



319 Black River Lane  
Lorain, Ohio 44052  
440.204.2269  
[lorainport.com](http://lorainport.com)

DATE: March 22, 2024  
TO: Board of Directors  
FROM: Brad Mullins, Chairman, Board of Directors  
SUBJECT: Meeting Notice

---

---

Please be advised that a Special Board Meeting has been scheduled for 8:30 a.m. on

Monday, March 25, 2024

Location:  
Lorain Port and Finance Authority  
319 Black River Lane  
Lorain, OH 44052

cc: Mayor/Administration  
City Council  
Media



**Lorain Port and Finance Authority**  
Board of Directors Special Meeting  
Monday, March 25, 2024, at 8:30 a.m.  
Port Offices

**AGENDA**

---

- I. Roll Call
- II. Report of Officers
  - A. Executive Director
    - 1. Geotechnical Services for Stage Project: Motion to approve
    - 2. Transfer of Funds: Resolution No.2024-\_\_
- III. Adjournment



**WERTZ GEOTECHNICAL ENGINEERING, INC.**  
DRILLING | MATERIAL TESTING | ENGINEERING

400 COLLIER DRIVE  
DOYLESTOWN, OHIO, 44230  
(330) 991-0041  
office@wertzgeo.com

March 7, 2024

5 WKS  
FROM "GO"

Lorain Port & Finance Authority  
319 Black River Lane  
Lorain, Ohio 44052

Attention: Tom Brown - Executive Director  
cc: Nick Dilisio RA, LEED AP BD+C - Senior Associate / Bialosky

SUBJECT: Black River Landing – City of Lorain, Ohio

Mr. Brown:

We are pleased to submit the following cost estimate for drilling and geotechnical engineering services to be provided on the subject project. The scope of work and design fees for drilling, laboratory, and engineering services are as follows:

**PROJECT UNDERSTANDING**

A geotechnical investigation is requested for the Black River Landing project in the City of Lorain, Ohio. The project site is located in the northwest region of Lorain County Parcel 0201004501046 which is south of E Erie Avenue; 300 feet east of Black River Lane; and west of the Black River. The subject project includes construction of an exterior amphitheater structure with stage and canopy; a structure identified as the “peel building”; 2 connected retaining walls; and a graded lawn area.

A progress set of architectural plans February 2, 2024 was provided which includes: Peel Exterior Elevations Sheet A240; Amphitheater Exterior Elevations Sheet A340; Peel Foundation Plan Sheet S201; Amphitheater Foundation Plan Sheet S301 . General Notes Sheet S001 specifies an assumed soil bearing pressure of 1,500 psf and includes general notes related to Drilled Piers and Auger Cast Piles. The Peel Building Foundation Plan indicates a first floor elevation of 582 feet with foundations bearing 3.5 feet below the FFE. The Amphitheater Foundation Plan indicates that a deep foundation is being considered to bear the canopy structural loadings. The plan specifies a stage slab on ground elevation of 585 feet. Structural loadings and retaining wall details were not provided at the time of this proposal. Grading Plan Sheet C106 was not included in the provided plans.

A geotechnical report dated 2001 and completed by the URS Corporation was provided. The report encompasses a large area which includes the subject project area. The boring map included with the report indicates the following borings were advanced within or nearby the current project area: B-1, B-2, B-7 and B-8. The provided soil boring logs for these borings indicate uncontrolled fill material to depths of 9 to 20+ feet, and soft and organic soils to depths of 20 to 62 feet.

The project area is primarily grassed with minor areas of pavement. One existing structure is present within the footprint of the proposed Peel Building. The terrain is relatively flat in the

Black River Landing – City of Lorain, Ohio

3/7/2024

Page 2

project area, with steeper slopes nearby to the east along the Black River. Shale bedrock is anticipated to be 20 to 50 feet below existing grades.

The purpose of the subsurface evaluation is to provide recommendations for design of foundations for the Amphitheater, Peel Building and retaining walls, and recommendations for pavements, earthwork and utility installations.

