



ATLANTIC TESTING LABORATORIES

WBE certified company

October 31, 2014

C2AE
70 Main Street
Canton, New York 13617

Telephone: 315-386-2623 ext.205
Facsimile: 315-386-2632

Attn: Mr. Steve Willard

Re: Subsurface Investigation Services
Water Distribution
Sterling, Cayuga County, New York
ATL No. CD998-455-10-14

Ladies/Gentlemen:

In accordance with the written request for proposal, October 30, 2014, the following items are attached for the referenced services.

- ♦ AGREEMENT for Subsurface Investigation Services
- ♦ EXHIBIT A - Scope of Services
- ♦ EXHIBIT B - Fee Schedule

ATL is WBE certified by the New York State Department of Economic Development, Division of Minority & Women's Business Development.

Atlantic Testing Laboratories, Limited (ATL) will initiate the Scope of Services described in EXHIBIT A, in accordance with the Fee Schedule listed in EXHIBIT B, upon the return of two original executed AGREEMENTS with exhibits to:

**Atlantic Testing Laboratories, Limited
Contracts Department
PO Box 29
6431 US Highway 11
Canton, New York 13617**

One original countersigned AGREEMENT will be returned to your office.

It is ATL's understanding that NYS prevailing wages are applicable for this project. The unit fees are based on the applicable prevailing wage rates.

Thank you for the opportunity to submit a proposal for the referenced services. We look forward to your response.

Sincerely,
ATLANTIC TESTING LABORATORIES, Limited

Aaron D. Woods, IE
Engineer

ADW/TJG/ajd

Attachments

Albany ♦ Binghamton ♦ Elmira ♦ Plattsburgh ♦ Poughkeepsie ♦ Rochester ♦ Syracuse ♦ Utica ♦ Watertown

AGREEMENT
FOR SUBSURFACE INVESTIGATION SERVICES

This AGREEMENT is by and between

C2AE
70 Main Street
Canton, New York 13617

Herein referred to as CLIENT and

Atlantic Testing Laboratories, Limited
PO Box 29
6431 US Highway 11
Canton, New York 13617

Herein referred to as ATL, who agree as follows:

- A. **DECLARATIONS:** CLIENT by virtue of the mutual execution of this document retains ATL to provide Subsurface Investigation Services associated with CLIENT's project, herein referred to as the PROJECT, and described as follows:

Water Distribution
Sterling, Cayuga County, New York

This AGREEMENT represents the entire and integrated AGREEMENT between CLIENT and ATL and supersedes all prior negotiations, representations, or agreements, either written or oral. This AGREEMENT may be amended only by written instrument, signed by authorized representatives of both CLIENT and ATL.

- B. **SERVICES:** ATL shall provide Subsurface Investigation Services for the PROJECT in accordance with the Scope of Services described in EXHIBIT A, attached hereto and made part of this AGREEMENT, and in accordance with the Terms and Conditions in Item F below.
- C. **FEES:** All services provided on the PROJECT will be invoiced in accordance with the Fee Schedule in EXHIBIT B, attached hereto and made part of this AGREEMENT.
- D. **PAYMENT TERMS:** Invoices will be submitted in accordance with the fees in EXHIBIT B and the actual services rendered. Invoices are due when rendered and payable in US dollars. Accounts past due 10 days are subject to a service charge of 1.5% per month or an annual percentage rate of 18%.
- E. **CONTRACT DURATION:** This AGREEMENT shall continue in force until **January 31, 2015**, unless terminated earlier by mutual agreement or as described hereinafter. This AGREEMENT may be extended beyond the aforementioned date only by written agreement between CLIENT and ATL.
- F. **TERMS AND CONDITIONS:**

1. **DEFINITIONS**

OWNER – Entity that possesses ownership rights and control over the PROJECT.

CLIENT - The public body or authority, corporation, association, firm, or person with whom ATL has entered into this AGREEMENT for services to be provided.

ATL - Atlantic Testing Laboratories, Limited, with Corporate Offices located at PO Box 29, 6431 US Highway 11, Canton, New York 13617. The firm retained to provide services as stated in this AGREEMENT.

2. RIGHT OF ENTRY

CLIENT will provide for right of entry of the employees, agents, or subcontractors of ATL to perform and complete the work that is the subject of this AGREEMENT.

CLIENT authorizes ATL and/or its representatives to enter and examine the subject property and/or subject building(s) and if applicable, to extract samples for subsequent laboratory analysis, in accordance with the Scope of Services contained in EXHIBIT A of this AGREEMENT.

Further, CLIENT authorizes ATL to make oral and/or written inquiry of appropriate federal, state, and local government agencies or authorities in respect to the services being rendered.

