher ground. These alluvial soils are usually soft and compressible, having never been consolidated by pressures in excess of their present overburden.

**SITE CONDITIONS**

Site conditions were observed by our Mr. Sam C. Interlicchia during a site reconnaissance. The existing Mauney Cove Road Convenience Center is located at 30 Mauney Cove Road in Waynesville, North Carolina. The subject property is bordered to the east by Mauney Cove Road, to the north by commercial development, to the south and west by residential development. The property is currently being used as a garbage collection convenience center, which collects household waste and recyclables. The ground cover within the existing convenience center consist of asphalt and concrete pavement. Based on our limited observations, the convenience center is traveled mainly by automobiles and waste collection trucks. The asphalt surface is typified by widespread moderate block and fatigue (or often called alligator) cracking. Alligator cracking is a structural failure of the pavement due to traffic loads, a weak or soft subbase, or poor drainage conditions. The alligator/fatigue cracking is most prevalent in the drive areas with some noticeable rutting of the pavement. The asphalt pavement appeared to be a single layer of surface course asphalt. Several previous pavement repair areas were observed. No information was available about the repair areas. The concrete pavement was mainly observed under the collection dumpsters and compactor and was not readily visible.

The proposed expansion area will be located to the southwest and northwest of the existing facility. The ground cover within the expansion area consisted of scattered mature hardwood trees and thick underbrush. The expansion area generally slopes to the southeast toward Mauney Cove Road. A depression, approximately 8 to 10 feet in diameter and approximately 1 to 2 feet deep below the surrounding grade was observed in the western portion of the expansion area. Based on conversations with Haywood County personnel and our observations, it appears that a residential dwelling may have been previously located in this vicinity. In addition, a well is located adjacent to the noted depression. Based on our limited observations, the well is a hand dug well with an approximate diameter of 3 feet. The depth of the well was not known at the time of reporting, but water was observed in the well at the time of our exploration. There were no visible rock outcroppings or groundwater springs observed during our site visit. However, Mauney Cove Branch traverses along the eastern side of Mauney Cove Road. In addition, a drainage ditch was observed along the eastern side of the existing convenience center. The ditch was observed to be approximate 12 to 16 inches in width and had water approximately 2 to 3 inches in depth in several areas. The ground surface along the drainage ditch was noted to be soft and soggy under foot.

**SUBSURFACE CONDITIONS**

The surface materials consisted of an approximate 2-inch thick organic and topsoil layer at boring locations B-1, B-2 and B-7 and asphalt pavement at boring location B-3, B-4, B-5 and B-6. The asphalt thickness typically ranged from 2 inches to 3 inches and appeared to consist of a single layer of surface course asphalt. There was intact aggregate base material under the asphalt that ranged in thickness from 2 inches to 2½ inches. Beneath the pavement section and organic and topsoil layer, the soil test borings encountered fill soils, alluvial soils, residual soils, partially weathered rock and auger refusal material.



Fill soils, comprised of loose to firm silty sands were encountered in soil test borings B-2, B-3, B-4, B-5 and B-6 to depths of between 3 and 6 feet below the existing ground surface. It is anticipated that the existing fill soil was placed during development of the site. No compaction testing data or field records of fill placement were available for our review at the time this report was prepared. Based on the standard penetration resistance (blow counts, N values) that ranged from 6 to 23 blows per foot, the existing fill generally appears to have received some compactive effort during placement. The fill soils were noted to be damp to moist. The fill was generally free of organics and deleterious materials, but it should be noted that the content and quality of man-made fills can vary significantly.

Stream-deposited (alluvial) soils were encountered below the surface material in soil test boring B-1. The alluvial soil encountered was approximately 3 feet thick and consisted of wet firm silty sand with scattered organics.

Residual soil typical of the Blue Ridge Physiographic Province was encountered below the alluvial soil and below the previously described fill soils and from the ground surface at soil test boring B-7. The residual soils predominantly consisted of wet loose to dense silty sands. Standard penetration resistance (blow counts, N values) ranged from 5 to 40 blows per foot, typically becoming firmer with depth. Partially weathered rock (residual material that is transitional between soil and rock with standard penetration resistance of 100 blows per foot or more) was encountered underlying the residual soil in boring locations B-2, B-3 and B-5 at depths of between 9 feet and 19 feet below the existing ground surface. The PWR sampled as micaceous silty fine to medium sand.

Material sufficiently hard to cause refusal to the power auger drilling equipment was encountered in soil test boring B-3 at a depth of 16 feet below ground surface. Refusal may result from boulders, lenses, ledges or layers of relatively hard rock underlain by partially weathered rock or residual soil; refusal may also represent the surface of relatively continuous bedrock. Core drilling procedures are required to penetrate refusal materials and determine their character and continuity. Core drilling was beyond the scope of this exploration.

Hand auger boring HAB-1 encountered residual soil similar to that of soil test boring B-7. The hand auger boring was advanced to a depth of 8 feet below the existing grade before encountering refusal material. Refusal at this location is believed to result from dense silty sand or partially weathered rock (PWR).

Groundwater was encountered in soil test borings B-1, B-2, B-3, B-4, B-5 and B-6 at depths varying from 4 feet to 16 feet below the existing ground surface shortly after drilling and when the borings were backfilled. Soil test boring B-7 and hand auger boring HAB-1 were dry. Groundwater elevations at the site can be expected to fluctuate several feet with seasonal and rainfall variations and with changes in the water level in the adjacent Mauney Cove Branch. Normally, the highest groundwater levels occur in late winter and spring and the lowest levels occur in late summer and fall. Groundwater should be expected to be encountered within the alluvial soil.



The descriptions above provide a general summary of the subsurface conditions encountered. The appended test boring records contain detailed information recorded at each boring location. These represent our interpretation of subsurface conditions based on engineering examination of the field samples. The lines designating the interfaces between various strata represent approximate boundaries and the transition between strata may be gradual. It should be noted that the soil conditions will vary between boring locations.

## DESIGN RECOMMENDATIONS

### General Assessment

Based on the boring data collected to date, the near surface soils generally consist of moderate consistency fill and residual soils within the depths of interest. However, alluvial soil was encountered in soil test boring B-1 and is anticipated to be located throughout the proposed storm water pond and new entrance/exit. The alluvial soil was noted to be wet soft/loose and may not provide suitable support for the planned overlying fill soil. As such, we recommend that an allowance be budgeted to undercut some of the existing soils and infill the area with dry compacted fill soil. A heavy woven geotextile or biaxial geogrid may also be required along with the use of crushed rock to provide a suitable subgrade. The extent of undercutting should be determined by a BLE representative at the time of construction. Auger refusal was encountered in soil test boring B-3 and is indicative of difficult excavation; however, based on our understanding of the project to date, it is not within the expected construction depths.

It is anticipated that site grading and construction can generally be accomplished using conventional construction approaches and standard building practices. Shallow foundations appear to be a feasible approach to support the proposed retaining wall, provided all footings bear in firm or better residual soils or in new, well-compacted engineered fill as outlined herein. However, it is possible that these borings may not fully represent the conditions across the entire site. Unexpected conditions, such as buried debris or loose/soft soils and rock can be present between the boring locations and, as such, some selective undercutting may be required at some locations. In addition, based on our observation of the depression located within western portion of the expansion area, buried debris or organics material may be encountered in this area. As such, we recommend that a test pit excavation be considered to further evaluate this area. The test pit excavation could be performed prior to site grading or in conjunction with site grading operations. It is also recommended that the existing well be abandoned in accordance with applicable state and county regulations.

