



ARM Group LLC

Engineers and Scientists

May 4, 2022

Mr. Russ Collins
Vice President – South Central Region
Trout Unlimited
1167 South Forge Road
Palmyra, Pennsylvania 17078

Re: Proposal: Quittapahilla Creek
Enhancement and Fishing Access
Improvement Project
Annville Borough and Annville Township,
Lebanon County, Pennsylvania
ARM Proposal P22010360

Dear Mr. Collins:

ARM Group LLC (ARM) appreciates the opportunity to present a scope of work and estimated budget to Trout Unlimited (TU) for the Quittapahilla (Quittie) Creek Enhancement and Fishing Access Improvement Project in Annville Borough and Annville Township, Lebanon County, Pennsylvania. This enhancement project proposal entails fish habitat structure design and implementation and accessible opportunity improvements for fishing and recreation. Pursuant to our meeting on February 28, 2022, and subsequent conversations the project scope includes an aquatic resources investigation; rare, threatened, and endangered (RTE) review; cultural resource review; design and permitting services; and construction quality assurance.

ARM has a team of highly qualified engineering, environmental, biological, and surveyor professionals that are experienced in providing these types of services in an efficient and effective manner.

ARM provides on-time and cost-effective service and is best known for utilizing multi-disciplinary project teams to devise and implement work plans that are founded on innovative and well-conceived strategies. The ARM team is committed to providing TU a quality product and service. In addition, ARM has the capacity to dedicate a team to complete the project. ARM prepared this proposed scope of work and cost estimate in a task format to allow the client maximum control of authorized work and overall cost.

PROJECT UNDERSTANDING

TU is proposing a project to develop a fishing access to Quittie Creek for making outdoor recreation accessible to everyone, including Pennsylvanians with disabilities. The proposed project is located in Annville Township, Lebanon County, Pennsylvania. The proposed project will also include a stream restoration project to stabilize actively eroding stream banks and improve fish habitat along the creek

PRECISE. RESPONSIVE. SOLUTIONS.

2548 Park Center Boulevard, State College, PA 16801

in the vicinity of the proposed access locations. Fish habitat enhancement structures may include, but are not limited to deflectors, low flow channel structures, channel blocks, mud sills, boulders, felled shoreline trees, and log structures. ARM has reviewed background information provided by TU. On-line source information was also reviewed to the extent possible in an effort to evaluate the potential permit requirements.

The project is located within the Quittie Creek watershed, which drains to Swatara Creek (Lower Susquehanna - Swatara Penns, Hydrologic Unit Code, HUC 02050305, United States Environmental Protection Agency). According to Pennsylvania Code Title 25 Chapter 93 Water Quality Standards, the basin of Quittie Creek has a Trout Stocking/Migratory Fishes (TSF/MF) designation. According to the PA Department of Environmental Protection's (PADEP's) Statewide *Existing Use Classifications* list for Lebanon County, Quittie Creek does not have an Existing Use classification. Quittie Creek is not designated as supporting Natural Reproduction of Trout, however, it is a Trout Stocked Water, according to the Pennsylvania Fish and Boat Commission (PFBC) (**Preliminary Natural Resource Map, Sheet 1, Attachment A**). Trout Stocked Waters have in-stream construction restrictions from March 1 through June 15.

SCOPE OF WORK

The following narrative describes the tasks and scope of work associated with this project. Each work task and corresponding cost is summarized in the "Cost Estimate" section of this proposal.

Task 1 – Aquatic Resources Investigation

Field Investigation

One wetland scientist will visit the project property to investigate for the presence of streams and wetlands, which are regulated at the state and federal levels. Unavoidable impacts of streams and wetlands require a permit. The project area is centered on Quittie Creek as illustrated on the enclosed figure (**Preliminary Natural Resource Map, Sheet 1, Attachment A**). One day of field work is estimated to complete the aquatic resource identification and delineation of the project area, assumed to be less than 5 acres. The aquatic resources identified within the project area will be documented during the site investigation.

The wetland delineation and stream identification will be completed in accordance with the US Army Corps of Engineers (USACE) *Wetlands Delineation Manual* (USACE, 1987), including subsequent guidance documents and the appropriate Regional Supplement to the Corps of Engineers *Wetland Delineation Manual*, as required by the USACE and the Pennsylvania Department of Environmental Protection (PADEP). Based upon the methodology established in these aforementioned documents, the delineation of wetlands includes the evaluation of three parameters – the presence of hydric soils, dominance of hydrophytic vegetation, and indicators of wetland hydrology. Wetland and stream data collected in the field will be logged on data sheets and color photographs will be taken at multiple areas of the Project site. The boundaries of delineated aquatic features and data collection points will be marked in the field by the wetland scientist with a series of flags. Each flag will be located with a handheld GPS unit.



Aquatic Resource Investigation Report

ARM will prepare an Aquatic Resources Investigation Memorandum to include with permit applications as required. The report will include a narrative about each identified stream/wetland feature, feature data forms, site photographs, and associated GIS mapping. The memorandum will be provided for your review and comment prior to inclusion in the permit packages.