3. JOBSITE ACTIVITIES

ATL will be responsible for providing services consistent with the Scope of Services contained in EXHIBIT A of this AGREEMENT. In no event shall ATL be responsible or liable for construction means and methods, jobsite superintendence, construction sequencing and/or coordination, or safety in, on, or about the jobsite.

4. HEALTH AND SAFETY

The OWNER, or CLIENT, as the OWNER's representative, is responsible for providing safe access to and on the project site in accordance with all applicable federal and state safety laws and regulations, including, but not limited to, relevant provisions of the OSHA standards. The more stringent of those or any site specific health and safety programs and procedures shall prevail.

In addition to the laws, standards, and regulations above, the OWNER, or CLIENT, as the OWNER's representative, and any agents thereof, including contractors and subcontractors, shall adhere to ATL safety requirements while within the exclusion zone work area established by ATL.

5. OWNERSHIP AND REUSE OF DOCUMENTS

All data compilation, reports, photographs, and/or drawings produced by ATL as instruments of service, in accordance with this AGREEMENT, shall not be used or reused for unrelated extrinsic purposes by either CLIENT or ATL, without the prior written consent of the other party.

CLIENT agrees to compensate ATL, in accordance with the terms of the agreement, for all documents and other work produced by ATL as instruments of service. Failure to compensate ATL for services rendered under this AGREEMENT forfeits CLIENT's right to ownership and use of ATL's instruments of service for any purpose.

ATL will retain all pertinent records relating to the services performed in accordance with ATL's record retention policy. The records will be made available to CLIENT at all reasonable times upon request and for the cost of retrieval and reproduction.

6. SUCCESSORS AND ASSIGNS

CLIENT and ATL each bind themselves, their partners, successors, assigns, and legal representatives to the other party of this AGREEMENT and to the partners, successors, assigns, and legal representatives of such other party, in respect to all covenants of this AGREEMENT. Neither CLIENT nor ATL shall assign, sublet, or transfer its interest in the AGREEMENT without the written consent of the other.

7. LIMITATIONS OF LIABILITY

To the fullest extent permitted by law, CLIENT agrees to limit the liability of ATL and its directors, officers, consultants, agents, employees, subcontractors, and respective shareholders for any and all claims, losses, damages, expenses or claim expenses (including attorneys' fees) arising out of this AGREEMENT, from any cause or causes whatsoever, so that the total aggregate liability of ATL and its directors, officers, consultants, agents, employees, subcontractors, and respective shareholders shall not exceed ATL's total fee for services rendered under this AGREEMENT, or \$50,000, whichever is greater and regardless of the legal theory under which liability is imposed. Such causes by way of example include, but are not limited to: (a) professional negligence, including errors, omissions, or other professional acts; (b) strict liability; (c) breach of contract; (d) environmental contamination resulting from handling, transport, storage, discharge, dispersal or release of hazardous materials; and (e) including without limitation, CLIENT claims of contribution and indemnification with respect to third-party claims.

ATL will not be responsible for any loss, damage, or liability arising from any acts by the OWNER, or CLIENT, as the OWNER'S representative, and any agents, staff, contractors, or other consultants.

ATL will be responsible only for the instruments of service furnished by it, but shall not be responsible for the interpretation and/or misuse by others of the information developed. CLIENT agrees to indemnify and hold ATL harmless from and against all claims, damages, losses, and expenses arising from the interpretation and/or misuse by others of instruments of service provided by ATL.

Relevant to ATL services provided under this agreement, CLIENT shall provide ATL with immediate written notification of event or actions that may result in any liability claims, damages, losses, and expenses.

8. INDEMNITY

To the fullest extent permitted by law, CLIENT agrees to indemnify and hold harmless ATL and its directors, officers, consultants, agents, employees, subcontractors, and respective shareholders from and against all liability claims, damages, losses, and expenses, direct and indirect, or consequential damages, including, but not limited to, attorney/court/arbitration costs, arising out of or resulting from the acts, errors, or omissions by CLIENT, its staff, contractors, or other consultants employed by CLIENT. The indemnification agreement will survive the termination or expiration of this AGREEMENT.

9. STANDARD OF CARE

Services provided by ATL under this AGREEMENT will be performed in a manner consistent with the level of care and skill ordinarily exercised by members of the industry performing similar services using recognized methodologies in the same or comparable locality.

In accepting reports of observations, tests, photographs, and opinions provided pursuant to this AGREEMENT, CLIENT acknowledges that the extent of ATL's obligation with respect thereto is limited to furnishing of such data, which shall not be solely used by others to determine acceptance of any construction work, nor shall it relieve the contractor in any way from his obligations and responsibilities to conduct the work in conformance with the PROJECT plans and specifications.

10. HAZARDOUS WASTES

CLIENT shall advise ATL of any hazardous wastes or hazardous substances existing at or near the site at which ATL is to perform work. If ATL discovers hazardous wastes or

hazardous substances after it undertakes the PROJECT, or if ATL discovers the nature or extent of hazardous wastes or hazardous substances differs materially from what CLIENT advised ATL, CLIENT and ATL agree that the Scope of Services, schedule, and fees shall be adjusted as needed to complete the work.

