



November 10, 2022

Dr. Dawn Tanner
VLAWMO
800 E. County Rd. E.
Vadnais Heights, MN 55127

Re: Agreement for 2023-2025 East Goose Lake Phytoplankton Analyses

Dear Dr. Tanner:

Thank you for retaining us. We will do our best to justify your expression of confidence in us. This letter, together with our Standard Terms (attached) sets forth the Agreement between VLAWMO (Client) and Barr Engineering Co. (Barr) regarding 2023-2025 East Goose Lake phytoplankton analyses.

Following is the scope of professional consulting services we will provide. During 2023 through 2025, the VLAWMO will annually collect 4 phytoplankton samples from East Goose Lake for analyses by Barr. The samples will be collected during the following time periods:

- One sample during mid-July
- One sample during early August
- One sample during late August
- One sample during early September

Each sample will be a composite sample collected from the 0-to 1-meter depth. A 0-meter sample and a 1-meter sample will each be collected using a water bottle sampler and the two samples will be composited by pouring them into a container and shaking the container to mix the sample. The composite sample will then be poured into an amber glass bottle containing Lugol's preservative. The sample containers with Lugol's preservative will annually be provided to VLAWMO by Barr prior to mid-July. The Lugol's preservative was prepared by dissolving 20 grams potassium iodide and 10 grams iodine crystals in 200 milliliters distilled-deionized water which contains 20 milliliters of glacial acetic acid. Samples can be delivered or sent to the Barr microscope laboratory at the following address:

Barr Engineering Co.
Edina Field Office
5150 West 76th Street
Edina, MN 55439
Attn: Meg Rattei, Microscope Laboratory

Barr staff will use a Wild inverted microscope and a magnification of 400X to identify and enumerate the phytoplankton taxa in each sample. Each sample will be poured into a 5-milliliter inverted microscope counting chamber and allowed to settle for 12 to 24 hours. All phytoplankton visible in one transect, passing through the center of the chamber, will be counted. When samples contain a very dense population, the sample may be diluted prior to analysis. A maximum of 500 cells or colonies in each sample will be counted. Therefore, a partial transect will sometimes be examined rather than a complete transect. A color camera is generally used to facilitate counting. The color camera is placed into the ocular of the Wild inverted microscope. The camera photographs all algal cells within each field of view and projects the photographed algal cells onto a monitor. The analyst identifies and enumerates the algal cells from each field of view projected onto the monitor.

After completing the identification and enumeration of the algal cells in each sample, the following computations will be performed to determine the number of natural units per milliliter of each algal taxa observed in the sample:

Natural Units per Milliliter

$$= \# \text{ counted} * \text{dilution factor (if diluted)} * \frac{(\text{area of the bottom of the counting chamber})}{(\text{area counted}) * (\text{volume of the counting chamber})}$$

An excel spreadsheet containing the data will be electronically provided to VLAWMO following completion of the analysis of each sample. The spreadsheet will contain the data, a graph summarizing the natural units per milliliter of each major group of algae (i.e., division) and the number of blue-green algae compared with World Health Organization (WHO) thresholds for low and moderate probability of adverse health effects. It is anticipated that the results will be provided within two weeks after receiving each sample.

This Agreement will be effective for the duration of the services or until September 30, 2025 unless terminated earlier by either you or us. After receipt of a copy of this letter signed by you, we will commence work in 2023 after receiving the mid-July phytoplankton sample. The estimated schedule for the services is completion of analysis of phytoplankton samples and sending results within two weeks after receiving each sample.

For the services provided, you will pay us according to the attached Standard Terms. We will bill you annually following analysis of the September sample. The cost of the services completed during 2023 through 2025 will not exceed a total cost of \$4,800 without prior approval by you.

We understand you have the authority to direct us. We will direct communications to you at the address on this letter. Direction should be provided to Meg Rattei at mrattei@barr.com or (651) 295-6936.