Task 2 – Rare, Threatened and Endangered (RTE) Review

As part of this project, ARM will perform an on-line review of the Pennsylvania Natural Diversity Inventory (PNDI) Environmental Review Tool database for state and federal rare, threatened, and endangered species (and other special concern species) for the proposed project area prior to conducting the field investigation. An on-line review is acceptable for the proposed project. A preliminary review of the Pennsylvania Conservation Explorer determined there is a potential for Bog Turtle habitat within the project area. ARM's Qualified Bog Turtle Surveyor (QBTS) will conduct the necessary Bog Turtle Phase 1 Habitat Survey, if required. The survey area is assumed to be the project area of investigation (AOI) and a 300-foot buffer, where feasible. The survey will determine whether wetland(s) habitats (if present) are potential bog turtle habitat as required by an expected conflict identified after a review of the PNDI.

The wetland habitats (if present) will be evaluated to determine if they are potentially suitable Bog Turtle habitat during one onsite survey. Wetland habitat evaluations, if observed within the survey area, will be documented using the *Phase 1 Bog Turtle Habitat Survey Data Form for the Northern Population Range* (Revised April 29, 2020).

A negative finding will result in the completion of the project task and the QBTS's signature on page 5 of 7 of the PNDI receipt. A courtesy copy of the signed PNDI will be emailed to the USFWS, Pennsylvania Field Office. Copies of the completed USFWS/PFBC Bog Turtle Habitat Survey Data Forms will be provided to the client documenting the completion of the habitat assessment.

It should be noted that the cost for this scope of work does not include consultation with the USFWS or a Phase 2 Bog Turtle Survey should positive results for *potential* Bog Turtle habitat be identified within the AOI or within 300 feet of the project. A Phase 2 requires surveys between April 15 and June 15. However, if positive results for *potential* Bog Turtle habitat are confirmed present and avoidance of a Phase 2 is determined appropriate based upon wetland and project conditions, ARM will provide a cost estimate for the completion of a coordination letter to the USFWS to describe measures to be implemented to avoid impacts upon potential suitable wetlands.

No additional coordination with state or federal resource agencies is anticipated. If it is determined that additional federal or state coordination is necessary based upon the field investigation and review of the PNDI Environmental Review Tool, then a separate scope of work and cost will be prepared at the direction of the client.



Task 3 – Cultural Resource Review

ARM will review the project in the Pennsylvania Historical and Museum Commission's (PHMC) on-line Cultural Resource Geographic Information System (CRGIS). ARM estimates no federal involvement or coordination with the PHMC is required for the project. If determined that cultural resource investigations are necessary based upon the field investigation and review of CRGIS, then a separate scope of work and cost will be prepared at the direction of the client.

Task 4 – Design and Engineering

Fish Habitat Enhancement

An ARM engineer will produce a site design that will be detailed on the permit drawings (anticipated permitting is described in Task 5 below). The permit drawings are expected to be of sufficient quality for use during construction.

The site design is estimated to include the following elements:

- Design, standard details, and specifications for typical stream restoration practices;
- Erosion and Sediment Control (E&S) design and standard details;
- Parking area improvements (addition of new stone); and
- Structural design, details, and specifications for two (2) handicap accessible fishing pier structures.

Alterations or modification to the stream channel profile or pattern are not part of the design.

ADA Fishing Access

As part of this project, ARM will design a typical American Disabilities Act (ADA) compliant fishing pier using specifications from Pennsylvania Fish and Boat Commission (PAFBC). Access to the proposed pier location(s) will also be improved to allow for better mobility and access for those with disabilities or other physical limitations. An ARM engineer will perform a site visit to evaluate existing conditions. A limited topographic survey of the area in the vicinity of the proposed fishing piers will be completed. Alternatives for the fishing piers will be evaluated to determine the appropriate design, materials and construction methods for the construction of an ADA compliant fishing pier. Engineering and design of the appropriate structure, including foundations, platform, and railings, will be provided. Drawings in AutoCAD format, with sufficient detail for construction and in accordance with applicable building codes and regulations, and outline specifications for materials, will be provided.

Task 5 – Permitting

This task includes a pre-application meeting with the PADEP and the Lebanon County Conservation District and permit preparation of the estimated applicable state/township permits. Four hours have been allotted for responding to any reviewer comments, and any additional time required to respond to comments will be billed on a time and materials basis.

- **State Permitting**
 - PADEP Chapter 105 General Permit Registration
 - GP-1 for Fish Habitat Enhancement Structures



- GP-2 (x2) for Small Docks and Boat Launching Ramps
- Lebanon County Conservation District (LCCD)/PADEP – E&S Plan

Task 6 – Construction Quality Assurance

ARM's experienced biologist will be on-site, part-time, during the construction to supervise and monitor the fish habitat enhancement and fish access opportunity project and to ensure that the project is complete in accordance with the design and state and federal permit requirements. ARM anticipates a site inspection for an average of four hours per day. ARM will arrange to be present to capture key project activities (i.e. project kick off, installation of fish habitat enhancement structures, grading, etc.). ARM is anticipating a maximum of ten days for completion of the project. Any changes to the plans, profiles or specifications will require approval by Pennsylvania Department of Environmental Protection (PADEP) and the United States Army Corps of Engineers (USACOE). A separate scope of work will be prepared to address any needed changes and modifications are not included as part of this work order. Travel expenses are included.

Task 7 – Project Management

ARM will provide a Project Manager who will be responsible for day to day management of the project. The Project Manager will have authority to ensure that adequate resources are dedicated to the project including engineering and natural resource experts. The Project Manager will be responsible for managing scope, schedule and budget. Further, the Project Manager will provide necessary weekly status reports and conference calls as necessary to complete the project.

