

02/20/2024

Ms. Christina Amos
Village Manager
Village of Marvin
10006 Marvin School Road
Marvin, NC 28173

**RE: Proposal for Surveying, Environmental Investigation, and Professional Engineering Services
Painted Turtle Greenway, Union County, North Carolina**

Dear Ms. Amos,

Per our Teams discussion on 1/17/24 it is our understanding that the Village of Marvin cleared and began grading for a greenway from Painted Turtle Court, crossing Marvin Branch Creek, to an existing preserve trail off Flowering Peach Road (See map Attachment C). The Village of Marvin does not have engineering plans for the construction of the greenway but did provide Dewberry with the preliminary bridge plans from the contractor. At this time, construction has been stopped. We understand that you desire to contract survey, wetland delineations, flood study, and agency coordination services to understand what will be needed for permitting of the greenway project. Please note, design drawings and submittal of plans, calculations, and/or permit applications are not included in this proposal, and if required shall be provided as an additional service for a separately negotiated fee. Dewberry Engineers Inc. (Dewberry) is pleased to provide the Village of Marvin (CLIENT) with this proposal for surveying, environmental, and professional engineering services.

★
Review
Includes
vs
Not
Includes

BASIC SCOPE OF SERVICES

#1) Task 1: Topographic and Boundary Survey

A topographic survey shall be prepared in accordance with the standards of practice for land surveying in the North Carolina, Board Rules Title 21, Chapter 56.1601-1606, Class A for Urban Land Surveys. Horizontal and vertical control will be established on site using GPS observations yielding NAD 83 (2011) horizontal coordinates and NAVD 88 vertical elevations. One (1) benchmark will be set on site. Survey data will be gathered on a 50' grid, along with grade breakline, in order to provide one-foot contours over the entire survey area (See Attachment C). Dewberry will field locate all visible above ground features and obtain invert information on sanitary and storm sewer systems that are accessible within the project limits. Please note, confined space entry is excluded. Wetland flags (up to 12 flags) as provided by Dewberry's environmental staff as placed in Task 2 below, will

be field located and shown on the survey. Survey spot shots will be collected along one (1) stream cross section as defined by Dewberry engineers.

Dewberry will perform deed research and field investigation in order to establish property lines for the parcels adjoining the greenway. Only those property corners deemed necessary to establish property lines will be located. Easements and rights of way will be determined from observed site features and data obtained from the Union County Register of Deeds. Union County GIS will be utilized to show addresses, zoning, land use, PIN numbers, deed book info, etc. for the subject parcel and adjoining parcels.

Per discussion with the Village of Marvin, a path has already been cleared in its entirety for the proposed approximately 850-linear foot greenway. Please note, we anticipate access to the site will be provided off of Painted Turtle Court, and because of the cleared nature of the trail, no clearing will be required to perform our services. If field conditions prove otherwise, Dewberry has the right to revise our fee. The survey limits will be approximately 60' wide, centered on the path that has already been cleared.

#2) Task 2: Wetland Delineation and Report

Dewberry will conduct a wetland investigation in accordance with the 1987 "Corps of Engineers Wetland Delineation Manual" to identify approximate limits of streams and wetlands within approximately 100 feet, each side of the proposed ± 850 linear feet greenway trail.

Field indicators of hydrophytic vegetation, hydric soils, and wetland hydrology will be observed and recorded to generally determine the approximate wetland boundaries within the project area. U.S. Army Corps of Engineers (USACE) data forms will be completed to characterize each type of wetland community observed based upon guidance set forth in the USACE "Eastern Mountain and Piedmont" supplement. The boundaries of the WOTUS and/or wetlands will be flagged in the field, and will be preliminary located using a Trimble Geo 7x handheld Global Positioning System (GPS) device. Please note, flags placed this task shall be field located in the surveying task above.

A letter report summarizing the field investigation will be prepared for the CLIENT's use. A map exhibit displaying the locations of streams and/or wetlands will be included. Based on the results of the delineation, Dewberry will advise the CLIENT how to proceed with a potential after-the-fact permit application. Please note, our scope and fee do not include meeting with the USACE on site to validate our findings, submission of formal Jurisdictional Determinations, or permitting of wetland disturbances. If required, those services may be provided as an additional service for a separately negotiated fee.