During the term of this Agreement, Barr agrees to maintain with a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, the type of insurance and policy limits as set forth below (USD):

Workers' Compensation and Employers' Liability

1. Coverage A: Per State Statute
2. Coverage B: \$500,000 Each Accident
\$500,000 Disease – Policy Limit
\$500,000 Disease – Each Employee

Commercial General Liability

1. \$2,000,000 General Aggregate
2. \$2,000,000 Products – Completed Operations Aggregate
3. \$1,000,000 Each Occurrence
4. \$1,000,000 Personal Injury

Commercial Automobile Liability

1. \$1,000,000 Combined Single Limit Bodily Injury and Property Damage

The Commercial Automobile Liability shall provide coverage for the following automobiles:

1. All Owned Automobiles
2. All Non-Owned Automobiles
3. All Hired Automobiles

Umbrella Liability

1. \$10,000,000 Each Claim
\$10,000,000 Annual Aggregate
2. The Umbrella Liability provides excess limits for the Commercial General Liability, Employers' Liability, and Commercial Automobile Liability policies.

Professional and Pollution Incident Liability

Professional Liability insurance including Pollution Incident Liability coverage with limits of not less than \$5,000,000 Per Claim / \$5,000,000 Annual Aggregate.

Certificates of Insurance

Certificates of Insurance will be provided upon request.

Barr and Client waive all rights, including their insurers' subrogation rights, against each other, their subcontractors, agents, and employees, and the other's consultants, separate contractors, and their subcontractors, agents, and employees for losses or damages covered by their respective property or casualty insurance, commercial general liability, or Builder's Risk insurance. This waiver of subrogation is effective notwithstanding any duty of indemnity.

If this Agreement is satisfactory, please sign the enclosed copy of this letter in the space provided and return it to us.

Sincerely yours,

BARR ENGINEERING CO.



Nathan Campeau

Its Vice President

Accepted this _____ day of November, 2022

VLAWMO

By _____

Its _____

Attachments

Standard Terms—Professional Services

Fee Schedule



STANDARD TERMS—PROFESSIONAL SERVICES

Our Agreement with you consists of the accompanying letter or other authorization, Work Orders, and these Standard Terms – Professional Services.

Section 1: Our Responsibilities

- 1.1 We will provide the professional services (“Services”) described in this Agreement. We will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality.
- 1.2 We will select the means, methods, techniques, sequences, or procedures used in providing our Services. If you direct us to deviate from our selections, you agree to hold us harmless from claims, damages, and expenses arising out of your direction.
- 1.3 We will acquire all licenses applicable to our Services and we will comply with applicable law.
- 1.4 Our duties do not include supervising your contractors or commenting on, supervising, or providing the means and methods of their work unless we accept any such duty in writing. We will not be responsible for the failure of your contractors to perform in accordance with their undertakings.
- 1.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, job, or site health or safety unless we accept that duty in writing.
- 1.6 Estimates of our fees or other project costs will be based on information available to us and on our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should add a contingency.
- 1.7 The information you provide to us will be maintained in confidence except as required by law.

Section 2: Your Responsibilities

- 2.1 You will provide access to property.
- 2.2 You will provide us with prior reports, specifications, plans, changes in plans, and other information about the project that may affect the delivery of our Services. You will hold us harmless from claims, damages, and related expenses, including reasonable attorneys’ fees, involving information not timely called to our attention or not correctly shown on documents you furnish to us.
- 2.3 You agree to provide us with information on contamination and dangerous and hazardous substances and processes we may encounter in performing the Services and related emergency procedure information.
- 2.4 You agree to hold us harmless as to claims that we are an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of any law governing the handling, treatment, storage, or disposal of dangerous or hazardous materials.
- 2.5 Site remediation services may involve risk of contamination

of previously uncontaminated air, soil, or water. If you are requesting that we provide services that include this risk, you agree to hold us harmless from such contamination claims, damages, and expenses, including reasonable attorneys’ fees, unless and to the extent the loss is caused by our negligence.

- 2.6 You agree to make disclosures required by law. If we are required by law or legal process to make such disclosures, you agree to hold us harmless and indemnify us from related claims and costs, including reasonable attorneys’ fees.