The Project Manager will ensure that all data files (shp, kmz) and project records are stored on a project FTP site in formats that will ensure an accurate record of final submittals and approvals (pdf), as well as to allow for future edits (Word, Excel, dwg, etc.). The Project Manager will provide project team notifications when work products (data, applications, approvals, etc.) have been uploaded to the project FTP site.

PROJECT ASSUMPTIONS

- Permit Drawings can be used for Construction and will include relevant details;
- Scope includes cost for GPS rental, truck usage, and mileage as per ARM's rate sheet attached.
- The aquatic resources investigation cannot be conducted with snow cover.
- The scope of work does not include a Bog Turtle Phase 2 survey.
- A submerged lands license agreement (SLLA) is not anticipated. If determined that a SLLA is necessary based upon design review by the PADEP then a separate scope of work and cost will be prepared at the direction of the client;
- Scope does not include floodplain coordination with FEMA or other agencies.
- Scope does not include jurisdictional determination;
- Scope does not include stream excavation;
- Scope does not include the removal of old structures that may be located onsite;
- Permit application and review fees are not included in this proposal. Anticipated fees included \$500 for the E&S Plan review, plus \$100 for each acre of disturbance (estimated to be up to 2 acres, total), \$50 for the GP-1, and \$175 for each fishing pier authorized under the GP-2;
- As-built drawings are not included in this proposal;
- Scope does not include coordination with Annville Borough or Annville Township for building permits or other approvals. It is estimated that a township driveway permit will not be required.



If determined that a driveway permit is necessary based upon design review by the Annville Township, then a separate scope of work and cost will be prepared at the direction of the client; and

- No delays will be encountered due to site access or security issues;

COST ESTIMATE

The estimated cost to conduct the above work scope is presented below. ARM will perform the work scope described herein on a time and materials basis. Significant deviations from the original proposed project will result in changes to the cost estimate.

<i>Item</i>	<i>Cost</i>
Task 1 - Aquatic Resources Investigation	\$3,759
Task 2 - Rare, Threatened and Endangered (RTE) Review	\$860
Task 3 - Cultural Resource Review	\$125
Task 4 - Design and Engineering	\$20,320
Task 5 - Permitting and Pre-Application Meeting	\$10,002
Task 6 - Construction Quality Assurance	\$4,964
Task 7 - Project Management	\$5,654
Total Estimated Project Cost	\$45,684.00

SCHEDULE

ARM has the capacity to dedicate a team of engineers, scientists, and GIS/CAD designers to these projects. ARM is able to begin work immediately upon receipt of the notice to proceed. However, the aquatic resource investigation cannot be conducted with snow cover.

SAFETY

It is the Policy of ARM to provide and maintain a safe and healthful working environment and to follow operating practices that will safeguard personnel and result in a more efficient operation. Wherever required, ARM will fully comply with client safety requirements.

ARM is committed to safety excellence and the goal of Zero Accidents. As such, and in compliance with ARM's corporate safety policy, a JSA will be performed for all field work performed by ARM at the start of each workday and as changing conditions warrant in order to identify and control real and potential workplace hazards.



PROPRIETARY NOTICE

Information contained within this document is the property of and proprietary to ARM and cannot be reproduced, disclosed, or used except for evaluation purposes without the express written consent of ARM.

TERMS AND CONDITIONS

Services will be provided under the attached Terms and Conditions. Alternately, services could be provided under other mutually agreeable terms. ARM’s services will be billed in accordance with the attached billing rate schedule for services requested by Client. Invoices will be submitted on a monthly basis. Invoices aging past 30 days are subject to a late fee of 1½ percent per month. This proposal will remain open for 90 days.

CLOSING

We look forward to your favorable review of this proposal and to the successful completion of this project. If you have any questions or require additional information, please do not hesitate to contact the undersigned. If the objectives and generalized scope of services as described herein are acceptable, you may indicate your approval by signing this proposal in the indicated space below and returning a copy. ARM appreciates the opportunity to provide this proposal and hopes to work with you on this project.

Respectfully submitted,
ARM Group LLC



Brian Bonner
Senior Engineer

Quality Assurance Review Performed by: Matt Bixler, Project Manager

Attachments

- Sheet 1 – Preliminary Natural Resource Map
- Standard Terms and Conditions
- Consulting Rate Schedule