Task 3: Flood Study Model and Report

Marvin Branch is a detailed study stream that has a 1% annual chance event floodplain (Base Flood Elevation, BFE) and FEMA floodway. A large portion of the project appears to be located within the Marvin Branch FEMA regulated floodway and floodplain.

new survey needed prior to easement relocation

if wetland found, more procedure

Dewberry will obtain the effective FEMA HEC-RAS model from the NC Flood Risk Information System (FRIS) to use as a base model for the flood study. The model will be developed based on survey obtained in Task 1 in conjunction with publicly available information such as Union County LiDAR topography. Based on discussions with CLIENT, it is Dewberry's understanding the greenway will be built on-grade with one pedestrian bridge crossing of Marvin Branch. If based on topographic survey obtained above it appears a no-rise may be feasible by adjusting the elevation of the bridge, Dewberry will provide the minimum elevations to the CLIENT for the pedestrian bridge to obtain a no-rise, if attainable. Dewberry will prepare a plan drawing including the location of the trail/bridge, survey, and flood lines to accompany the flood study. Dewberry shall prepare and submit a floodplain development permit to the Village of Marvin Zoning Administrator per Village of Marvin Ordinance 151.288. If a no-rise is not attainable, Dewberry can prepare and submit for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) for an additional fee.

if result =
no rise =
permits +
min. elevat.
if rise =
CLOMR/
LOMR
(inc. \$\$)

document app fee = \$7500-8500
(not inc. ENG. Fees)

Task 4: Agency Coordination & Site Visit

Dewberry shall review survey prepared in Task 1, and review the potential site development permits needed for this work which may include erosion control, stormwater, and buffer disturbance. Additionally, as directed by CLIENT, Dewberry shall schedule and attend the following meetings to discuss permits needed for the work, and how to proceed with obtaining permits for the project:

- North Carolina Department of Environmental Quality (NCDEQ, Mooresville Office): Dewberry shall schedule and attend one (1) virtual meeting to discuss erosion control permitting.
- North Carolina Department of Energy, Mineral, and Land Resources (NCDEMLR, Raleigh Office): Dewberry shall schedule and attend one (1) virtual meeting to discuss stormwater permitting.
- Union County: Dewberry shall schedule and attend one (1) virtual meeting to discuss buffer disturbance permitting.

(no Council meetings or other hds scheduled)

Additionally, Dewberry shall attend one (1) site visit to observe the state of the trail and construction and to obtain photographic documentation which may be needed to facilitate the calls above.

additional meetings may be needed + \$\$

Dewberry shall provide notes from each meeting for the CLIENT for information.

FEE

For the above basic scope of services, Dewberry will be paid the following Fees in accordance with the following schedule:

Basic Scope of Services

Task 1: Topographic and Boundary Survey	\$7,580 (Lump Sum)
Task 2: Wetland Delineation and Report	\$5,000 (Lump Sum)
Task 3: Flood Study Model and Report	\$17,050 (Lump Sum)

total est.
\$32,480

Task 4: Agency Coordination & Site Visit (BUDGET)

\$2,850 (Time & Materials)

Clarifications/Exclusions/Assumptions

would need
contingency for
other items
identified

Exclusions

- CLIENT is responsible for providing access to the site
- CLIENT is responsible for payment of all fees
- Preparation of Construction Drawings (Bridge, if needed)
- Property access agreements are excluded
- Any type of platting, exhibits or recordation are excluded
- Title search services are excluded
- Boundary survey is excluded
- Subsurface Utility Engineering (SUE) is excluded
- Tree Survey is excluded, but may be provided for an additional fee
- USACE wetland confirmation is excluded but may be provided for an additional fee
- Wetland functional analysis
- Wetland mitigation if required is excluded but may be provided for an additional fee
- Stream Attribute Forms
- Threatened and endangered species field surveys (i.e. mussel surveys) is excluded but may be completed for an additional fee
- Water Quality Impact Assessment is excluded but may be completed for an additional fee
- Bridge design is excluded.
- Construction Administration services are excluded
- Erosion control site visits are excluded
- All items not specifically included in the Basic Scope of Services above are specifically excluded from this proposal.
- LOMR and CLOMR Preparation and Submittal are excluded but may be provided for an additional fee
- Coordination and design of private utilities are not included

ADDITIONAL SERVICES

This proposal is based upon our current understanding of local, state and federal requirements and regulations and our understanding of the project as described herein. Any modifications to these requirements and regulations, or other requirements not provided for herein, which require additional services will be performed by Dewberry Engineers Inc. and billed in accordance with the Hourly Billing Rate Schedule, (Attachment A), which is annexed to this proposal and incorporated into it by reference.