### Foundations

Based on the subsurface conditions encountered, the proposed retaining wall could be supported on shallow foundations bearing in the undisturbed residual soils or in new well compacted engineered fill placed on a suitable subgrade (constructed as recommended later in this report). Provided this is accomplished, the foundations may be sized for a uniform allowable bearing pressure of 2,000 psf, subject to the criteria and site preparation recommendations in this report.



The provided recommendations are contingent on a BLE representative observing that the soils encountered in footing excavations are consistent with the conditions encountered in the borings drilled for this exploration. If deemed not suitable for the design bearing pressure, recommendations would then be made for any needed adjustments in foundation size or bearing elevation at specific locations. Recommendations would most likely include that the foundation excavation be undercut below the foundation bearing level and extended laterally beyond the foundation perimeter a distance equal to at least one-half the depth of undercut beneath the footing bearing level. The undercut excavation then would be backfilled with compacted engineered fill, crushed stone or lean (2,000 psi) concrete.

We recommend that the minimum width for continuous wall footings be 18 inches. The minimum width is considered advisable to provide a margin of safety against a local or punching shear failure of the foundation soils. Foundations should bear at least 30 inches below final exterior grade for embedment needed to develop the recommended allowable design bearing pressure and to provide frost protection.

Exposure to the environment may weaken the soils at the footing bearing level if the foundation excavations remain open for long periods of time. Therefore, we recommend that, once each footing excavation is extended to final grade, the footing be constructed as soon as possible thereafter to minimize the potential for damage to the bearing soils. The foundation bearing area should be level or benched and free of loose soil, ponded water, and debris. Foundation concrete should not be placed on soils that have been disturbed by seepage. If the bearing soils are softened by surface water intrusion or exposure, the softened soils must be removed from the foundation excavation bottom prior to placement of concrete. If the excavation must remain open overnight or if rainfall becomes imminent while the bearing soils are exposed, we recommend placement of a 2 to 4-inch thick "mud-mat" of "lean" (2,000 psi) concrete on the bearing soils before the placement of reinforcing steel for protection against softening.

### **Pavement**

A site specific pavement design requires detailed information about projected traffic frequency and intensity, acceptable service limits, life expectancy and other factors which are not currently available. It also requires site specific laboratory testing which was not part of the scope of this exploration. However, presented below are recommended pavement sections based on our experience on similar projects in this region. These pavement sections have demonstrated acceptable performance with subsurface conditions similar to this site. Assuming the site is prepared in accordance with the recommendations of this report, the pavement sections presented below could be expected to provide adequate performance considering a 15 to 20 year service life. Based on previous experience with similar soils, a modulus of subgrade reaction (k) equal to 100 psi/inch should be used for design of rigid pavement or slabs on properly prepared subgrades. Empirical correlations between modulus of subgrade reaction and California Bearing Ratio (CBR) suggest a corresponding CBR value of 3 to 4 could be used for flexible pavement design.



We have not been provided specific traffic loading and frequency information for a formal pavement design. However, based on our site visits and experience with similar projects, the convenience center appears to be frequently utilized by automobiles and waste collection trucks. Based on these traffic assumptions, we suggest a minimum pavement section consisting of 3 inches of asphaltic concrete underlain by 10 inches of aggregate base course as specified in the North Carolina Department of Transportation Standard Specifications for Roads and Structures, 2012 Edition.

The asphalt surface course should conform to the North Carolina Department of Transportation (NCDOT) Standard Specification, Section 610, for Type S-9.5 Superpave mixture. The base course material should be Aggregate Base Course conforming to NCDOT Standard Specification, Section 520, for Type B aggregate. The base course should be compacted to 100 percent of the modified Proctor (ASTM D-1557) maximum dry density. In addition, sufficient tests and inspections should be performed during installation to confirm that the required thickness, density and quality requirements of the specifications are followed. The pavement and grade slab subgrades should be prepared as recommended in this report. If the subgrades proofroll successfully, then the suggested pavement sections can be placed. In areas where the subgrade is found to be unstable under the proofroll, remedial activities may be necessary. Such remedial activities may include partial undercutting and replacement, or stabilization with geosynthetics and crushed stone, or a combination of these. Appropriate recommendations may be provided at the time of construction by BLE, if unsatisfactory proofrolling conditions are encountered. Stabilization measures will vary with location, and will also be dependent on the weather conditions during construction.

The performance of the pavement will be influenced by a number of factors including the actual condition of subgrade soils at the time of pavement installation, installed thicknesses, compaction and drainage. The subgrade should be re-evaluated by thorough proofrolling immediately prior to paving, and any unstable areas should be repaired. This recommendation is very important to the long-term performance of the pavement.

#### **Retaining Wall Recommendations**

The proposed site retaining wall must be capable of resisting the lateral earth pressures that will be imposed. Based on previously developed correlation for similar soils, soil properties and earth pressures coefficients provided in Table 1 are recommended for use.

Table 1. Recommended Earth Pressure Coefficients

Backfill Material Description	Soil Parameters			Earth Pressure Coefficients				Kp*
	Total Unit Weight (pcf)	Cohesion (psf)	Friction Angle (degrees)	Ko		Ka		
				Level Back slope	2:1 Back slope	Level Backfill	2:1 Back slope	
On-site silty sand <sup>+</sup>	120	0	28	0.53	0.77	0.36	0.63	2.77
Clean Washed Stone (#57)	100	0	40	0.36	0.52	0.22	0.30	---

<sup>+</sup> Subject to revision pending identification of fill source used for backfill

\* We recommend a factor of safety of 2 be used with the passive earth pressure coefficients.

A coefficient of 0.35 could be reasonably assumed for evaluating ultimate frictional resistance to sliding at the soil to foundation contact. We recommend the passive earth pressure be divided by a safety factor of at least 2 to limit the amount of lateral deformation required to mobilize the passive resistance.

Exterior retaining walls which are permitted to rotate at the top may be designed to resist "active" lateral earth pressure. Typically, a top rotation of about 1 inch per 10 feet height of wall is sufficient to develop active pressure conditions in soils similar to those encountered at the site. Less deflection would be required to develop active conditions if crushed stone is used as backfill.

The total unit weight of the backfill soil should be used with the above earth pressure coefficients to calculate lateral earth pressures. Lateral pressure arising from surcharge loading, earthquake loading, and groundwater, should be added to the above soil earth pressures to determine the total lateral pressures which the walls must resist.

In addition, transient loads imposed on the walls by construction equipment during backfilling should be taken into consideration during design and construction. Excessively heavy grading equipment (that could impose temporary excessive pressures or long term excessive residual pressures against the constructed walls) should not be allowed within about 5 feet (horizontally) of the walls.