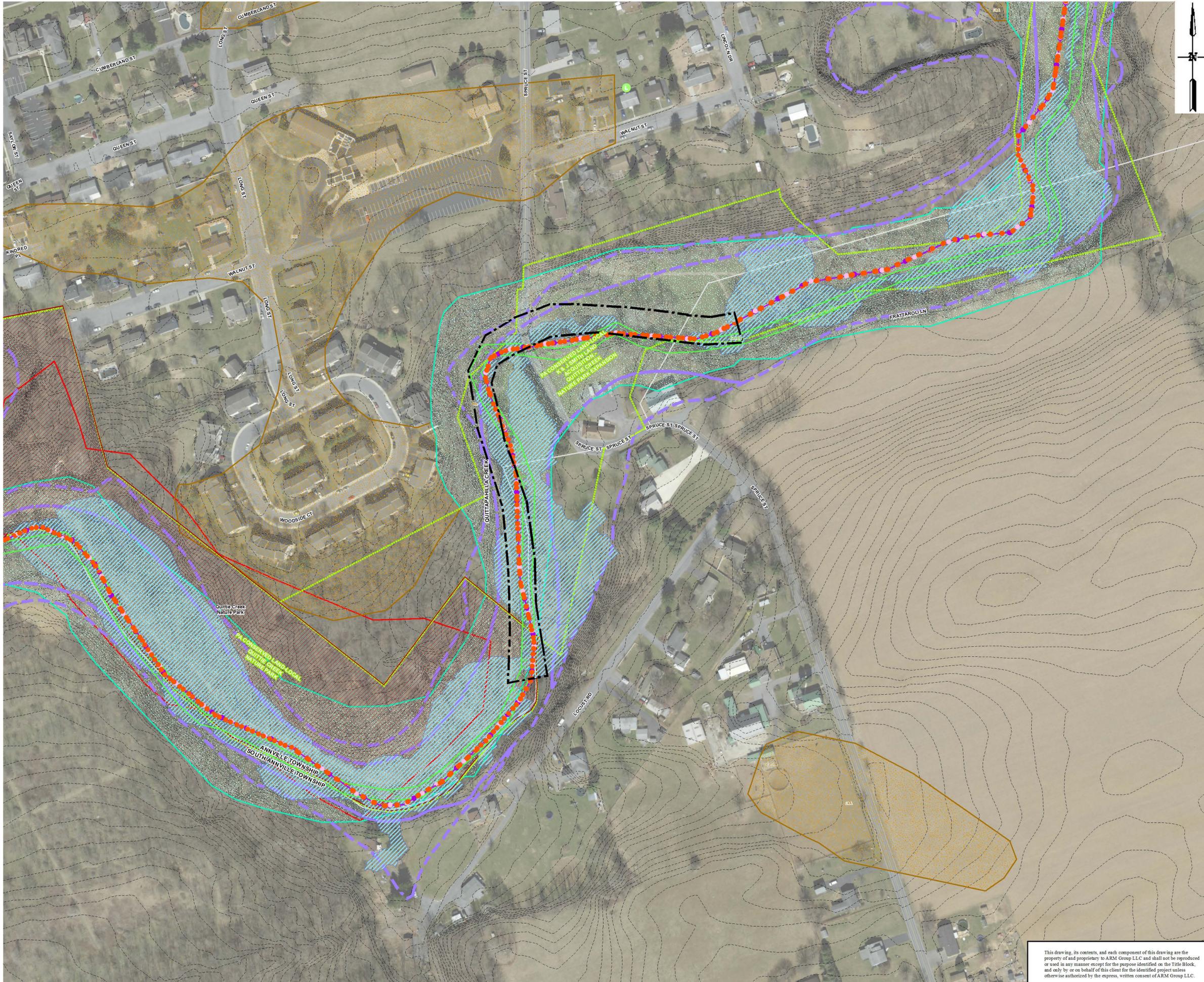
ACCEPTED BY: Trout Unlimited

By: _____
Name and Title

_____ Date



- LEGEND**
- ABANDONED
 - ACTIVE
 - DEP ABANDONED LIST
 - DEP ORPHAN LIST
 - DEP PLUGGED
 - OPERATOR REPORTED NOT DRILLED
 - PLUGGED OG WELL
 - PROPOSED BUT NEVER MATERIALIZED
 - REGULATORY INACTIVE STATUS
 - REPLACED
 - MUNICIPAL WASTE OPERATION
 - RESIDUAL WASTE OPERATION
 - COMMERCIAL WASTE OPERATION
 - AIR EMISSION PLANTS
 - LAND RECYCLING CLEANUP LOCATIONS
 - ACTIVE STORAGE TANK LOCATION
 - INACTIVE STORAGE TANK LOCATION
 - CAPTIVE HAZARDOUS WASTE OPERATION
 - TRANSMISSION LINES (USA)
 - RAILROAD (STATE)
 - IMPAIRED STREAMS
 - CLASS A STREAM (DOTS)
 - APPROVED TROUT WATER (DOTS)
 - APPROVED_TROUT_WATERBODIES_201003
 - WILDERNESS TROUT STREAM (DOTS)
 - TROUT NATURAL REPRODUCTION (DOTS)
 - TROUT STOCKED STREAM (DOTS)
 - TROUT STOCKED STREAM
 - WATER TRAIL (PFBC)
 - CWF
 - EV
 - HQ
 - HQ-CWF
 - HQ-TSF
 - HQ-WWF
 - TSF
 - WWF
 - CWF
 - EV
 - HQ-CWF
 - HQ-TSF
 - HQ-WWF
 - TSF
 - STREAM
 - STREAM LABELS
 - NWI WETLANDS
 - MODELED WETLANDS (CLIPPED)
 - BDA LAND
 - STATE FOREST
 - STATE GAMELAND
 - STATE PARK
 - LOCAL PARK
 - NATURAL AREAS
 - WILD AREAS
 - PA CONSERVED LAND - FEDERAL
 - PA CONSERVED LAND - STATE
 - PA CONSERVED LAND - LOCAL
 - PA CONSERVED LAND - PRIVATELY OWNED
 - 100 YEAR FEMA FLOODPLAIN
 - HYDRIC SOIL
 - SOILS WITH HYDRIC INCLUSIONS
 - MUNICIPAL BOUNDARY (STATE)
 - COUNTY BOUNDARY (STATE)
 - CORE HABITAT
 - PROVISIONAL SPECIES OF CONCERN SITE
 - SUPPORTING LANDSCAPE
 - LANDSCAPE CONSERVATION AREA
 - CORE HABITAT
 - PROVISIONAL SPECIES OF CONCERN SITE
 - SUPPORTING LANDSCAPE
 - LANDSCAPE CONSERVATION AREA
 - COAL PILLAR
 - COAL PILLAR (OIL AND GAS)
 - HISTORIC OIL/GAS WELL
 - ACTIVE COAL MINE
 - INACTIVE COAL MINE
 - ABANDONED COAL MINE
 - RECLAMATION COMPLETED COAL MINE
 - AMD DISCHARGE AREA
 - INDUSTRIAL MINERAL MINING OPERATION
 - ACTIVE UNDERGROUND MINE PERMIT BOUNDARY
 - DIGITIZED MINED AREAS
 - LONGWALL MINING PANELS
 - AML INVENTORY SITES
 - AML INVENTORY LOCATIONS
 - EXISTING CONTOUR: 2 FOOT