If reportable quantities of petroleum product and/or chemical contamination are discovered on the PROJECT site during performance of the work tasks described herein, or during any subsequent work completed at the PROJECT site, the appropriate local, state, and/or federal agencies must be notified, as required by law. ATL will make a reasonable attempt to notify CLIENT when reportable quantities are discovered. The OWNER, or CLIENT, as the OWNER'S representative, is responsible for providing notification to the proper authorities.

The ownership of and responsibility for all contaminated materials, hazardous materials, and hazardous substances generated, released, uncovered, transported, and/or collected during the work tasks referred to herein will remain with CLIENT.

11. HIDDEN CONDITIONS

A condition is hidden if it is concealed or is not capable of detection by reasonable visual observation. If ATL recognizes that a hidden condition may exist, ATL shall notify CLIENT and CLIENT shall be responsible for all costs associated with the investigation of such a condition. ATL shall not be responsible for any costs resulting from hidden conditions.

12. INSURANCE

ATL represents that it, together with its agents and staff, are protected by worker's compensation insurance, and that ATL has such coverage under public liability and property damage insurance policies ATL deems to be adequate. Certificates for any such policies of insurance will be provided to CLIENT upon written request.

CLIENT recognizes that ATL's insurance policies may contain certain exclusions, including those for certain claims arising from the discharge, dispersal, release, or escape of pollutants. CLIENT agrees to defend, indemnify, and hold ATL and its employees or agents harmless for and against all claims, causes of action, suits, proceedings, damages, losses, and expenses, including third party claims or actions, arising from ATL's work for CLIENT under this AGREEMENT that falls within the scope of any exclusion from ATL's liability or property damage insurance policies.

13. DISPUTE RESOLUTION

In the event of a dispute between CLIENT and ATL, the parties agree to negotiate in good faith, having such written and oral communications as are appropriate, in an attempt to resolve said dispute. Disputes not resolved through a good faith effort, shall be submitted to non-binding mediation, prior to each party's right to initiate litigation.

In the event a dispute arising out of or relating to performance of services results in legal action, the parties agree that if ATL is the prevailing party, it shall be entitled to recover all costs incurred with respect to the claim, including reasonable attorney's fees, court costs, and other claim-related expenses.

In the event legal action is necessary to enforce the payment terms of this AGREEMENT, ATL shall be entitled to collect from CLIENT any judgment or settlement sums due plus reasonable attorney's fees, court costs, and other expenses incurred by ATL for such collection action.

14. TERMINATION

ATL or CLIENT may terminate this AGREEMENT for convenience and without cause. Upon receipt of termination notice, ATL will stop work on all services included in this AGREEMENT and deliver any instruments of service at that time to CLIENT. CLIENT shall pay ATL for all services performed up to the date of termination notice, plus reasonable termination expenses and fees. Upon termination for convenience or without cause, the terminating party shall have no further rights or remedies.

In the event of failure by either party to perform in accordance with the terms hereof, either party may terminate this AGREEMENT for cause, upon written notice. Such termination may be rescinded by the terminating party if that substantial failure has been remedied within a reasonable period of time.

15. DELAY

In no event shall ATL be liable or responsible to the CLIENT, its respective shareholders, directors, officers, consultants, agents, and employees for or on the account of, any stoppage or delay in the work that is the subject of this AGREEMENT.

In the event of suspension, or delay for more than three months, ATL may elect to finalize all data compilation, analysis, and reports to complete services performed to the date of suspension or delay. CLIENT agrees to compensate ATL, in accordance with the terms of the agreement, for all services completed and other work produced by ATL as instruments of service.

16. GOVERNING LAW AND VENUE

This AGREEMENT shall be governed and construed in accordance with the laws of the State of New York without regard to any conflicts of law provisions. All claims, disputes, and lawsuits arising out of or in connection with this AGREEMENT shall be resolved or adjudicated in the State of New York.

The preceding Declarations, Services, Fees, Payment Terms, and Terms and Conditions are hereby accepted and agreed upon.

ISSUED BY:

ACCEPTED BY:

ATLANTIC TESTING LABORATORIES, Limited

C2AE

Signature

Signature

Marjean B. Remington, CEO

Printed Name and Title

Printed Name and Title,
Its Duly Authorized Representative

Date

Date

EXHIBIT A
SCOPE OF SERVICES

Water Distribution, Sterling, New York

Based on information provided to ATL by C2AE, it is our understanding that the project consists of performing Subsurface Investigation Services for water distribution project in Sterling, New York.