TERMS AND CONDITIONS

Services under this agreement will be provided in accordance with the attached Terms and Conditions (Attachment B), which is annexed to this proposal and incorporated into it by reference.

RESTRICTION OF USE

This proposal includes information that shall not be disclosed outside of the CLIENT and shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offer, or as a result of, or in connection with, the submission of this information, CLIENT shall have the right to duplicate, use, or disclose the information to the extent provided in the resulting contract. This restriction does not limit CLIENT's right to use information contained in this information if it is obtained from another source without restriction. The information subject to this restriction is contained on all pages of this proposal.

AUTHORIZATION

If this proposal meets with your approval, please return one (1) executed original to this office. Receipt of the executed proposal will serve as our authorization to proceed. If you have questions, please do not hesitate to contact us. Dewberry is excited about the opportunity to assist you with this project.

Sincerely,

Dewberry Engineers Inc.



Andrea Hayden, PE, LEED
Senior Project Manager



Tristan McMannis, PLA, LEED AP
Associate, Senior Project Manager

Attachments:

- | | |
|---------------|---|
| Attachment A. | Standard Rate Table |
| Attachment B. | Standard Terms and Conditions (10/2020) |
| Attachment C. | Scope Map Exhibit |

Ms. Christina Amos
Proposal for Surveying, Environmental Investigations, and Professional Engineering Services
Painted Turtle Greenway
February 20, 2024

The foregoing contract with Dewberry Engineers Inc. is accepted:

Print (Type) Individual Firm or Corporation Name

Signature of Authorized Representative Date

Print (Type) Name of Authorized Representative and Title

\\dewberry.dewberryroot.local\Offices\Charlotte\MKTG\Proposal\Village of Marvin\2024\Go Bond Trails\Town of Marvin Greenway Scope and Fee TM comments.docx

Standard Hourly Billing Rate Schedule

Dewberry	Hourly Rates
Professional	
Principal	\$350.00
Architect I,II,III	\$110.00, \$125.00, \$145.00
Architect IV,V,VI	\$165.00, \$185.00, \$205.00
Architect VII,VIII,IX	\$230.00, \$250.00, \$280.00
Interior Designer I,II,III,IV	\$100.00, \$120.00, \$130.00, \$165.00
Engineer I,II,III	\$115.00, \$135.00, \$155.00
Engineer IV,V,VI	\$170.00, \$195.00, \$225.00
Engineer VII,VIII,IX	\$250.00, \$275.00, \$305.00
Geographer/GIS I,II,III	\$95.00, \$105.00, \$125.00
Geographer/GIS IV,V,VI	\$145.00, \$165.00, \$185.00
Geographer/GIS VII,VIII,IX	\$215.00, \$250.00, \$290.00
Professional I,II,III	\$105.00, \$125.00, \$150.00
Professional IV,V,VI	\$170.00, \$190.00, \$210.00
Professional VII,VIII,IX	\$235.00, \$260.00, \$290.00
Technical	
Designer I,II,III	\$110.00, \$135.00, \$160.00
Designer IV,V,VI	\$180.00, \$200.00, \$220.00
CADD Technician I,II,III,IV,V	\$80.00, \$100.00, \$120.00, \$140.00, \$175.00
Surveyor I,II,III	\$68.00, \$83.00, \$98.00
Surveyor IV,V,VI	\$115.00, \$125.00, \$145.00
Surveyor VII,VIII,IX	\$160.00, \$190.00, \$235.00
Technical I,II,III	\$85.00, \$105.00, \$130.00
Technical IV,V,VI	\$140.00, \$155.00, \$180.00
Emergency Management	
Emergency Management I, II, III	\$85.00, \$110.00, \$140.00
Emergency Management IV, V, VI	\$170.00, \$220.00, \$280.00
Construction	
Construction Professional I,II,III	\$125.00, \$155.00, \$185.00
Construction Professional IV,V,VI,VII	\$215.00, \$240.00, \$285.00, \$320.00
Inspector I,II,III	\$85.00, \$110.00, \$140.00
Inspector IV,V,VI,VII	\$160.00, \$180.00, \$205.00, \$240.00
Survey Field Crews	
Fully Equipped 1, 2, 3 Person Crews	\$145.00, \$175.00, \$230.00
With Laser Scanner 1, 2 Person	\$195.00, \$225.00
Administration	
Admin Professional I,II,III,IV	\$70.00, \$95.00, \$115.00, \$145.00
Non-Labor Direct Costs	Cost + 15%