**SCOPE OF SERVICES**

1. Perform the following:
  - Two (2) test borings to 75 feet depth or rock refusal for the Amphitheater.
  - Four (4) test borings to 75 feet depth or rock refusal for the Peel Building and Retaining Wall.
  - Six (6) test borings to 10 to 15 feet depth in the lawn area.
2. The test locations will be field staked by our personnel.
3. Utilities will be cleared through O.U.P.S.
4. Provide digital soil borings and test location plan.
5. Prepare Geotechnical Report.
6. OPTION: Ground penetrating radar survey to check for utility conflicts at boring locations.

Standard penetration sampling will be performed in accordance with current A.S.T.M. standards, and under the direction of our geotechnical engineer in charge of the project.

**ESTIMATED FEES**

Drilling Crew (7 days) .....	Lump Sum.....	\$ 12,000.00
Boring Layout, Project Prep, OUPS.....	Lump Sum.....	500.00
Laboratory Testing.....	Budget.....	1,400.00
Moisture Contents.....	\$8/ea	
Atterberg Limits.....	\$87/ea	
Washed Sieve Analysis....	\$100/ea	
Visual ID, Desktop Review, and Log Prep-Geologist....	Lump Sum.....	600.00
Engineering Analysis & Report.....	Lump Sum.....	2,200.00
	<b>COST ESTIMATE</b>	<b>\$ 16,700.00</b>
OPTION: Private Utility Location Subcontractor.....	Budget .....	\$ 1,200.00

The standard of care for all professional engineering and related services performed or furnished by an engineer under this agreement will be the care and skill ordinarily used by members of engineer’s profession practicing under similar circumstances at the same time and in the same locality.

Black River Landing – City of Lorain, Ohio  
3/7/2024  
Page 3

Thank you for the opportunity to provide a proposal to you on this project. Please sign below and return if this proposal is acceptable.

Respectfully submitted,



Kelly Luecke, P.E.  
Project Manager



Leroy D. Wertz, P.E.  
Senior Project Engineer / President

Black River Landing – City of Lorain, Ohio

3/7/2024

Page 4

Wertz Geotechnical Engineering, Inc.

**Terms and Conditions**

1. Upon acceptance of this order by Wertz Geotechnical Engineering, Inc. or its representatives, we agree to perform all engineering services in general accordance with standard techniques and practices.
2. Wertz Geotechnical Engineering, Inc., their directors and employees shall treat as, and hold in strict confidence, all information and material, both tangible and intangible, that is furnished directly or indirectly, as part of services to the Client. Wertz Geotechnical Engineering, Inc. further agrees that they will not furnish any confidential information for direct or indirect benefit of any person(s) without Client's prior approval unless mandated by law.
3. Wertz Geotechnical Engineering, Inc will hold soil samples for thirty (30) days before disposal unless arrangements are communicated otherwise.
4. Wertz Geotechnical Engineering, Inc. payment terms are net thirty (30) days from the date of invoice. Client agrees to pay Wertz Geotechnical Engineering, Inc at an interest rate of 1-1/2 % per month for amounts unpaid past thirty (30) days. Client further agrees to pay for all unpaid amounts. Wertz Geotechnical Engineering, Inc. reserves the right to file a lien whenever necessary to collect past due amounts. Wertz Geotechnical Engineering Inc. reserves the right to not to issue final reports due to non-payment.
5. Wertz Geotechnical Engineering, Inc reserves the right to subcontract analyses to other laboratories of equal quality and standards. Client will be notified, and authorization received from client prior to subcontracting services.
6. Client shall provide a reasonable and acceptable work environment wherein Wertz Geotechnical Engineering, Inc or its designated representative will be allowed to safely commence and perform work on an orderly basis. It shall be the sole responsibility of the Client to provide a knowledgeable escort if necessary and make safety considerations and to provide permits and unique work rules.
7. To the fullest extent permitted by law, the total liability for Wertz Geotechnical Engineering, Inc., employees, owners and subconsultants for any claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to this project shall not exceed the maximum limits of \$100,000.