Section 3: Reports and Records

- 3.1 We will retain analytical data relating to the Services for seven years and financial data for three years.
- 3.2 Monitoring wells are your property and you are responsible for their permitting, maintenance and abandonment unless we accept that duty in writing. Samples remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are your property. They will be discarded or returned to you, at our discretion, unless within 15 days of the report date you give written direction to store or transfer the materials at your expense.
- 3.3 Our reports, notes, calculations, and other documents, and our computer software, programs, models, and data are instruments of our Services, and they remain our property, subject to a license to you for your use in the related project for the purposes disclosed to us. You may not use or transfer such information and documents to others for a purpose for which they were not prepared without our written approval. You agree to indemnify and hold us harmless from claims, damages, and expenses, including reasonable attorneys’ fees, arising out of any unauthorized transfer or use.
- 3.4 Because electronic documents may be modified intentionally or inadvertently, you agree that we will not be liable for damages resulting from change in an electronic document occurring after we transmit it to you. In case of any difference or ambiguity between an electronic and a paper document, the paper document shall govern. When accepting document transfer in electronic media format, you accept exclusive risk relating to long-term capability, usability, and readability of documents, software application packages, operating systems, and computer hardware.
- 3.5 If you do not pay for the Services in full as agreed, we may retain reports and work not yet delivered to you and you agree to return to us our reports and other work in your possession or under your control. You agree not to use or rely upon our work for any purpose until it is paid for in full.

Section 4: Compensation

- 4.1** You will pay for the Services as agreed or according to our then current fee schedules if there is no other written agreement as to price. An estimated cost is not a firm figure unless stated as such and you should allow for a contingency in addition to estimated costs.
- 4.2** You agree to notify us of billing disputes within 15 days and to pay undisputed portions of invoices within 30 days of invoice date. For balances not paid under these terms, you agree to pay interest on unpaid balances beginning 10 days after invoice date at the rate of 1.5% per month, but not to exceed the maximum rate allowed by law.
- 4.3** If you direct us to invoice another, we will do so, but you agree to be responsible for our compensation unless you provide us with that person's written acceptance of the terms of our Agreement and we agree to extend credit to that person.
- 4.4** You agree to compensate us in accordance with our fee schedule if we are asked or required to respond to legal process arising out of a proceeding to which we are not a party.
- 4.5** If we are delayed by factors beyond our control, or if the project conditions or the scope of work change, or if the standards change, we will receive an equitable adjustment of our compensation.
- 4.6** In consideration of our providing insurance to cover claims made by you, you hereby waive any right of offset as to payment otherwise due us.

Section 5: Disputes, Damage, and Risk Allocation

- 5.1** Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include a meeting attended by each party's representative empowered to resolve the dispute. Disputes (except collections) will be submitted to mediation as a condition precedent to litigation.
- 5.2** We will not be liable for special, incidental, consequential, or punitive damages, including but not limited to those arising from delay, loss of use, loss of profits or revenue, loss of financing commitments or fees, or the cost of capital. Each of us waives against the other and its subcontractors, agents, and employees all rights to recover for losses covered by our respective property/casualty or auto insurance policies.
- 5.3** We will not be liable for damages unless you have notified us of your claim within 30 days of the date of your discovery of it and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages, and unless suit is commenced within two years of the earlier of the date of injury or loss and the date of completion of the Services.
- 5.4** For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability will not exceed the fee paid for our services, but not less than \$50,000, and you agree to indemnify us from all liability to others in excess of that amount. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided

that, within 10 days of the date of our Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken. This increased fee is not the purchase of insurance.

- 5.5** If you fail to pay us within 60 days following invoice date, we may consider the default a total breach of our Agreement and, at our option, we may terminate all of our duties without liability to you or to others.
- 5.6** If we are involved in legal action to collect our compensation, you agree to pay our collection expenses, including reasonable attorneys' fees.
- 5.7** The law of the state in which the project site is located will govern all disputes. Each of us waives trial by jury. No employee acting within the scope of employment will have any individual liability for his or her acts or omissions and you agree not to make any claim against individual employees.