** Company Confidential and Proprietary

**ATTACHMENT B
STANDARD TERMS AND CONDITIONS**

These Standard Terms and Conditions ("STCs") are incorporated by reference into the foregoing agreement or proposal, along with any future modifications or amendments thereto made in accordance with Paragraph 23 below (the "Agreement") between Dewberry ("we" or "us" or "our") and its client ("you" or "your") for the performance of services as defined in our proposal ("Services"). These STCs are fully binding upon you, just as if they were fully set forth in the body of the Agreement, and shall supersede any term or provision elsewhere in the Agreement in conflict with these STCs.

1. **Period of Offer.** Unless we decide, in writing, to extend the period for acceptance by you of our proposal, you have 90 days from our proposal date to accept our proposal. We have the right to withdraw the proposal at any time before you accept. Delivery of a signed proposal—whether original or copy—to us constitutes your acceptance of the proposal, including attachments expressly incorporated into the proposal by reference. The proposal and incorporated attachments shall constitute the entire Agreement between you and us. If you request us to render Services before you deliver a signed proposal to us, and we render Services in accordance with the proposal, you agree that the proposal and these STCs constitute the Agreement between you and us even if you fail to return a signed proposal to us.
2. **Scope of Services.** For the fee set forth in the Agreement, you agree that we shall only be obligated to render the Services expressly described in the Agreement. Our Services shall not be construed as providing legal, accounting, or insurance services. Unless the Agreement expressly requires, in no event do we have any obligation or responsibility for:
 - a. The correctness or completeness of any document which was prepared by another entity.
 - b. The correctness or completeness of any drawing prepared by us, unless it was properly signed and sealed by a registered professional on our behalf.
 - c. Favorable or timely comment or action by any governmental entity on the submission of any construction documents, land use or feasibility studies, appeals, petitions for exceptions or waivers, or other requests or documents of any nature whatsoever.
 - d. Taking into account off-site circumstances other than those clearly visible and actually known to us from on-site work.
 - e. The actual location (or characteristics) of any portion of a utility which is not entirely visible from the surface.
 - f. Site safety or construction quality, means, methods, or sequences.
 - g. The correctness of any geotechnical services performed by others, whether or not performed as our subcontractor.
 - h. The accuracy of earth work estimates and quantity take-offs, or the balance of earthwork cut and fill.
 - i. The accuracy of any opinions of construction cost, financial analyses, economic feasibility projections or schedules for the Project.Should shop drawing review be incorporated into the Services, we shall pass on the shop drawings with reasonable promptness. Our review of shop drawings will be general, for conformance with the design concept of the Project to which this Agreement relates ("Project") and compliance with the information given in the construction documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual field conditions. Our review shall not be construed as permitting any departure from contract requirements nor as relieving your contractor of the sole and final responsibility for any error in details, dimensions or otherwise that may exist.
3. **Your Oral Decisions.** You, or any of your directors, officers, partners, members, managers, employees or agents having apparent authority from you, may orally: (a) make decisions relating to Services or the Agreement; (b) request a change in the scope of Services under the Agreement; or (c) request us to render additional Services under the Agreement, subject to our right to require you to submit the request in writing before your decision or request shall be considered to have been effectively made. You may, at any time, limit the authority of any or all persons to act orally on your behalf under this Paragraph 3, by giving us seven 7 days advance written notice.
4. **Proprietary Rights.** The drawings, specifications and other documents prepared by us under this Agreement are instruments of our service for use solely for the Project and, unless otherwise provided, we shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyright and rights to any Dewberry trademarks. Upon payment in full for our Services, you shall be permitted to retain copies, including reproducible copies of our instruments of service for information and reference for the Project. Our instruments of service shall not be used by you or others on other projects for any reason or for completion or modification of this Project by other professionals, unless you enter into a written agreement with us allowing for such use. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication inconsistent with our reserved rights. You shall defend, indemnify and hold us harmless, and release us, from any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of any use (including, without limitation, the means or media of transfer, possession, use, or alteration) of our instruments of service by (i) you, if such use is inconsistent with our reserved rights or this Paragraph 4, or (ii) any third party, regardless of the manner of use, if such third party received our instruments of service directly or indirectly from you (including if we or others have transmitted such instruments of service to the third party at your request or direction, for your benefit, or, and without limiting the foregoing, pursuant to a contractual obligation that is directly or indirectly derived (or flowed down) from a contract to which you have privity).