ARM Group LLC
Engineers and Scientists
www.armgroup.net

Scale: 1" = 100'

Date: 05/04/2022

Project No: P22010360

Scale in Feet: 0, 100, 200, 300, 400

PRELIMINARY NATURAL RESOURCES MAP

QUITTAPAHILLA CREEK
RESTORATION PROJECT
TROUT UNLIMITED

ANNVILLE & SOUTH ANNVILLE TOWNSHIPS,
LEBANON COUNTY, PENNSYLVANIA

Sheet **1**

This drawing, its contents, and each component of this drawing are the property of and proprietary to ARM Group LLC and shall not be reproduced or used in any manner except for the purpose identified on the Title Block, and only by or on behalf of this client for the identified project unless otherwise authorized by the express, written consent of ARM Group LLC.



ARM Group LLC

Engineers and Scientists

CONSULTING RATE SCHEDULE

Effective January 1, 2022 – December 31, 2022

Standard Consulting Rates

Principal Scientist/Engineer	\$165 to \$200/hr
Senior Scientist/Engineer/Project Manager	\$125 to \$195/hr
Project Manager	\$120 to \$150/hr
Project Scientist/Engineer II	\$105 to \$150/hr
Project Scientist/Engineer I	\$100 to \$130/hr
Staff Scientist/Engineer	\$95 to \$120/hr
Senior CAD Designer	\$105 to \$120/hr
CAD Designer	\$90 to \$115/hr
CAD Technician I and II	\$85 to \$110/hr
GIS Analyst I and II	\$90 to \$115/hr
Surveyor/Survey Manager	\$90 to \$120/hr
Senior Field Technician	\$80 to \$105/hr
Field Technician I and II	\$55 to \$90/hr
Project Administrative Services	\$65 to \$95/hr

Hydrogeologists, Geophysicists, Aquatic Biologists, and Wetland Specialists are classified under the Scientist title above.

Expert witness testimony, including preparation time, and other special services generally require a dedicated commitment of staff. Therefore, hourly billing rates for providing these dedicated services will be charged at a rate of 150% of the above schedule.

Subcontract and Project Related Expenses

Black & White Copies	\$0.10 each
Color Copies	\$0.60 each
Full Size Plots	\$1.00/sq ft
Mileage	\$0.74/mile
ARM Truck Usage	\$70.00/day

Subcontractor services and direct project expenses are billed at cost plus 15%. ARM-owned equipment, supplies and vehicles are billed on usage basis in accordance with the ARM Equipment and Supply Lists.

Terms for Payment

Invoices are issued monthly and are due upon receipt. Invoices aging past 30 days are subject to a late fee of 1½% per month. Credit cards accepted; invoices paid by credit card will be assessed a 3.5% surcharge.

PRECISE. RESPONSIVE. SOLUTIONS.

1129 West Governor Road, P.O. Box 797, Hershey, PA 17033-0797

ARM GROUP LLC STANDARD TERMS AND CONDITIONS

1.0 GENERAL

ARM Group LLC (ARM) agrees to perform for Client, and Client alone, the services set forth in the Proposal in accordance with generally accepted professional practices, in the same or similar localities, related to the nature of work accomplished, at the time the services are performed. ARM's services shall not be subject to any express or implied warranties whatsoever. Any references to the term services herein shall include Basic Services and authorized Additional Services as defined herein. The Proposal to which these Standard Terms and Conditions apply is valid for 30 days from the date of the Proposal. Beyond that date ARM may elect to extend the time period for providing its services as described in the Proposal as initially written; extend the Proposal with modifications; or nullify the Proposal. In the case of services provided under a single Proposal, but provided over a period of time extended beyond that contemplated in the Proposal, ARM shall be entitled to renegotiate its fee to cover any increased costs or changed conditions associated with the subject time period extension.

2.0 SCOPE OF ARM SERVICES

2.1 Basic Services.

The Basic Services shall consist of those specific services or tasks as described or enumerated in the Proposal.