It is recommended that a filtered gravity drainage system be incorporated behind below grade walls. The drainage system should have sufficient capacity to prevent the buildup of excess hydrostatic head behind the wall. The drainage system should incorporate appropriately graded sand and aggregate material or geotextile fabric to prevent the loss of fines which could be transported into the drainage system. Drain cleanouts should be provided.



## CONSTRUCTION RECOMMENDATIONS

### Excavation

Excavation for the proposed site will primarily require excavation of moderate consistency residual soils. Based on the borings and our experience, this material should be excavatable using conventional earthmoving equipment. Although we do not expect there will be extensive excavation difficulty, lenses and boulders of hard rock and/or zones of partially weathered rock may exist between the boring locations within the soil mantle. It should be noted these materials can vary erratically across the site in regard to depth, consistency, and bedding.

### **Groundwater Control**

As previously mentioned, the groundwater was present about 4 to 16 feet below the existing ground surface. Based on our understanding of the project, the current groundwater elevation is not within the expected construction depths. However, wet soils may be encountered during the site preparation, particularly in areas where undercutting is required. Wet soils were commonly encountered in the borings below depths of 4 to 7 feet and groundwater was observed in the adjacent drainage ditch. If there are areas where saturated soils or groundwater seepage are exposed during grading, then subsurface drainage for those areas should be provided with subsurface trench drains that are routed to a suitable outfall outside of the pavement area or into the storm drain system as recommended by the Civil Engineer. These gravity drains would typically consist of a small excavated trench backfilled with NCDOT 57 stone wrapped in geotextile filter fabric with a perforated pipe contained within the stone. The contractor should also be prepared to promptly remove surface water from the general construction area by similar methods.

### **Site Preparation**

Site preparation should include the removal of all-unsuitable surface materials (surface debris, vegetation, topsoil, and root systems) and disposed of offsite. Topsoil and organic soils may be stockpiled for later use in areas to be landscaped. All existing utilities to be abandoned should be removed and replaced with engineered fill or plugged prior to construction. If pipes are not removed or plugged, they may serve as conduits for subsurface erosion resulting in settlements or sinkholes. The surface should be kept smooth and sloped to provide positive drainage and surface water runoff should be routed to ditches adjacent to the work area.

As stated previously, alluvial soil was encountered in soil test borings B-1 and is anticipated to be located throughout the proposed storm water basin and new entrance/exit. This alluvial soil was noted to be wet and relatively soft/loose and is anticipated to be unstable under wheel loads and may not provide suitable support for the overlying fill. Areas where unstable subgrade material is encountered should be stabilized before placing overlying fill soil. We anticipate that subgrade stability can typically be achieved by undercutting portion of the unsuitable soils (the depth of undercutting should be determined in the field by BLE at the time of construction) and backfilled with properly compacted new fill. A heavy woven geotextile or biaxial geogrid may also be required along with the use of crushed rock to provide a suitable subgrade.



### **Proofrolling**

After the removal of all unsuitable surface materials and before any grading commences, we recommend that areas to provide support for new fill soil or new paved areas be carefully inspected for soft surficial soils and proofrolled with a 20 to 25-ton, four-wheeled, rubber-tired roller or similar approved equipment. The proofroller should make at least four passes over each location, with the last two passes perpendicular to the first two. Any areas which wave, rut, or deflect excessively and continue to do so after several passes of the proofroller should be excavated to firmer soils. The excavated areas should be backfilled in thin lifts with engineered fill as recommended in this report. Proofrolling and excavating operations should be monitored by an experienced engineering technician working under the direction of the BLE geotechnical engineer. Proofrolling should not be performed during or immediately after periods of precipitation or when the ground is frozen.

### **Engineered Fill**

All fill used for raising site grade or for replacement of material that is undercut should be uniformly compacted in thin lifts to at least 95 percent of the standard Proctor maximum dry density (ASTM D 698). The compaction requirement should be raised to 98 percent in the upper 12 inches. The soils to be used in the engineered fill should contain no more than 3 percent organic matter by weight and should be free of roots, limbs, other deleterious material and rocks larger than 6-inches in diameter. In addition, the moisture content of the compacted soil fill should be maintained within plus or minus 3 percent of the optimum moisture content as determined from the standard Proctor compaction test during placement and compaction. This provision may require the contractor to dry soils during periods of wet weather or to wet soils during dry periods. The fill soils should have a Plasticity Index (PI) of less than 30, and a maximum dry density of no less than 90 pounds per cubic foot (pcf).

The surface of compacted subgrade soils can deteriorate and lose its support capabilities when exposed to environmental changes and construction activity. Deterioration can occur in the form of freezing, formation of erosion gullies, extreme drying, exposure for a long period of time or rutting by construction traffic. We recommend that subgrades that have deteriorated or softened be recompacted prior to continuing with fill placement.

### **Cut and Fill Slopes**

Confined temporary excavations such as for utility installation or below-grade wall construction should conform to OSHA regulations. All excavations should be sloped or shored in accordance with local, state, and federal regulations, including OSHA 29 (CFR Part 1926) excavation trench safety standards. The contractor is solely responsible for site safety.

For permanent slopes which are not confined, our experience suggests that excavation side slopes through the existing soil overburden at the site should be laid back at a 2H:1V (horizontal to vertical) slope or flatter. Permanent fill slopes placed on a suitable foundation should be constructed at 2.5:1, or flatter. Fill slopes should be adequately compacted. Cut and fill slope surfaces should be protected from erosion by grassing or other means. Permanent slopes of 3:1 or flatter may be desirable for mowing.



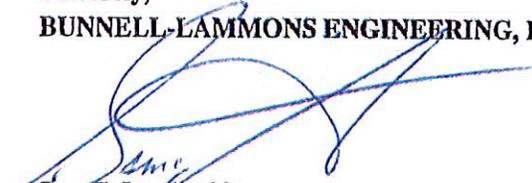
**BASIS OF RECOMMENDATIONS**

Our evaluation has been based on our understanding of the project information and data obtained in our exploration as well as our experience on similar projects. The general subsurface conditions utilized in our evaluation have been based on interpolation of the subsurface data between the borings. Subsurface conditions between the borings may differ. If the project information is incorrect or the structure location (horizontal or vertical) and/or dimensions are changed, please contact us so that our recommendations can be reviewed. The discovery of any site or subsurface conditions during construction which deviate from the data obtained in this exploration should be reported to us for our evaluation. The assessment of site environmental conditions for presence of pollutants in the soil, rock and groundwater of the site was beyond the scope of this exploration. It is possible that these widely spaced borings may not fully represent the conditions across the entire site. Since the site was previously developed, unexpected conditions, such as buried debris or loose/soft fill soils, can be present between the boring locations.

**CLOSING**

We appreciate the opportunity to provide our professional geotechnical services on this project. We look forward to providing additional geotechnical and material testing services as the project progresses. If you have any questions regarding this report please do not hesitate to call us.