***If this proposal meets your requirements, please sign and return this page to our office. Thank You.***

Project: Black River Landing – City of Lorain, Ohio \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

March 6, 2024

Mr. Tom Brown  
Executive Director  
Lorain Port & Finance Authority  
319 Black River Lane  
Lorain, Ohio 44052

Re: Proposed Stage and Peel Building  
Black River Landing  
Lorain, Ohio  
DVL Proposal No. P24-027

David V. Lewin Corp.



**GEOTECHNICAL  
ENGINEERING**

SUITE 340  
CAXTON BUILDING  
812 HURON ROAD  
CLEVELAND, OHIO  
44115-1126

Dear Mr. Brown:

This is in response to your request for a proposal for a subsurface investigation at the subject site. The purpose of the investigation is to determine the subsurface stratification and the engineering properties of the strata encountered. With the data developed soil related engineering criteria will be established for the design of foundations, slabs on grade, pavements, and substructures.

The site is located within the Black River Landing complex in Lorain, Ohio. We visited the site on March 5, 2024. The site is generally grass covered with some concrete walks. An existing stage consisting of a concrete slab, retaining walls, and steps are present. The walks and slabs were observed to be in good condition. We observed several catch basins and electrical boxes near the existing stage.

The proposed project is to include construction of a 1-story basementless Peel building and a stage with a canopy. Barber and Hoffman, structural engineers, have not established building loads.

We reviewed URS's report dated March 8, 2001. Man-deposited fill and soft naturally deposited clay were encountered to a depth of 47 feet in URS's borings in the area. We plan to drill 3 borings, L-1 through L-3, to supplement URS's data. Locations of the previously drilled and proposed borings are shown on the attached sketch. Borings will vary from 50 to 90 feet in depth. Samples obtained in the borings will be brought to our laboratory for testing and evaluation. We will prepare a geotechnical report which presents our finding and recommendations.

We estimate that the cost of drilling, laboratory testing, engineering analysis, and report preparation will be in the order of \$18,500. Our services are offered in accordance with the attached Fee Schedule and General Conditions. You will be billed only for actual work performed.

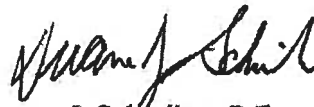
March 6, 2024

The above assumes that we can locate the borings by measuring from existing structures.

The driller will contact OHIO811 to located underground utilities. It would be prudent to have the facility's maintenance personnel review the boring locations. If you so desire, we can have a private utility locator check underground utility locations. The cost of the locator would be \$1200. With his present work load the driller can be at the site 2 to 3 weeks after we receive authorization to proceed. We will provide the design team with data as it is developed. We can discuss a more aggressive schedule.

Please sign and return one copy of this letter as our authorization to proceed.

Respectfully submitted,  
DAVID V. LEWIN CORP.