2.2 Uncertainty of Subsurface Conditions; Changing Conditions Over Time.

Because subsurface conditions are inherently random, variable, and often indeterminate in nature, the professional services rendered by ARM, and opinions provided with respect to such conditions, including the presence or absence of potentially hazardous substances, being performed by ARM in accord with the Proposal (including opinions regarding potential future costs), are not guaranteed to be a representation of actual site conditions or anticipated costs (if such are provided as a service by ARM). In addition, conditions found to exist at the time of ARM's work under the subject Proposal, are subject to change with time as a result of changes that may occur to the subject property or due to the availability of new or additional information.

2.3 Reliability of Existing, Available Information.

ARM may provide Client with a written report ("Report") in connection with the services performed. The Report will present such findings and conclusions as ARM may reasonably make with the information gathered in accordance with the Proposal. In preparing the Report, ARM may review and interpret certain information provided to it by third parties, including government agencies, registries of deeds, testing laboratories and other entities. Client agrees that ARM, in its sole discretion, may rely upon such information, and Client understands that ARM will not conduct an independent evaluation of the accuracy or completeness of such information, and that ARM shall not be responsible for any errors or omissions contained in such information.

2.4 Document Use Restrictions.

Subject to the specific provisions of these Standard Terms and Conditions, and particularly Section 11.0 hereof, any report(s) other related documents including, without limitation, letters, memos, hand-written notes, design drawings, calculations, figures, tables, datasets, and spreadsheets are instruments of service which are prepared for, and made available for the sole use of the Client, and the instruments of service may not be used or relied upon by any other person without the express written consent and authorization of ARM.

3.0 ADDITIONAL SERVICES OF ARM

If mutually agreed by the Client and ARM, ARM shall perform Additional Services that are in addition to Basic Services. Additional Services are not included as part of Basic Services and will be paid by the Client at a negotiated rate. Client agrees that Additional Services, either requested by the Client or recommended by ARM, may be authorized by Client on the basis of verbal authorization provided to ARM by Client's authorized representative. Client acknowledges that authorized Additional Services are subject to these Standard Terms and Conditions, as applicable.

4.0 SERVICES EXCLUDED BY ARM

Services not expressly set forth in writing within the scope of the Proposal are excluded from the scope of ARM's services, and ARM assumes no duty to the Client to perform such services. The services to be performed by ARM shall not include an analysis or determination by ARM as to whether the Client is in compliance with federal, state, or local laws, statutes, ordinances, or regulations, except in the case where the Client specifically engages ARM via ARM's Proposal to conduct such an analysis or determination. Except where expressly stated in the Proposal, ARM's services shall not include directly or indirectly storing, arranging for or actually transporting, disposing, or treating hazardous substances, hazardous materials, hazardous wastes or petroleum products. ARM's services shall not include an independent analysis of work conducted and information provided by independent laboratories or other independent contractors retained by ARM in connection with



ARM's services provided to the Client. Also, unless specifically described or listed in the Proposal, ARM's services do not include sampling of soils, water, air, or other materials.

5.0 RESPONSIBILITIES OF THE CLIENT

5.1 Information.

The Client shall provide all information in its possession, custody, or control which relates to the project site(s), its present and prior uses, or to activities at the site which may bear upon the services of ARM as set forth in the Proposal, including, but not limited to, the following:

- (i) a legal description of the site, including boundary lines and a site plan;
- (ii) historical information as to the prior owners of the site;
- (iii) identification of the location of overhead and underground utilities: underground tanks; waste generation, storage or disposal areas; and structures; information to be provided shall also include available plans of the site;
- (iv) a description of activities which were conducted at the site at any time by the Client or by any person or entity which would relate to the services to be provided by ARM; and
- (v) identification, by name, quantity, location, and date, of any releases or handling of hazardous substances (as defined herein).

5.2 Authorized Access to the Project Site/Property.

The Client shall be fully responsible for obtaining the necessary authorizations to allow ARM, its agents, subcontractors and representatives, to have access to the project site and buildings thereon at reasonable times throughout the period of contract performance. ARM will take reasonable precautions to minimize damage to the site from use of equipment, but Client understands that unavoidable damage or alteration of the site may occur and Client agrees to assume responsibility for such unavoidable damage or alteration, including the cost of site restoration, if required.

5.3 Underground Utilities.

Client agrees to assume responsibility for personal and property damages due to ARM's inadvertent interference with or damage to subterranean structures such as pipes, tanks, and utility lines that are not correctly shown on the documents provided by Client to ARM or in the event that the locations of subterranean structures are not known by Client or not communicated to ARM by Client.

5.4 Reliance Upon Client-Furnished Services, Information or Data.

The services, information, and other data required by this Section to be furnished by the Client shall be provided at the Client's expense, and ARM may rely upon all data furnished by the Client, and the accuracy and completeness thereof.