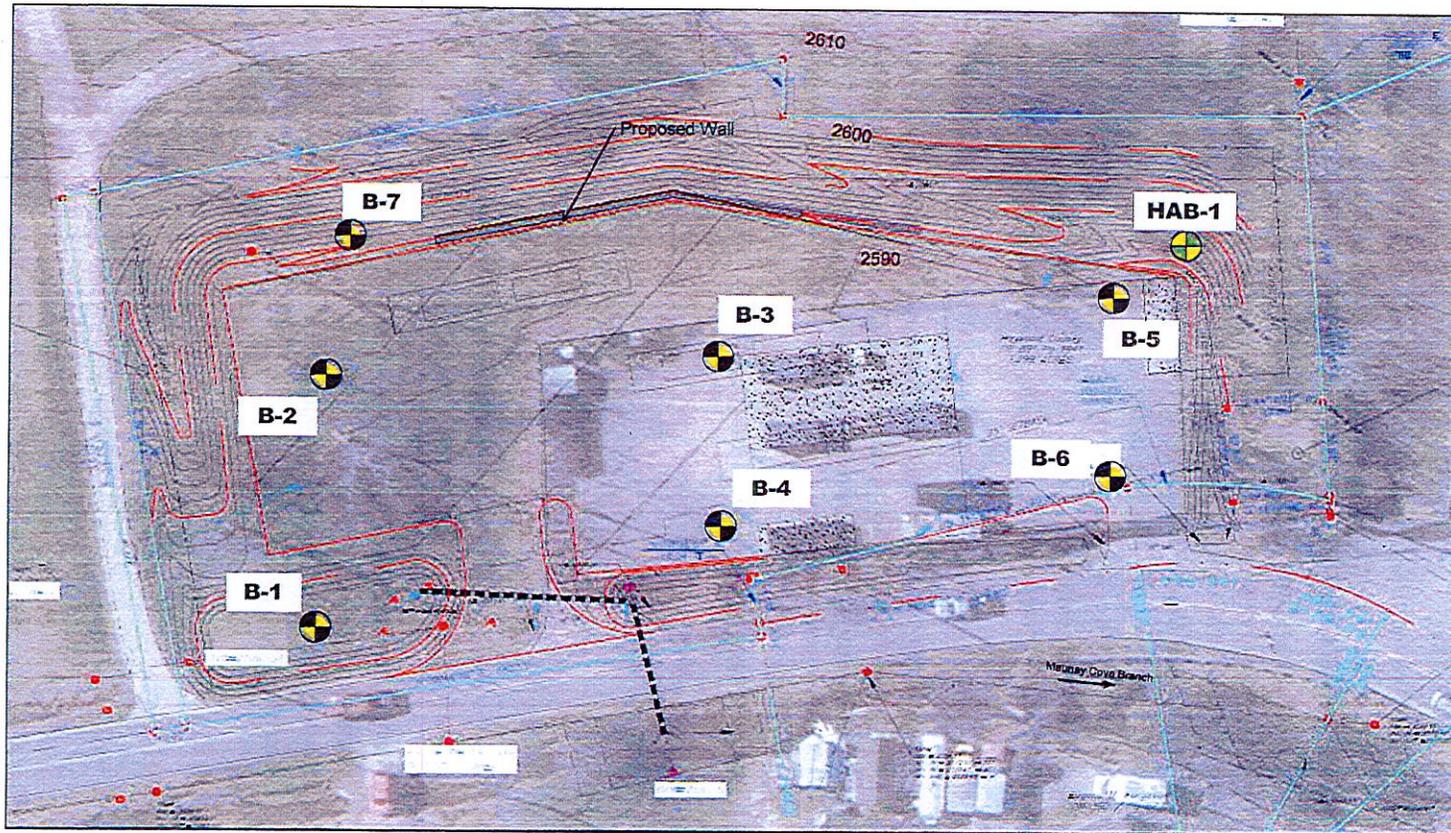
Sincerely,  
**BUNNELL-LAMMONS ENGINEERING, INC.**

  
Sam C. Inteflicchia  
Project Manager

  
William A. Mathews, P.E.  
Chief Engineer  
Registered, North Carolina 18375



- Attachments:
- Boring Location Plan
  - Boring Records
  - Key to Soil Symbols and Classifications
  - Field Exploration Procedures



-  Approximate Soil Test Boring Location
-  Approximate Hand Auger Boring Location

Base Drawing: Sheet C-103 Dated June 2015 prepared by McGill Associates

Drawn By: SCI	Date: 6/1/2016	Revisions			 <b>IBLE</b> INC. BUNNELL-LAMMONS ENGINEERING, INC. <small>GEOTECHNICAL, ENVIRONMENTAL, AND CONSTRUCTION MATERIALS CONSULTANTS</small> 130 OVAL ROAD, SUITE 200 • NCEM, HICKORY, NORTH CAROLINA 28704 • (828) 277-0100	Boring Location Plan Mauvey Cove Road Convenience Center / Expansion Haywood County, North Carolina	Figure No. 1
		No.	Description	By			
Checked By: WAM	Job No: J16-10695-01						



**BUNNELL-LAMMONS ENGINEERING, INC.**  
GEOTECHNICAL, ENVIRONMENTAL AND CONSTRUCTION MATERIALS CONSULTANTS

January 20, 2017

Mark Cathy, P.E.  
McGill Associates  
55 Broad Street  
Asheville, NC 28801

Re:           **PROPOSAL FOR CONSTRUCTION MATERIALS TESTING**  
              **Mauney Cove Road Convenience Center Expansion**  
              **Haywood County, North Carolina**  
              **BLE Proposal Number P17-0012**

Dear Mr. Cathy:

Bunnell-Lammons Engineering, Inc. (BLE) appreciates the opportunity to submit this proposal to provide construction material testing services for the proposed Mauney Cove Road Convenience Center project in Haywood County, North Carolina. The following sections describe the construction materials testing services that we are able to perform at your request, as well as a fee schedule, an opinion of probable costs, scheduling, and authorization information.

#### **PROJECT INFORMATION**

Haywood County is considering expanding the existing Mauney Cove Road Convenience Center located at 30 Mauney Cove Road in Waynesville, North Carolina. The existing facility has approximately 15,000 square feet of surface paved with asphalt and concrete along with two entrance/exits to Mauney Cove Road. Current Plans are to expand the paved area of the facility to approximately 31,900 square feet along with the construction of an associated storm water basin. Based on our review of the provided drawing, cuts and fills of between 3 and 9 feet will be required to achieve the proposed finished grade elevation.

#### **SCOPE OF WORK**

##### **Construction Materials Testing**

Fill material is presumed to be obtained from off-site and ABC stone is anticipated to be placed as fill under the pavement areas. We understand that you would like BLE to perform engineering observations and testing services during the construction of the site pad on a part-time, on-call basis. The following reporting and testing services are expected during this project, based upon our experience with similar projects:

##### **Soils and Foundation Testing**

- Observe proofrolling of the exposed subgrade soils in the proposed parking area to locate any areas which may be soft and require additional excavation and/or rework.



- Conduct laboratory compaction tests on representative fill soils in accordance with ASTM D 698 and the project specifications.
- Conduct field density tests to measure the percent compaction.
- Make observations in footing excavations to confirm that the bearing area is level or benched, free of loose soil, ponded water and debris and to determine if the foundation bearing condition assumed by the designer is present within the excavated area.
- Verification that excavations are extended to proper depth and have reached proper material.
- Report daily testing and observations activities to your designated representative.