5. **Fees and Compensation.** If you request us to render services not specifically described in the Agreement, or, if we or anyone in our employ, is called upon to be deposed or to testify in a matter in which we are not a named party, that relates to the Project, you agree to compensate us for such services in accordance with the hourly rates as set forth on Attachment A of this Agreement or in any subsequently effective schedule, unless otherwise agreed in writing. If no compensation rate is set forth on Attachment A, or through written agreement between you and us, we shall be compensated for such services at our then current hourly rates. We may unilaterally increase our lump sum or unit billing rates on each anniversary of your acceptance of this Agreement by as much as five percent or the percentage increase in the CPI-W (U.S. Department of Labor Consumer Price Index-Washington), whichever is greater. Hourly rates are subject to periodic revision at our discretion.
6. **Period of Service.** The provisions of this Agreement and the compensation provided for under the Agreement have been established in anticipation of the orderly and continuous progress of the Project. Our obligation to render the Services will extend only for that period which may reasonably be required to complete the Services in an orderly and continuous manner, and we may then, at our sole option, terminate the Agreement.
7. **Reimbursable Expenses.** Unless the Agreement otherwise provides, you shall reimburse us, or our affiliates, for all expenses we incur to render the Services for you under this Agreement, plus fifteen percent. We may submit invoices for reimbursable expenses separately from invoices for Services.
8. **Payment Terms.** We may submit invoices at any time to you for Services and for reimbursable expenses incurred. Invoices are payable within 30 days of the invoice date, and you agree to pay a finance charge of 1½% per month on any unpaid balance not received by us within 30 days of the invoice date. If you require payment via credit card, Dewberry will assess a 3% processing fee on the total amount invoiced. Invoices may be based either upon our estimate of the proportion of the total Services actually completed at the time of billing for lump sum or fixed fee services, or in the case of hourly services, upon rendering of the Services. If any invoice is not paid within 30 days of the invoice date, we shall have the right either to suspend the performance of our Services until all invoices more than 30 days past due are fully paid or to terminate the agreement and to initiate proceedings to recover amounts owed by you. Additionally, we shall have the right to withhold from you the possession or use of any drawings or documents prepared by us for you under this or any other agreement with you until all delinquent invoices are paid in full. You shall not offset payments of our invoices by any amounts due or claimed to be due for any reason. If you do not give us written notice disputing an invoice within 20 days of the invoice date, the invoice shall conclusively be deemed correct. All payments made by you should specify the invoice numbers being paid. If we receive payments that do not specify the invoices being paid, you agree that we may apply payments in our sole discretion. Time is of the essence of your payment obligations; and your failure to make full and timely payment shall be deemed a material breach.
9. **Information from You and Public Sources.** You shall furnish us all plans, drawings, surveys, deeds and other documents in your possession, or that come into your possession, which may be related to the Services, and shall inform us in writing about all special criteria or requirements related to the Services (together, "Information"). We may obtain deeds, plats, maps and any other information filed with or published by any governmental or quasi-governmental entity (together, "Public Information"). Unless we are engaged in writing as an additional service to independently verify such, we may rely upon Information and Public Information in rendering Services. We shall not be responsible for errors or omissions or additional costs arising out of our reliance on Information or Public Information. You agree to give prompt notice to us of any development or occurrence that affects the scope or timing of Services, or any defect in the final work submitted by us, or errors or omissions of others as they are discovered. We shall not be responsible for any adverse consequence arising in whole or in part from your failure to provide accurate or timely information, approvals and decisions, as required for the orderly progress of the Services.
10. **Plan Processing.** We may submit plans and related, or other, documents to public agencies for approval. However, it may be necessary, in order to serve your interests and needs, for us to perform special processing, such as attending meetings and conferences with different agencies, hand carrying plans or other documents from agency to agency, and other special services. These special services are not included in the basic fee and shall be performed as additional services on an hourly fee basis in accordance Paragraph 5 above.