CLIENT will be responsible for determining, requesting, authorizing, and scheduling services. CLIENT agrees that ATL is not responsible for performing services that are neither requested nor authorized by CLIENT, including but not limited to, services that are required by the construction documents and/or outlined in the following general Scope of Services.

It is understood and accepted by CLIENT that subsurface exploration involves the use of intrusive drilling and sampling methods. Such methods typically require access for heavy equipment that may damage or alter the site topography, including sensitive landscape and pavement surfaces. ATL will take reasonable precautions to minimize and limit potential damage to the site while accessing locations and performing the work. Restoration of the site to its preexisting state will not be performed by ATL, unless specifically provided for in this Scope of Services or through a written addendum mutually signed by authorized representatives of ATL and CLIENT.

Professional Engineering and Project Principal services, required to perform the Scope of Services outlined below, will be provided by ATL Engineering, P.C.

A. ATL will provide the following field services:

1. Coordinate an underground utility clearance using a public utility locating service such as Dig Safely New York. The CLIENT or OWNER shall be responsible to provide information regarding private buried and overhead site utilities not managed by public utility sources. ATL shall take reasonable precautions to avoid damage to subsurface utilities and structures that have been properly identified and marked. ATL shall not be responsible for damage to subsurface utilities and structures that are not correctly identified or marked during the public underground utility clearance, and/or damage to private subsurface utilities and structures resultant from incorrect information provided by the CLIENT or OWNER.

Completion of an underground utility clearance requires a minimum of three business days, in accordance with Dig Safely New York policy.

2. Record boring locations with a minimum of two ties per location and provide a composite drawing or drawings showing field locations and ties.
3. Mobilize and demobilize the following:
 - ♦ Two-person drill crew
 - ♦ Truck-mounted drill rig
4. Provide maintenance and protection of traffic (signs and cones).
5. Advance 7 soil borings, utilizing 4 1/4-inch hollow stem augers, to estimated depths ranging from 8 to 35 feet, or to practical refusal, whichever is less. If practical refusal is encountered, the material may be cored, at selected locations, a minimum of 5 feet using an NX-size core barrel (2-inch core diameter).
6. Perform soil sampling and Standard Penetration Testing (SPT), using a 2-inch OD split spoon sampler, in accordance with ASTM D 1586: "Standard Test Method for Standard

Penetration Test (SPT) and Split Barrel Sampling of Soils," continuously to a minimum depth of 12 feet and at 5-foot intervals thereafter.

7. Backfill borings upon project completion with on-site material. The boreholes will be restored at the surface grade to generally correspond with existing conditions (i.e., soil, asphalt cold patch, concrete). CLIENT will be responsible for monitoring backfilled locations for settlement and condition of surface restoration. ATL assumes no liability for borehole settlement and makes no warranties or guarantees, express or implied, related to surface restoration.
8. Perform visual classification of the soil and/or rock samples in the laboratory in accordance with Burmister Soil Classification System.

B. ATL will provide the following reporting services:

1. Prepare a Data Report to include the following:
 - ◆ Boring Location Plan and Site Location Map
 - ◆ Description of subsurface investigation and sampling methodology
 - ◆ Description of subsurface soil and rock conditions, and groundwater conditions
 - ◆ Computer-generated soil boring logs with laboratory soil/rock classifications, subsurface stratigraphy, SPT observations, groundwater observations, and rock core descriptions
 - ◆ Laboratory test results
2. Distribute reports as directed by CLIENT. Reports will be distributed to CLIENT by email, unless otherwise directed.

C. CLIENT will be responsible for the following:

1. Stake the location for each boring. Provide ATL with boring locations and boring location plan prior to commencing field work.
2. Provide appropriate access for the proposed equipment to each boring location, including snow removal and clearing as necessary.
3. Obtain any required permits and permissions for site access.

NOTES TO THE SCOPE OF SERVICES

Untested portions of soil, rock, and/or boring samples will be discarded 6 months after completion of the testing, unless directed otherwise.

**Town of Sterling – Water District #1
Cayuga County, NY Water
Distribution Project
Subsurface Investigation**

Location: See Attached Spreadsheet

Item	Estimated Quantity	Unit	Unit Price	Total
Mobilization & Demobilization	1	L.S.	\$1,600.00	\$1,600.00
Hollow Stem Auger Boring with Split Spoon Sample	100	V.Ft.	\$48.00	\$48.00
N-Series Rock Core if Required	1	V.Ft.	\$77.00	\$77.00
Report Preparation	1	Ea.	\$660.00	\$660.00
TOTAL				\$7,137.00

The quantities listed above are estimated. The actual quantity may vary.

* Price shall include all miscellaneous costs necessary to complete the subsurface investigation, ie: permits, flagmen and Maintenance and Protection of Traffic per the Manual of Uniform Traffic Control Devices, utility clearances, restoration, bonds and any others not specifically mentioned.

Submitted by: _____

Date: October 31, 2014