#### **Cast-in-Place Concrete**

- Inspection of reinforcing steel to verify size and spacing prior to concrete placement.
- Review and collect mix designs to confirm appropriate mix use during specific installation.
- Obtain samples and perform tests on plastic concrete in the field including slump, air content, unit weight and temperature.
- Make 4-inch x 8-inch concrete cylinder specimens for compressive strength testing.
- Cure, test, and report concrete specimen test results.
- Report daily concrete testing activities to your representative.

#### **Pavement Base Course and Asphalt Testing**

- Observe proofrolling of the subgrade subsequent to placement of base course materials.
- Conduct laboratory compaction tests on representative samples of the aggregate base course materials in accordance with ASTM D 698 or ASTM D 1557, whichever is specified in the project specifications.
- Perform density tests on the aggregate base course to measure the percent compaction.
- Perform density tests on the in-place asphalt pavement to measure percent compaction. Testing can be performed by coring of the asphalt and determining the specific gravity and thickness of each specimen, or by the nuclear gauge density method (ASTM D 2922), whichever is specified.
- Report daily testing activities to your representative.

#### **COMPENSATION**

Based on the discussions with Mr. Cathey regarding the construction schedule and our experience on previous projects, we recommend a budget allowance of \$9,375 for materials testing services for this project. Costs associated with construction materials testing are dependent on, among other things, the contractor's schedule, the quantity of materials, the weather and the owner's intentions. As such, our total cost may vary from the estimate depending on the actual working schedule. ***Should the actual costs be less than the estimate, these savings will be passed on to you.***

Our estimated fee was calculated based on the following assumptions:

- 1 on-call as needed senior technician for 2 weeks (30-hours per week) of site preparation.



- 1 on-call as needed senior materials technician for 8 site visits after site preparation (5 hours per visit) of fill placement, road base course, asphalt construction and concrete construction.
- 2 hour of project management oversight each week for report review and correspondence
- 2 hours of administrative support each week
- Performing one Proctor test per 3,000 cy of soil backfill (2 total)
- Casting concrete test cylinders and prisms. Twenty cylinders assumed.
- No overtime; 8 hours / day.
- Round-trip mileage per site visit is estimated to be 70 miles.

Please keep in mind that we only intend to bill for the actual time and equipment used on the project based on the attached fee schedule. Itemized costs for services are shown on the attached fee schedule. Items not reported on this estimate can be quoted separately upon request. If selected, BLE will closely monitor our activities and budget and provide monthly budget reports. We will invoice for our services on a monthly basis.

BLE has in effect and maintains applicable insurance coverage. If selected for the work, a Certificate of Insurance will be issued. This certificate will be effective upon execution of our Proposal Acceptance Sheet.

#### **SCHEDULING**

We will provide personnel for this project at the request of your representative. We request 24-hour notice subsequent to providing on-call personnel to enable us to schedule the work efficiently.

#### **AUTHORIZATION**

As our written authorization, please complete and return one copy of the enclosed Proposal Acceptance Sheet. Any exceptions to this proposal or special requirements not covered in the proposal should be listed on the Proposal Acceptance Sheet. Please note that the Terms and Conditions are a part of this proposal.



Proposal For Construction Materials Testing  
Mauney Cove Road Convenience Center – Haywood County, North Carolina

January 20, 2017  
BLE Proposal No. P17-0012

**CLOSURE**

We appreciate the opportunity of submitting this proposal, and we look forward to working with you on this project. If you should have any questions regarding this proposal, or if we may be of further assistance, please do not hesitate to contact us at your convenience

Sincerely,

**BUNNELL-LAMMONS ENGINEERING, INC.**

King Williams  
Staff Professional

Jesse R. Jacobson  
Asheville Branch Manager

Attachments: Proposal Authorization Sheet  
2017 Fee Schedule



**2017 UNIT RATE FEE SCHEDULE**  
**ENGINEERING & MATERIAL TESTING SERVICES**  
**BUNNELL-LAMMONS ENGINEERING, INC.**  
**ASHEVILLE, NORTH CAROLINA**

**I. TECHNICIAN FIELD SERVICES**

1.	Project Engineering Technician, Per Hour.....	\$38.00
2.	Senior Engineering Technician, Per Hour.....	\$48.00
3.	Truck/Equipment charge per visit .....	\$10.00
4.	Mileage, Per Mile.....	\$0.65

**II. ENGINEERING SERVICES (Administration, Reviewing Laboratory and Field Test Results, Consultation and Reporting)**

1.	Project Engineer, P.E. / Project Manager, Per Hour .....	\$90.00
2.	Senior Engineer, P.E., Per Hour .....	\$110.00
3.	Chief Engineer, P.E., Per Hour .....	\$120.00
4.	Word Processor, Per Hour .....	\$40.00

**III. LABORATORY TESTING SERVICES**

**A. SOILS:**

1.	Standard Proctor Compaction Test (ASTM D-698) .....	\$100.00
2.	Modified Proctor Compaction Test (ASTM D-1557) .....	\$115.00

**B. CONCRETE:**

1.	Compressive Strength of Concrete Test Cylinders .....	\$9.00
2.	Compressive Strength of Masonry Mortar Cubes, Each .....	\$10.00
3.	Compressive Strength of Masonry Grout Prisms, Each .....	\$15.00

**III. FIELD SERVICES:**

1.	Nuclear Gauge, Per Day .....	\$20.00
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**NOTES:** Items not listed on this Fee Schedule will be quoted upon request.

The hourly rates for technicians and engineers apply for all time for testing and observations as well as all travel, loadup, and report time. Charges will be based on the position level of the individual performing the services and apply to BLE Employees and subcontract personnel.

**Mauney Cove Road  
CMT Budget**

**1/19/2017**

**I. Full Time Senior Technician/Special Inspector (Continuous for 14 weeks, 5 days a week):**

1. Senior Engineering Technician (regular time)	\$48.00 /hr x	5 hrs/week x 8 weeks	= .....	\$ 1,920.00
2. Senior Engineering Technician (site prep)	\$48.00 /hr x	30 hrs/week x 2 weeks	= .....	\$ 2,880.00
3. Mileage	\$0.65 / mile x	70 mls x 14 trips	= .....	\$ 637.00
4. Expendable Supplies	\$10.00 /day x	14 days = .....		\$ 140.00
5. Nuclear Gauge	\$20.00 /day x	10 days = .....		\$ 200.00
			Subtotal \$	5,777.00
			Subtotal \$	0.00

**VI. Laboratory Testing:**

1. Grout Cubes	\$6.00 /cube x	0 cubes =		\$ 0.00
2. Concrete cylinders	\$9.00 /cylinder x	20 cylinders =		\$ 180.00
3. Standard Proctors	\$125.00 /proctor x	2 proctors =		250.00
3. On-site Concrete Lab Setup	\$0.00 /setup x	0 setup =		0.00
			Subtotal \$	430.00

**VII. Project Management and Reporting:**

1. Project Manager	\$100.00 /hr x	2 hrs/week x 12 weeks	= .....	\$ 2,400.00
3. Word Processor	\$32.00 /hr x	2 hrs/week x 12 weeks	= .....	\$ 768.00
4. Mileage	\$0.65 / mile x	70 mls x 0 trips	= .....	\$ 0.00
			Subtotal \$	3,168.00

**Total \$ 9,375.00**

Notes:

1. Cost estimate is based on the units assumed above. Invoicing will occur on a time and materials basis.
2. Estimate may be re-evaluated once/if construction schedule has been established, or if the scope is altered



**BUNNELL-LAMMONS ENGINEERING, INC.**  
 6004 Ponders Court  
 Greenville, South Carolina 29615

Phone (864) 288-1265  
 Fax (864) 288-4430

**PROPOSAL ACCEPTANCE SHEET**

The purpose of this sheet is to obtain your written authorization for our services and confirm the terms and conditions under which these services are provided as shown below.