11. **Meetings and Conferences.** To the extent the Agreement provides, we will attend meetings and conferences that you, or your representatives, reasonably require. Furthermore, we will meet on an as-needed basis with public agencies that might be involved in the Project. Because we cannot forecast the scope and nature of these meetings and conferences, we will perform meeting and conference services on an hourly fee basis in accordance with our applicable hourly rate schedule.
12. **Your Claims.** You release us from, and waive, all claims of any nature for any and all errors or omissions by us related to our performance under this Agreement, or in the performance of any supplementary services related to this Agreement, unless you have strictly complied with all of the following procedures for asserting a claim, as to which procedures time is of the essence:
 - a. You shall give us written notice within 10 days of the date that you discover, or should, in the exercise of ordinary care, have discovered that you have, or may have, a claim against us. If you fail to give us written notice within such 10 days, then such claim shall forever be barred and extinguished.
 - b. If we accept the claim, we shall have a reasonable time to cure any error or omission and any damage. This shall be your sole remedy, and you must not have caused the error or omission, or any damage resulting from the error or omission, to be cured, if we are ready, willing and able to do so.
 - c. If we reject the claim, we shall give you written notice of our rejection within 30 days of our receipt of your notice of claim. You shall then have 60 days to give us an opinion from a recognized expert in the appropriate discipline, corroborating your claim that we committed an error or omission, and establishing that the error or omission arose from our failure to use the degree of care ordinarily used by professionals in that discipline in the jurisdiction local to the Project. If you fail to give us such an opinion from a recognized expert within 60 days from the date we send you notice of our rejection of the claim, then such claim shall forever be barred and extinguished.
 - d. We shall have 60 days from receipt of your expert's written opinion to reevaluate any claim asserted by you. If we again reject such claim, or if the 60-day period from receipt of the written opinion of your expert elapses without action by us, then you may have recourse to such other remedies as may be provided under this Agreement.
13. **Hazardous or Toxic Wastes or Substances, Pollution or Contamination.** You acknowledge that Services rendered under this Agreement may be affected by hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances. To induce us to enter into this Agreement, you agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, that relate, in any way, to both (a) hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances, and (b) the performance by us of our obligations under the Agreement, whether or not such performance by us is claimed to have been, or was, or may have been, negligent. Unless otherwise expressly set forth in this Agreement, we shall have no responsibility for searching for, or identifying, any hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances; but if we discover or suspect the presence of any such wastes, substances, pollution or contamination due to the presence of hazardous or toxic wastes or substances, then we, in our sole discretion, and at any time, may stop work under, or terminate, this Agreement, in which event we will have no further liability to you for performance under this Agreement, and you shall make the payments to us required by Paragraph 14 of the STCs.
14. **Termination.** Either party may terminate the Agreement if the other party materially breaches the Agreement and does not cure the breach within 7 days after receiving notice of the breach from the non-breaching party. You shall immediately pay us for our Services rendered and expenses incurred through the termination date, including fees and expenses that we incur as a result of the termination.
15. **Payment of Other Professionals.** If this Agreement includes continuation of services begun by other architects, engineers, planners, surveyors, or other professionals, we may suspend our Services until you make arrangements satisfactory to such other professionals for payment. If satisfactory arrangements have not been made within a time determined by us to be reasonable, then we may in our sole discretion terminate this Agreement.
16. **Assignment and Third-Party Beneficiaries.** Neither party shall assign or transfer any rights, interests or claims arising under this Agreement without the written consent of the other, provided, however, that we are permitted to (i) employ independent consultants, associates, and subcontractors as we may deem necessary to render the Services, (ii) assign our right to receive compensation under this Agreement, and (iii) transfer the Agreement to an affiliate of ours, in our sole discretion, with written notice to you (an affiliate for purposes of this Paragraph 16 is defined as any other business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, us). This Agreement does not confer any benefit or right upon any person or entity other than the parties, except that our partners, members, managers, directors, officers, employees, agents and subcontractors shall have and be entitled to the protection afforded us under Paragraphs 9, 12, 13, 16, 20 and 22 of this Agreement.