Duane J. Schreiber, P.E.  
President

DJS  
Att. Fee Schedule  
General Conditions

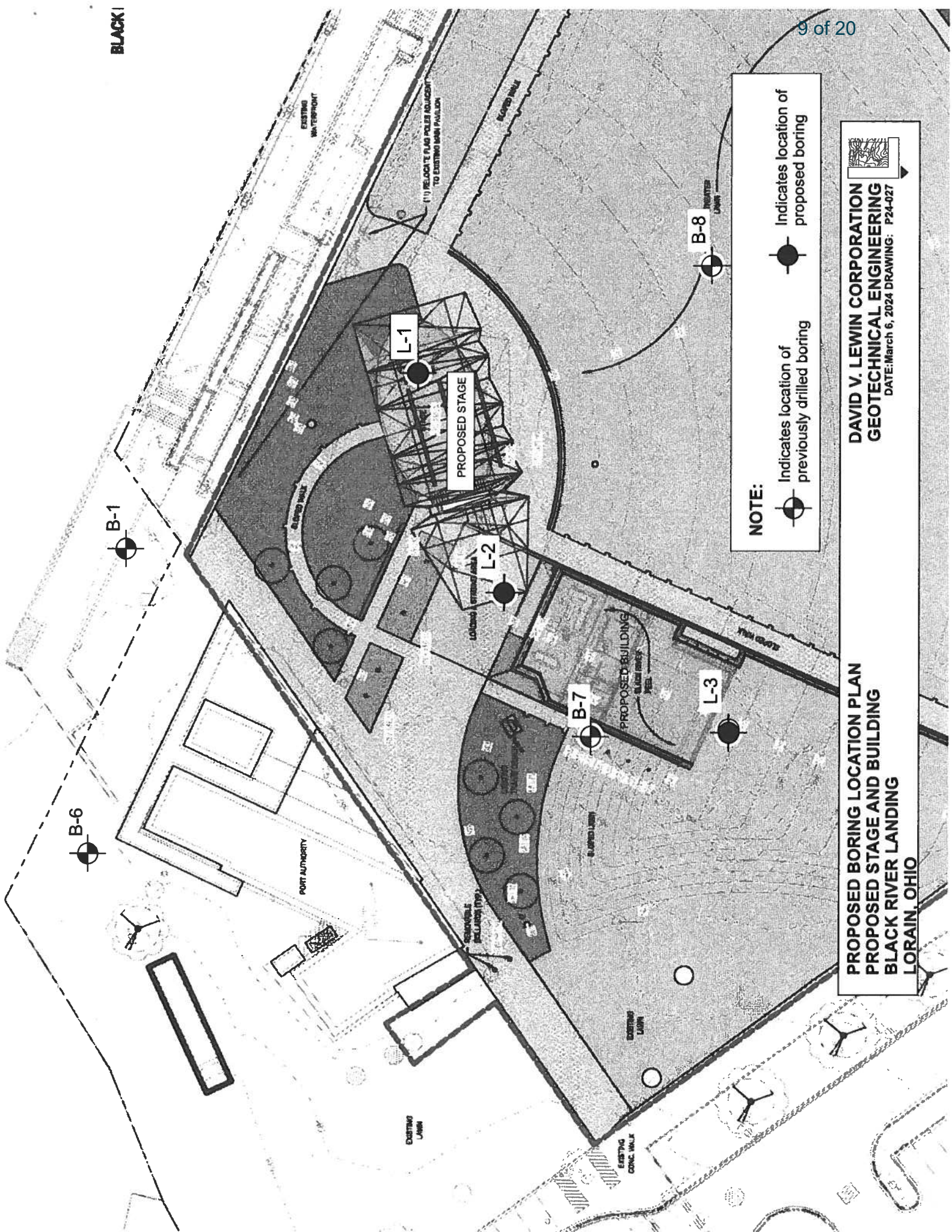
Subsurface Investigation w/o utility locator \$18,500

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

Subsurface Investigation w/utility locator \$19,700

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_





**NOTE:**

-  Indicates location of previously drilled boring
-  Indicates location of proposed boring



**DAVID V. LEWIN CORPORATION**  
**GEOTECHNICAL ENGINEERING**  
 DATE: March 6, 2024 DRAWING: P24-027

**PROPOSED BORING LOCATION PLAN**  
**PROPOSED STAGE AND BUILDING**  
**BLACK RIVER LANDING**  
**LORAIN, OHIO**

**SCHEDULE OF FEES  
(12/7/23)**

<b>Clerical</b>	<b>\$ 55.00 per hour</b>
<b>Draftsman</b>	<b>67.00 " "</b>
<b>Technician</b>	<b>74.00 " "</b>
<b>Senior Technician</b>	<b>86.00 " "</b>
<b>Laboratory Testing</b>	<b>80.00 " "</b>
<b>Engineer or Geologist</b>	<b>116.00 " "</b>
<b>Project Engineer</b>	<b>170.00 " "</b>
<b>Principal Engineer – Consultations</b>	<b>230.00 " "</b>
<b>Senior Consultant – Consultations</b>	<b>380.00 " "</b>
<b>Mileage</b>	<b>0.63 per mile</b>
<b>Out-of-Pocket Expenses (Drilling, reproductions, travel, subsistence, etc.)</b>	<b>Cost plus 15 percent</b>

Hourly rates are based on a normal 8-hour day, 40-hour week. Field work in excess of normal hours, including Saturdays, will be billed with a multiplier of 1.33 for laboratory, technician, engineer, or geologist personnel. Sundays and holidays will be billed with a multiplier of 2.0. No premium for overtime work will be billed for project or principal engineers.