Compensation for services rendered will be based on the attached schedule of fees (or as otherwise indicated below) which are part of this work authorization. If we are requested to modify the scope of work at your request or determine during the execution of the work that a modification of scope is required, we will promptly seek and confirm in writing a mutually agreeable revision of the scope of work and associated charges. All testing will be performed in accordance with the applicable specifications unless otherwise noted and test results apply only to the materials actually tested.

Project Name and Proposal Number: Proposal for Construction Materials Testing  
Mauney Cove Road Convenience Store  
BLE Proposal No. P17-0012

Project Location: Waynesville, North Carolina

**FOR PAYMENT OF CHARGES:** (to the account of)

Firm: \_\_\_\_\_ Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City, State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**WORK AUTHORIZED BY:**

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Print Name and Title - *Signatory warrants his/her authority to bind the entity represented here.*

\_\_\_\_\_  
 Company Name

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City State Zip Code

**SPECIAL INSTRUCTIONS:** \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



### TERMS AND CONDITIONS

WHEREAS, CLIENT is seeking engineering and/or environmental or other consulting services in regards to services associated with a property or properties ("Subject Property") and/or services associated with a specific activity or activities; and Bunnell-Lammons Engineering, Inc., (hereinafter "BLE") is an independent consultant. Therefore, CLIENT and BLE (collectively, the "Parties") agree as follows (the "Agreement").

1. **SERVICES TO BE PROVIDED.** BLE through and by its officers, employees and subcontractors, is an independent consultant and agrees to provide Client, for its sole benefit and exclusive use, consulting services set forth in BLE's proposal. No third party beneficiaries are intended by this agreement.

2. **PAYMENT TERMS.** Client agrees to pay BLE's invoice upon receipt. If payment is not received within 30 days from the Client's receipt of invoice, Client agrees to pay a service charge on the past due amount at the greater of 1.5% per month or the allowable legal rate, including attorney's fees and expenses if BLE's fee is collected through an attorney. No deduction shall be made from invoice on account of liquidated damages unless expressly included in the Agreement. BLE may suspend services until paid on any project where payment of invoiced amounts not reasonably in dispute is not received by BLE within 60 days of Client's receipt of BLE's invoice. Invoices will be sent approximately monthly for the services performed.

3. **STANDARD OF CARE.** BLE will perform its services using that degree of care and skill ordinarily exercised under similar conditions by reputable members of BLE's profession practicing in the same or similar locality at the time of service. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY BLE'S PROPOSAL OR BY BLE'S ORAL OR WRITTEN REPORTS. Nothing in this agreement or in the services provided by BLE is intended to create, nor shall it be construed to create a fiduciary relationship owed by either party to one another.

4. **INSURANCE.** BLE maintains insurance coverage as follows:

- Worker's Compensation Insurance.
- Employers Liability Insurance.
- Commercial General Liability Insurance.
- Professional Errors and Omission.

Certificates of Insurance can be provided upon acceptance of this agreement and upon request.

5. **PROFESSIONAL LIABILITY.** FOR ADDITIONAL CONSIDERATION FROM BLE OF \$10,000, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, CLIENT AGREES THAT BLE'S LIABILITY, AND THAT OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONTRACTORS, TO CLIENT OR ANY THIRD PARTY DUE TO ANY NEGLIGENT PROFESSIONAL ACTS, ERRORS OR OMISSIONS OR BREACH OF CONTRACT BY BLE WILL BE LIMITED TO AN AGGREGATE OF \$50,000 OR BLE'S TOTAL CHARGES, WHICHEVER IS GREATER. IF CLIENT PREFERS TO HAVE HIGHER LIMITS OF PROFESSIONAL LIABILITY, BLE AGREES TO INCREASE THE AGGREGATE LIMIT, UP TO A MAXIMUM OF \$100,000, UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTING BLE'S PROPOSAL, PROVIDED CLIENT AGREES TO PAY AN ADDITIONAL CONSIDERATION OF 5% OF TOTAL CHARGES, OR \$500, WHICHEVER IS GREATER. THE ADDITIONAL CHARGE FOR THE HIGHER LIABILITY LIMIT IS BECAUSE OF THE GREATER RISK ASSUMED BY BLE AND IS NOT A CHARGE FOR ADDITIONAL PROFESSIONAL LIABILITY INSURANCE. IN ADDITION, CLIENT FURTHER AGREES THAT NEITHER BLE NOR ITS MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND/OR SUBCONTRACTORS SHALL BE LIABLE TO CLIENT FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR OTHERWISE. THE LIMITATIONS SET OUT HEREIN SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

6. **SITE OPERATIONS.** Client will arrange for right-of-entry to the property for the purpose of performing project management, studies, tests and evaluations pursuant to the agreed services. Client represents that it possesses necessary permits and licenses required for its activities at the site.

BLE's field personnel are trained to initiate field testing, drilling and/or sampling within a reasonable distance of each designated location. BLE's field personnel will avoid hazards or utilities which are visible to them at the site. If BLE is advised in writing of the presence or potential presence of underground or above ground obstructions, such as utilities, BLE will give special instructions to BLE's field personnel. BLE is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions owned by Client or third parties, except to the extent such damage or loss is a result of BLE's negligence. Otherwise, Client agrees for the additional consideration of \$1,000, to indemnify and hold BLE, its directors, officers, employees, agents and subcontractors harmless, from any such claims, suits or losses, including related reasonable attorney's fees.

BLE will take reasonable precautions to minimize damage to the property caused by its operations. Unless otherwise stated in BLE's proposal, BLE's charges do not include cost of restoration due to any related damage which may result. If Client requests BLE to repair such damage, BLE will do so at an appropriate additional cost.

Field tests or boring locations described in BLE's report or shown on sketches are based on specific information furnished by others or estimates made in the field by BLE personnel. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in BLE's proposal or report.

7. **FIELD REPRESENTATIVE.** The presence of BLE or its subcontractor's field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation and/or field testing of specific aspects of the project as authorized by Client. Should a contractor(s) not retained by BLE be involved in the project, Client will advise such contractor(s) that BLE's services do not include supervision or direction of the means, methods or actual work of the contractor(s), its employees or agents. Client will also inform contractor that the presence of BLE's field representative for project administration, assessment, observation or testing will not relieve the contractor of its responsibilities for performing the work in accordance with the plans and specifications.