6.0 PAYMENTS AND INVOICING

ARM will submit invoices for its services to the Client on a monthly basis, and each invoice will cover all sums payable to ARM for services generally provided to Client by ARM and its suppliers and subcontractors for the preceding month. Such invoices shall be in accordance with the scope of services presented within the Proposal and as accepted by the Client. Unit rates and prices for such services shall be invoiced in accord with specific provisions of the Proposal or as otherwise shown on ARM's currently-in-effect Consulting Rate Schedule which is ordinarily attached to each of ARM's proposals. Terms for payment are net: 30 days, and each ARM invoice will specify the due date, accordingly. In authorizing ARM to perform services, Client explicitly agrees to accept and honor these payment terms. Invoices aging past 30 days are subject to a late payment finance charge of 1.5% per month, 18% per annum (simple interest), and such finance charges shall automatically be incurred by Client and shall be due to ARM in the event that the Client fails to honor the specified payment terms. If billings become delinquent, ARM may stop all work until Client's account is brought current, or ARM may withdraw from this engagement. Client acknowledges and agrees that ARM is not required to continue work in the event of Client's failure to pay in accordance with these terms. Client further acknowledges and agrees that, in the event ARM stops work or withdraws from this engagement as a result of Client's failure to pay in accordance with these terms, ARM shall not be liable to the Client for any damages that are incurred as a result of the cessation of work and that Client remains liable for billings up to the date of cessation of services. In the event that ARM incurs costs of collection of overdue accounts, Client also agrees to bear the full collection expense incurred by ARM. Applicable collection costs or expenses shall include and not be limited to attorney fees, court and magistrate costs, postage and express mail services, fees charged by duly authorized collection agencies, and other related costs.

7.0 LIMITATION OF RESPONSIBILITY

7.1 Limitation of Liability.

CLIENT HEREBY AGREES THAT TO THE FULLEST EXTENT PERMITTED BY LAW, ARM'S TOTAL LIABILITY TO CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES WHATSOEVER



ARISING OUT OF OR IN ANY WAY RELATING TO THE PROJECT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO ARM'S NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY, SHALL NOT EXCEED THE LESSER OF THE TOTAL AMOUNT PAID BY THE CLIENT FOR THE SERVICES OF THE CONSULTANT UNDER THIS CONTRACT OR \$50,000.

- i) **Limitation of Liability for Services Provided in Karst Regions:** ARM neither states nor implies that sufficient site and/or subsurface characterization activities have been conducted to avoid all risks associated with the project including, but not limited to: sinkhole development and repair, and associated costs, delays, and other effects to the project; rock removal and associated costs, delays, and other effects to the project; and/or unknown conditions and conditions not expressly described in any work product of ARM. Client must recognize and accept the potential for sinkhole or related feature development at the subject site. The risks and associated costs for addressing sinkhole-related activity lie solely with the project owner, developer, and/or construction contractor, as applicable. ARM accepts no liability whatsoever for sinkhole-related activity and costs arising therefrom, regardless of the services conducted by ARM. ARM's investigation activities and recommendations are intended to help reduce the risk and magnitude of sinkhole-related activity in association with the subject project and any associated response costs, but no guarantee or warranty against sinkhole development and/or related issues, either express or implied, is made by ARM.
- ii) **Geophysical Services:** By their inherent capabilities and limitations, geophysical surveys are not 100-percent accurate, nor can they completely define subsurface conditions. ARM will not accept responsibility for inherent technique limitations, survey limitations, potentially foreseen or unforeseen site-specific conditions, or alleged operator error. Client, Owner, and all persons in any way using or relying on the information collected from this survey will accept all liability for the use, reliance, and actions taken based on the information collected in the survey and contained in the report, and shall hold ARM harmless for any and all damages allegedly resulting from or actually resulting from the information collected from the geophysical services/survey.

7.2 No Special or Consequential Damages.

In no event shall either Client or ARM be liable for special, indirect, or consequential damages whatsoever, including, without limitation, loss of use or loss of profits, incurred by one another or successors, regardless of whether such damages are caused by a breach of contract, willful misconduct, negligent act or omission, or other wrongful act, whether professional or unprofessional, of either of them or their employees or associates.

7.3 Indemnification.

To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold ARM, its agents, subcontractors, and employees harmless from and against any and all claims, defense costs, including attorneys' fees, damages, and other liabilities arising out of or in any way related to: a) services performed by ARM for Client; b) reports, letters, recommendations, designs, illustrations and calculations prepared for Client by ARM; c) ARM's presence on the Client's property or project site(s); or, d) the presence, release, or threatened release of asbestos, hazardous substances, or pollutants on or from the Client's property or project site(s); **except that** Client shall not indemnify ARM against liability for damages to the extent caused by the negligence or misconduct of ARM, its agents, subcontractors, or employees.

7.4 Limitation on Construction-Related Testing and Inspections.

ARM will perform construction-related testing and inspections in accordance with a normal standard of care, but assumes no liability for any damages alleged to arise from ARM's failure to identify, disclose or otherwise recognize work performed by others that does not conform to the applicable construction documents or specifications.

8.0 DISPUTES RESOLUTION

All claims, disputes, and other matters in controversy between ARM and Client arising out of or in any way related to the Proposal will be submitted to "alternative dispute resolution" (ADR) such as mediation and/or arbitration, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to the services provided under the Proposal and that dispute requires litigation as provided above, then: **(a)** Client assents to personal jurisdiction in the State of ARM's principal place of business; **(b)** The claim will be brought and tried in judicial jurisdiction of the court of the county where ARM's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction; and **(c)** The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' and expert witness fees, and other claim-related expenses.



9.0 DISCOVERY OF UNANTICIPATED POLLUTANT RISKS

If, while performing the services, pollutants are discovered that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated project cost will be reconsidered and that the Basic Services shall immediately become subject to renegotiation or termination.