Note that the above hourly rates include all field tests, including the use of Nuclear Equipment to determine moisture contents and in-place densities of compacted fill and backfill within the State of Ohio. A charge of \$100.00 per day will be billed for use of a nuclear gauge outside of Ohio.

*DL 3/6/24*

## GENERAL CONDITIONS

### RIGHT OF ENTRY

The client will provide right of entry for the geotechnical engineer and for all necessary equipment, in order to complete the work.

While geotechnical engineer will take all reasonable precautions to minimize any damage to the property, it is understood by client that in the normal course of work some damage may occur, the correction of which is not part of this agreement.

### UTILITIES

In the prosecution of his work, the geotechnical engineer will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities.

The owner agrees to hold the geotechnical engineer harmless for any damages to subterranean structures which are not called to geotechnical engineer's attention and correctly shown on the plans furnished.

### SAMPLES

Geotechnical engineer will retain all soil and rock samples for six months. Further storage or transfer of samples can be made at owner expense upon written request.

### OBSERVATIONS AND REVIEW DURING CONSTRUCTION

Geotechnical engineer will not supervise, direct or have any control or charge of, and shall not have any responsibility for construction means, methods, techniques, procedures or sequences selected by the contractor or others, nor for the contractor's health and safety procedures or programs. Geotechnical engineer shall not be responsible for any acts or omissions of contractors, subcontractors, inspectors or other parties on the project. Geotechnical engineer's observation of portions of the work, or review of reports by others, shall not relieve those other parties of their responsibility for performing their work in accordance with the project plans, specifications and applicable laws, codes, rules, regulations or safety requirements.

### INVOICES

Geotechnical engineer will submit invoices to client monthly and a final bill upon completion of services. Invoices will show charges for different personnel, expense classifications, and reimbursable items. A more detailed separation of charges and backup data will be provided at client's request. Payment is due within 30 days of date of our invoice. A service charge of 1½ % per month will be added to the unpaid balance after 30 days. A discount of 3% will be applied to the invoice if payment is received in full within 15 days of date of our invoice.

- 2 -

**OWNERSHIP OF DOCUMENTS**

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by the geotechnical engineer, as instruments of service, shall remain the property of the geotechnical engineer.

Client agrees that all reports and other work furnished to the client or his agents, which is not paid for, will be returned upon demand and will not be used by the client for any purpose whatever.

The geotechnical engineer will retain all pertinent records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to the client at all reasonable times.

**STANDARD OF CARE**

Services performed by the geotechnical engineer under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, express or implied, is made.

Client recognizes that subsurface conditions may vary from those encountered at the location where borings, surveys, or explorations are made by the geotechnical engineer and that the data, interpretations and recommendations of the geotechnical engineer are based solely on the information available to him. The geotechnical engineer will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.

**LIMITATION OF LIABILITY**

The geotechnical engineer's liability for damages due to error, omission, or other professional negligence in the performance of our services will be limited to an amount not to exceed \$5,000 or the fee, exclusive of reimbursable items, whichever is greater. If the client prefers, the limitation of the geotechnical engineer's liability to all claimants will be increased to \$50,000 upon the client's written request provided that the client agrees to pay for this increase an additional consideration of 4 percent of geotechnical engineer's total fee or \$500, whichever is greater. Client's request for this option must be made at the time of acceptance of this Agreement. This charge is consideration for the greater risk involved in performing work for which there is increased liability. It should not be construed as a charge for additional professional liability insurance. Client agrees to waive all claims under this paragraph to the extent they are covered by this insurance.