17. **Applicable Law and Forum Selection.** The Commonwealth of Virginia's laws shall govern this Agreement in all respects, including matters of construction, validity, and performance. Except as provided in Paragraph 18, the parties agree that the courts of Fairfax County, Virginia, and the Federal District Court, Eastern District of Virginia, Alexandria Division, (together, "Courts") shall have exclusive jurisdiction over any controversy, including matters of construction, validity, and performance, arising out of this Agreement. The parties consent to the jurisdiction of the Courts and waive any objection either party might otherwise be entitled to assert regarding jurisdiction. The parties irrevocably waive all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to this Agreement.
18. **Arbitration of Our Claims for Compensation.** Instead of proceeding in court, we, in our sole and absolute discretion, may submit any claim for compensation due us under this Agreement to arbitration in Fairfax County, Virginia in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court having jurisdiction. You agree not to assert any counterclaim or any defense by way of set-off in such arbitration, and that the arbitrator or panel shall have no authority to consider, or to render, an award based upon any such counterclaim or defense by way of set-off. We shall have the right to withdraw our demand for arbitration at any time before the arbitration hearing starts by giving written notice to the arbitrator or panel and you; and upon the giving of such notice by us, the arbitration shall terminate, no award shall be rendered, and we may then pursue our remedies in accordance with Paragraph 17 above.
19. **Severability.** If any part, term, or provision of this Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.
20. **Limitations on Liability.** In recognition of the relative risks and benefits of the Project to you and us, you agree, that our liability for any loss, damages, property damages or bodily injury of or to you caused in whole or in part by us in the performance of this Agreement or any supplementary services in any way related to this Agreement, shall be limited in the aggregate to the amount of fees that you have paid to us for the Services. The parties intend that the foregoing limitation on liability shall apply to all claims, whether sounding in tort, contract, warranty, or otherwise. You release, waive, and shall not seek contribution from, or indemnification by, us for any claims of any nature made against you by any other person who may suffer any loss, damages, property damages or bodily injury in any manner associated with our services, or any supplementary services in any way related to this Agreement. Notwithstanding anything to the contrary elsewhere in the Agreement, we shall not be liable to you, in any event or for any amount, for delays; or for consequential, special or incidental damages; or for punitive or exemplary damages; or for the cost to add an item or component that we omitted from the instruments of service due to our negligence, to the extent that item or component would have otherwise been necessary, or adds value or betterment, to the Project. Should you find the terms of this Paragraph 20 unacceptable, we are prepared to negotiate a modification in consideration of an equitable surcharge to pay our additional insurance premiums and risk.
21. **Payment of Attorney's Fees.** The losing party shall pay the winning party's reasonable attorney's fees and expenses for the prosecution or defense of any cause of action, claim or demand arising under this Agreement in any court or in arbitration.
22. **Indemnification.** You agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of acts or omissions by you, or your contractor, subcontractor or other independent company or consultant employed by you to work on the Project, or their respective partners, members, managers, directors, officers, employees, agents or assigns; or arising out of any other operation, no matter by whom committed or omitted, for and on behalf of you, or such contractor, subcontractor or other independent company or consultant, whether or not due in part to errors or omissions by us in the performance of this Agreement, or in the performance of any supplementary service in any way related to this Agreement, provided that you are not required to indemnify and hold us harmless under this Paragraph 22 in the event of our sole negligence.
23. **Integration Clause.** The Agreement represents the entire agreement of the parties. No prior representations, statements, or inducements made by either us, you, or the respective agents of either, that is not contained in the Agreement shall enlarge, modify, alter, or otherwise vary the written terms of the Agreement unless they are made in writing and made a part of the Agreement by attachment, incorporated by reference in the Agreement or signed or initialed on behalf of both parties.
24. **Notice.** Any notices issued to us shall be sent to our project manager with a copy sent via email to Notices@dewberry.com or mailed to 8401 Arlington Blvd, Fairfax VA 220131, Attn: Legal Department.

Attachment C

Survey Limits

Survey Limits
60' wide swath,
centered on
path (already
cleared)

Google Earth

Image Landsat / Copernicus