If a contractor (not a subcontractor of BLE) is involved in the project, Client agrees, in accordance with generally accepted construction practices, that the contractor will be solely and completely responsible for working conditions on the job site, including security and safety of all persons and property during performance of the work, and compliance with all Client safety requirements and OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that BLE will not be responsible for job or site safety or security on the project, other than for BLE's employees and subcontractors, and that BLE does not have the duty or right to stop the work of the contractor or other third parties.

8. **UNFORESEEN CONDITIONS OR OCCURRENCES.** It is possible that unforeseen conditions or occurrences may be encountered at the site which could substantially alter the necessary services or the risks involved in completing BLE's services. If this occurs, BLE will promptly notify and consult with Client, but will act based on BLE's sole judgment where risk to BLE personnel is involved. Possible actions could include:

a. Complete the original Scope of Services in accordance with the procedures originally intended in BLE's proposal, if practicable in BLE's judgment;

b. Agree with Client to modify the Scope of Services and the estimate of charges to include study of the unforeseen conditions or occurrences, with such revision agreed to in writing;

c. Terminate the services effective on the date specified by BLE in writing.

9. **SAMPLE DISPOSAL.** Test specimens or samples generally are consumed or substantially altered during testing and any remnants are disposed of immediately upon completion of tests. Remaining drilling samples and other specimens are disposed of 30 days after submission of BLE's report. In the event that test samples contain toxic or hazardous constituents as defined by applicable law, upon completion of any testing and temporary storage by BLE and per Client's stated preference, BLE will return such samples to Client for proper disposal.

10. **WASTE DISPOSAL.** If Client requests BLE to containerize drilling wastes and/or fluids produced by BLE's activity ("Wastes"), Client will provide a secure temporary storage location at or near the project site to prevent tampering with such containerized Wastes. Non-hazardous Wastes will be disposed of by BLE for an additional charge at an appropriately licensed facility. Any hazardous Wastes will be disposed of under manifest executed by Client at any properly licensed facility selected by Client with BLE's assistance. At no time will BLE take title to such hazardous Wastes.

11. **\*CLIENT DISCLOSURE.** Client agrees to advise BLE upon execution of this Agreement of any hazardous substance or any condition, known or that reasonably should be known by Client, existing in, on, or near the site that presents a potential danger to human health, the environment, or BLE's equipment. Client agrees to provide BLE continuing related information as it becomes available to the Client. By virtue of entering into this Agreement or providing services hereunder, BLE does not assume control of or responsibility as an operator or otherwise for the site or the person(s) in charge of the site, or undertake responsibility for reporting to any federal, state or local public agencies any conditions at the site that may present a potential danger to public health, safety or the environment. Client agrees under advice of its counsel to notify the appropriate federal, state or local public agencies as required by law; or otherwise to disclose, in a timely manner, any information that may be necessary to prevent damage to human health, safety, or the environment.



12. \*ENVIRONMENTAL INDEMNITY. In connection with toxic or hazardous substances or constituents and to the maximum extent permitted by law, for separate and valuable consideration of \$1.00, Client agrees to defend, hold harmless and indemnify BLE from and against any and all claims, liabilities, or judgments, except to the extent finally determined as being caused by BLE's negligence or willful misconduct, resulting from:

a. Client's violation of any federal, state, or local statute, regulation or ordinance relating to the management or disposal of toxic or hazardous substances or constituents;

b. Client's undertaking of or arrangement for the handling, removal, treatment, storage, transportation or disposal of toxic or hazardous substances or constituents found or identified at the site;

c. Toxic or hazardous substances or constituents introduced at the site by Client or third persons before, during or after the completion of BLE's services;

d. Allegations that BLE is a handler, generator, operator, treater, storer, transporter, or disposer unless expressly retained by Client for such services under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law due to the BLE's services; or,

e. Any third party suit or claim for damages against BLE alleging strict liability, personal injury (including death) or property damage from exposure to or release of toxic or hazardous substances or constituents at or from the project site before, during or after completion of BLE's services under this Agreement.

13. \*EQUIPMENT CONTAMINATION. BLE will endeavor to clean its laboratory and field equipment which may become contaminated in the conduct of BLE's services. Occasionally, such equipment cannot be completely decontaminated because of the type of hazards encountered. If this occurs, it will be necessary to dispose of the equipment in a manner similar to that indicated for hazardous samples or waste and to charge Client for the loss. Client agrees to pay the fair market value of any such equipment and reasonable disposal costs.

14. DOCUMENTS. BLE will furnish Client the agreed upon number of written reports and supporting documents. These instruments of services are furnished for Client's exclusive internal use and reliance, use of Client's counsel, use of Client's qualified bidders (design services only) and for regulatory submittal in connection with the project or services provided for in this Agreement, but not for advertising or other type of distribution, and are subject to the following:

a. All documents generated by BLE under this Agreement shall remain the sole property of BLE. Any unauthorized use or distribution of BLE's work shall be at Client's and recipient's sole risk and without liability to BLE. BLE may retain a confidential file copy of its work product and related documents.

b. If Client desires to release, or for BLE to provide, BLE's report(s) to a third party not described above for that party's reliance, BLE will agree to such release provided we receive written acceptance from such third party to be bound by acceptable terms and conditions similar to this Agreement (e.g. Secondary Client Agreement). Reports provided for disclosure of information only will not require separate agreement. Client acknowledges and agrees to inform such third party that BLE's report(s) reflects conditions only at the time of the study and may not reflect conditions at a later time. Client further acknowledges that such request for release creates a potential conflict of interest for BLE and by this request Client waives any such claim if BLE complies with the request.

c. Client agrees that all documents furnished to Client or Client's agents or designees, if not paid for, will be returned upon demand and will not be used by Client or any other entity for any purpose whatsoever. Client further agrees that documents produced by BLE pursuant to this Agreement will not be used for any project not expressly provided for in this Agreement without BLE's prior written approval.

d. Client shall furnish documents or information reasonably within Client's control and deemed necessary by BLE for proper performance of BLE's services. BLE may rely upon Client-provided documents in performing the services required under this Agreement; however, BLE assumes no responsibility or liability for their accuracy. Client-provided documents will remain the property of Client, but BLE may retain one confidential file copy as needed to support its report.

e. Upon Client's request, BLE's work product may be provided on magnetic media. By such request, Client agrees that the written copy retained by BLE in its files, with at least one written copy provided to Client, shall be the official base document. BLE makes no warranty or representation to Client that the magnetic copy is accurate or complete, but will correct in good faith any omissions or errors brought to BLE's attention by Client. Any modifications of such magnetic copy by Client shall be at

Client's risk and without liability to BLE. Such magnetic copy is subject to all other conditions of this Agreement.

15. CLAIMS. The parties agree to attempt to resolve any dispute without resort to litigation, including use of mediation, prior to filing of any suit, including use of mediation, prior to filing of any suit. However, in the event that a claim results in litigation, then the prevailing party shall be entitled to recover from the non-prevailing party the prevailing party's reasonable legal fees and expenses associated with such litigation. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

16. OPINIONS OF COST. If requested, BLE will use its best efforts and experience on similar projects to provide realistic opinions or estimates of costs for remediation or construction as appropriate based on reasonably available data. BLE's designs or BLE's recommendations. However, such opinions are intended primarily to provide information on the order of magnitude or scale of such costs and are not intended for use in firm budgeting or negotiation unless specifically agreed otherwise, in writing with BLE. Client understands actual costs of such work depend heavily on regional economics, local construction practices, material availability, site conditions, weather conditions, contractor skills, and many other factors beyond BLE's control.