In the event that the services are terminated because of the discovery of pollutants posing unanticipated risks, Client agrees that ARM shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of the services, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing and in effecting such termination.

Client also agrees that the discovery of unanticipated hazardous substances may make it necessary for ARM to take immediate measures to protect the health and safety of ARM personnel and others, as appropriate. ARM agrees to notify Client as soon as practically possible should unanticipated hazards or hazardous substances or suspected hazards or hazardous substances be encountered. Client authorizes ARM to take measures that in ARM's sole judgment are justified to safeguard ARM's personnel and others, including the general public. Client agrees to compensate ARM for the additional cost associated with such authorized additional steps and measures, pursuant to the provisions of ARM's Consulting Rate Schedule that is then in effect.

10.0 DISPOSITION OF SAMPLES AND EQUIPMENT

10.1 Disposition of Unpolluted Samples.

No samples of unpolluted soil and rock will be kept by ARM unless agreed otherwise.

10.2 Hazardous or Potentially Hazardous Samples and Materials.

In the event that samples and/or materials contain or are suspected to contain substances or constituents that are hazardous or otherwise detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, ARM will, after completion of testing (1) return such samples and materials to Client, or (2) reach an agreement in writing to have such samples and materials properly disposed in accordance with applicable laws. Client agrees to pay all costs associated with the storage, transport, and disposal of samples and materials. Client recognizes and agrees that ARM is acting as an agent of Client and at no time assumes title to said waste.

10.3 Contaminated Equipment.

All laboratory and field equipment contaminated in performing Basic or Additional Services will be cleaned at Client's expense. Contaminated consumables will be disposed of and replaced at Client's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of Client. All such equipment shall be delivered to Client or disposed of in a manner similar to that indicated for hazardous samples. Client agrees to pay the fair market value of any such equipment which cannot reasonably be decontaminated.

11.0 REPORTS, RECOMMENDATIONS, AND OWNERSHIP OF DOCUMENTS

Reports, recommendations, and other documents resulting from ARM's efforts are intended solely for purposes of the services described by the Proposal; any reuse or changes by Client or others for purposes outside of those described by the Proposal or any failure to follow ARM's recommendations, without ARM's written permission, shall be at the Client's and/or the user's sole risk. Client will furnish such reports, data, studies, plans, specifications, documents, and other information deemed necessary by ARM for proper performance of its services. ARM may rely upon Client-provided documents in performing the services described by the Proposal; however, ARM assumes no responsibility or liability for the accuracy of such documents. Client-provided documents will remain property of Client.

All reports, field notes, calculations, estimates, data, spreadsheets, designs, and other documents which ARM prepares are instruments of service, and ARM shall be deemed the author and owner of such instruments of service and shall retain all common law, statutory and other reserved rights, including copyrights. Upon Client's acceptance of ARM's Proposal, ARM grants to Client a non-exclusive license to use these instruments of service in accordance with the provisions of this Section (Section 11.0) conditioned upon Client's full payment of the applicable invoice(s) relating to such instruments of service. The Client shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of ARM. Any termination of the services offered by ARM in its Proposal prior to completion of the authorized services, or any failure of Client to make full payment of the applicable invoice(s) relating to such services shall terminate this license. Upon such termination, the Client shall refrain from making further reproductions of ARM's instruments of service and shall return to ARM within seven days of termination all originals and reproductions of ARM's instruments of service in the Client's possession or control.

ARM will retain all pertinent records relating to services performed for a period of three (3) years following completion of the services described by the Proposal, during which period the records will be made available to Client for review or duplication, at all reasonable times, and at Client's sole expense.



ARM reserves the right to use general descriptive information pertaining to the project and to the services provided by ARM in relation thereto, including images and plans generated by ARM during the course of providing the services described under the Proposal, for business development or marketing purposes. Images or plans prepared by or provided by others will not be used for such purposes without the written permission of the applicable parties.

12.0 TERMINATION

The services offered by the Proposal and accepted by the Client may be terminated by either party by giving seven (7) days written notice to the other party. If this Agreement is terminated, it is agreed that ARM shall be paid for total charges for labor performed to the termination notice date, plus reimbursable charges. Within five business days of receipt of all payable amounts due to ARM, ARM will provide Client with all data that ARM collected and work products that ARM completed for Client.

13.0 FORCE MAJEURE

ARM shall not be liable to the Client for delays in performing the services, nor for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control of ARM.

14.0 SEVERABILITY AND SURVIVAL

Any element of these terms and conditions later held to violate a law shall be deemed void, and all remaining provisions shall continue in force. However, Client and ARM will in good faith attempt to replace any invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision. All of these terms and conditions which allocate liability between Client and ARM shall survive the completion of the services hereunder and the termination of services.

15.0 ENTIRE AGREEMENT

The terms and conditions set forth herein constitute the entire understanding and agreement of Client and ARM with respect to the Services. All previous proposals, offers, and other communications relative to the provisions of these Services are hereby superseded. Should Client utilize its purchase order or any other form to procure services, Client acknowledges and agrees that its use of such purchase order or other form is solely for administrative purposes and in no event shall ARM be bound to any term and conditions on such purchase order or other form, regardless of reference to or signature upon such purchase order or other form by ARM. Client shall reference this Agreement on any purchase order or other form it may issue to procure ARM services, but Client's failure to do so shall not operate to modify this Agreement.