Section 6: Miscellaneous Provisions

- 6.1** We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured will be limited to losses caused by our sole negligence.
- 6.2** This Agreement is our entire agreement, and it supersedes prior agreements. Only a writing signed by an authorized representative for each of us making specific reference to the provision modified may modify it.
- 6.3** Neither of us will assign this Agreement without the written approval of the other. No other person has any rights under this Agreement.
- 6.4** Only a writing may terminate this Agreement. We will receive an equitable adjustment of our compensation as well as our earned fees and expenses if our work is terminated prior to completion.
- 6.5** We will not discriminate against any employee or applicant for employment because of race, color, creed, ancestry, national origin, sex, religion, age, marital status, affectional preference, disability, status with regard to public assistance, membership or activity in a local human-rights commission, or status as a specially disabled, Vietnam-era, or other eligible veteran. We will take affirmative action to ensure that applicants are considered, and employees are treated during their employment, without regard to those factors. Our actions will include, but are not limited to notifications, hiring, promotion or employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoffs or terminations, rates of pay and other forms of compensation, and selection for training or apprenticeship.
- 6.6** Neither we nor you, including our officers, employees, and agents, are agents of the other, except as agreed in writing. Except as agreed in writing, nothing in this Agreement creates in either party any right or authority to incur any obligations on behalf of, or to bind in any respect, the other party. Nothing contained herein will prevent either party from procuring or providing the same or similar products or services from or to any third person, provided that there is no breach of any obligations pertaining to confidentiality.

End of Standard Terms



Fee Schedule—2022

Rev. 12/31/2021

Description	Rate* (U.S. dollars)
Vice President	\$170-300
Consultant/Advisor	\$205-300
Engineer/Scientist/Specialist IV	\$165-200
Engineer/Scientist/Specialist III	\$140-160
Engineer/Scientist/Specialist II	\$110-135
Engineer/Scientist/Specialist I	\$80-105
Technician IV	\$155-200
Technician III	\$125-150
Technician II	\$95-120
Technician I	\$65-90
Support Personnel III	\$155-200
Support Personnel II	\$95-150
Support Personnel I	\$65-90

Rates for litigation support services will include a 30% surcharge.

A ten percent (10%) markup will be added to subcontracts for professional support and construction services to cover overhead and insurance surcharge expenses.

Invoices are payable within 30 days of the date of the invoice. Any amount not paid within 30 days shall bear interest from the date 10 days after the date of the invoice at a rate equal to the lesser of 18 percent per annum or the highest rate allowed by applicable law.

For travel destinations within the continental U.S. (CONUS) and Canada, meals will be reimbursed on a per diem basis. The per diem rate will be as published by the U.S. Internal Revenue Service (IRS) based on the High-Low method. Full day per diem rates will be pro-rated on travel days. For travel destinations outside the continental U.S. (CONUS) and Canada, meals will be reimbursed based on actual expenses incurred.

All other reimbursable expenses including, but not limited to, costs of transportation, lodging, parking, postage, shipping, and incidental charges will be billed at actual reasonable cost. Mileage will be billed at the IRS-allowable rate.

Materials and supplies charges, printing charges, and equipment rental charges will be billed in accordance with Barr's standard rate schedules.

Vice President category includes consultants, advisors, engineers, scientists, and specialists who are officers of the company.

Consultant/Advisor category includes experienced personnel in a variety of fields. These professionals typically have advanced background in their areas of practice and include engineers, engineering specialists, scientists, related technical professionals, and professionals in complementary service areas such as communications and public affairs.

Engineer/Scientist/Specialist categories include registered professionals and professionals in training (e.g., engineers, geologists, and landscape architects), and graduates of engineering and science degree programs.

Technician category includes CADD operators, construction observers, cost estimators, data management technicians, designers, drafters, engineering technicians, interns, safety technicians, surveyors, and water, air, and waste samplers.

Support Personnel category includes information management, project accounting, report production, word processing, and other project support personnel.

*Rates do not include sales tax on services that may be required in some jurisdictions.