17. TESTIMONY. Should BLE or any BLE employee be compelled by law to provide testimony or other evidence by any party, whether at deposition, hearing, or trial, in relation to services provided under this Agreement, and BLE is not a party in the dispute, then BLE shall be compensated by Client for the associated reasonable expenses and labor for BLE's preparations and testimony at appropriate unit rates. To the extent the party compelling the testimony ultimately provides BLE such compensation, Client will receive a credit or refund on any related double payments to BLE.

18. CONFIDENTIALITY. BLE will maintain as confidential any documents or information provided by Client and will not release, distribute or publish same to any third party without prior permission from Client, unless compelled by law or order of a court or regulatory body of competent jurisdiction. Such release will occur only after prior notice to Client.

19. GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of South Carolina.

20. PRIORITY OVER FORM AGREEMENT/PURCHASE ORDERS. The Parties agree that the provisions of these terms and conditions shall control over and not be superseded by any provisions of any other documents or writings and may be amended only by written instrument signed by both Client and BLE. Client may issue purchase orders to BLE to satisfy Client's purchasing requirements. It is agreed that the terms and conditions included in such purchase orders shall be considered deleted in their entirety and such terms and conditions shall be void.

21. SURVIVAL. All provisions of this Agreement for indemnity or allocation of responsibility or liability between Client and BLE shall survive the completion of the services and the termination of this Agreement.

22. SEVERABILITY. In the event that any provision of this Agreement is found to be unenforceable under law, the remaining provisions shall continue in full force and effect.

23. ASSIGNMENT. This Agreement may not be assigned by either party without the prior permission of the other.

24. CONSIDERATION. The parties agree that the charges for BLE's services are sufficiently adjusted to include any specific consideration payable to Client under these terms and conditions.

25. INTEGRATION. This Agreement, the attached documents and those incorporated herein constitute the entire Agreement between the parties and cannot be changed except by a written instrument signed by both parties.

26. FORCE MAJEURE. Any failure of performance under this Agreement shall not constitute breach if said failure of performance is due to an event or events beyond the reasonable control of the Parties or either of them; such events of force majeure shall include, but not be limited to, acts of God, natural disasters, war and strikes.

If an event of force majeure occurs, BLE shall notify CLIENT, identify the event of force majeure and specify the anticipated time when the Work can be continued. Timely notification of an event of force majeure shall extend the completion date of this Agreement for a time equal to the continuation of the force majeure plus any reasonable time necessary to resume Work. CLIENT agrees to pay BLE for all reasonable costs incurred associated with labor and equipment, including subcontractor services, necessary to resume Work.



27. CONFIDENTIALITY. BLE and CLIENT recognize that each of them may encounter written or unwritten confidential information regarding the other Party during the course of the services set forth in the Proposal. Confidential information means all technical, economic, financial, pricing, marketing or other information that has not been published and/or is not otherwise available to members of the public and includes, without limitation, trade secrets, proprietary information, customer lists, scientific, technical and business studies, analyses, processes, methods, procedures, policies and information. The Party receiving such confidential information agrees to hold as confidential and not to disclose such information. Each Party shall make its employees having access to said information aware of this obligation of confidentiality and bind said employees under similar obligations of confidence.

All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement shall be the property of BLE and are to be treated as confidential. They are not to be disclosed to others without BLE prior written approval. BLE shall treat as confidential all documents and records (the "Documents") belonging to CLIENT or a third party that BLE reviews during the performance of services set forth in the Proposal. BLE shall not disclose the Documents to any third party without the prior written consent of the Documents' owner or owners. No articles, papers or treatises related to or in any way associated with the services set forth in the Proposal shall be submitted for publication without BLE's prior written consent. BLE may retain copies of all such documents for archival purposes and to support or defend its work. The confidentiality restrictions herein shall not apply to information that: (1) the Parties had in their possession prior to disclosure; (2) becomes public knowledge through no act or fault of the receiving Party; (3) the receiving Party lawfully acquires from a third party which does not have a confidentiality obligation to the Party to which the information pertains; (4) is independently developed by the receiving Party; or (5) is required to be disclosed by law. Without the express written consent of BLE, this Agreement creates no duties or liabilities of BLE to third parties who may rely on the Work provided or the documents delivered hereunder. The Parties agree that although CLIENT may provide copies of BLE's reports to prospective property purchasers and their agents, no party other than CLIENT, its counsel or appropriate regulatory bodies may rely on the contents of BLE's reports.

28. INDEMNITY. If CLIENT or any of its directors, officers, shareholders, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "CLIENT Affiliates") become subject to any liabilities, obligations, claims, losses, damages, penalties, actions, judgments, suits, costs and expenses (including, without limitation, fees and disbursements of attorneys and consultants) (collectively, "Claims"), arising from, related to or in connection with:

- a. the negligence, gross negligence or willful misconduct of BLE or its directors, officers, employees, subcontractors, agents and affiliates (collectively, the "Representatives");
- b. a violation of a statute or regulation by BLE or its Representatives; and/or
- c. a breach of this Agreement by BLE or its Representatives;

BLE shall indemnify and hold harmless CLIENT and its Affiliates from and against any and all Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions, but this indemnification shall only extend to the proportional extent of BLE's negligent, wrongful or willful acts or omissions.

If BLE or any of its directors, officers, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "BLE Affiliates") become subject to any liabilities, obligations, claims, losses, damages, penalties, actions, judgments, suits, costs and expenses (including, without limitation, fees and disbursements of attorneys and consultants) (collectively, "Claims"), arising from, related to or in connection with:

- a. the negligence, gross negligence or willful misconduct of CLIENT or its directors, officers, shareholders, employees, subcontractors, agents and affiliates (collectively, the "Representatives");
- b. a violation of a statute or regulation by CLIENT or its Representatives; and/or
- c. a breach of this Agreement by CLIENT or its Representatives;

CLIENT shall indemnify and hold harmless BLE and its Affiliates from and against any and all Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions, but this indemnification shall only extend to the proportional extent of CLIENT's negligent, wrongful or willful acts or omissions.

29. NON-EXCLUSIVITY. BLE recognizes and agrees that its services hereunder are to be provided on a non-exclusive basis.

30. WAIVER. Waiver by either Party of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement.

31. TERMINATION. This Agreement terminates automatically when BLE completes the services set forth in the Proposal. Either Party may terminate this Agreement without cause upon 30 days written notice to the other Party. In the event CLIENT requests termination prior to completion, CLIENT agrees to pay BLE for all reasonable costs incurred to date and reasonable charges associated with termination of its services.

NOTES:

\*Applies only if toxic or hazardous substances or constituents are anticipated or encountered.

For work in the State of Georgia, delete the words "or any third party" as such words appear in Paragraph 5

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 END OF DOCUMENT

PAS revision 7.0 – 10/20/15

# Elmwood Way Temporary Convenience Center Site



Attendant's Hut

Recycling Container

Waste Container

Waste Container

Exit

Entrance  
(One Way Only)