Client further agrees to notify any contractor and subcontractor who may perform work in connection with any design, report or study prepared by geotechnical engineer of such limitation of professional liability for design defects, errors, omissions, or professional negligence, and to require as a condition precedent to their performing their work, a like indemnity and limitation of liability on their part as against the geotechnical engineer.

- 3 -

**INSURANCE**

The geotechnical engineer represents and warrants that it and its staff employed by it is and are protected by workers' compensation insurance and that geotechnical engineer has such coverage under public liability and professional liability insurance policies. Certificates for all such policies of insurance will be provided to client upon request in writing. Within the limits and conditions of such insurance, geotechnical engineer agrees to indemnify and save client harmless from and against any loss, damage, or liability arising from any negligent acts by geotechnical engineers and its staff. The geotechnical engineer shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance. The geotechnical engineer shall not be responsible for any loss, damage, or liability arising from any negligent acts by client, its agents, staff, and other consultants employed by it.

**TERMINATION**

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, geotechnical engineer shall be paid for services performed to the termination notice date plus reasonable termination expenses.

In the event of termination, or suspension for more than three (3) months, prior to completion of all reports contemplated by this Agreement, geotechnical engineer may complete such analyses and records as are necessary to complete his files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of geotechnical engineer in completing such analyses, records and reports.

**ASSIGNS**

Neither the client nor the geotechnical engineer may delegate, assign, sublet or transfer his duties or interest in this Agreement without the written consent of the other party.



From Local-to-State-to-National: WOMEN  
SHAPING COMMUNITIES THROUGH THE  
POWER OF ARCHITECTURE 1/1  
Ref: fckwjv  
Price: \$10.00

NAME

**Jack Bialosky**

EVENT

From Local-to-State-to-National: WOMEN  
SHAPING COMMUNITIES THROUGH THE  
POWER OF ARCHITECTURE

LOCATION

TBD

DATE AND TIME

Thursday, Mar 21, 2024 5:00 PM to 8:00 PM

EVENT ORGANIZER

**Patty Lampert**  
(216) 626-5755 • [director@aiacleveland.com](mailto:director@aiacleveland.com)





110 Blaze Industrial Pkwy.  
Berea, Ohio 44017  
Tel: 440-234-8985  
www.geo-sci.com

March 7, 2024

Mr. Tom Brown – Executive Director  
Lorain Port & Finance Authority  
319 Black River Lane  
Lorain, Ohio 44052

**Re: Proposal - Subsurface Exploration  
Black River Landing  
319 Black River Lane  
Lorain, Lorain County, Ohio  
Geo-Sci Proposal No. G1124046**

Dear Mr. Brown:

Pursuant to your request for proposal, Geo-Sci is pleased to offer this proposal to provide a subsurface exploration for the proposed Black River Landing project located at 319 Black River Lane, Lorain, Lorain County, Ohio, as shown in the aerial photograph below:

**Figure 1. Site Map**







### **Project Description**

Based upon the information provided, the project consists of an exterior amphitheater stage with a canopy, a new building (Peel building), retaining walls that appear to have maximum height of about 10 feet, and a graded lawn that faces the amphitheater, and pavements to access the loading and staging area for the amphitheater. The Peel building is planned to include supplemental green room space for performers, multi-purpose space, bathrooms, and an auxiliary equipment room. The amphitheater and Peel building are planned to be slab-on-grade supported by shallow spread strip footings. Based on Google Earth™ imagery, it appears that the site is accessible to an ATV-mounted drill rig. Geo-Sci has been asked to provide this quotation to perform soil investigation to determine the type of soil, suitability of development, and geotechnical parameters.

### **Scope of Work – Geotechnical**

The Scope of Work included herein is in accordance with your request.

#### **Field Investigation / Drilling**

Based upon the information provided, it is proposed to drill and sample a total of nine (9) test borings. Four (4) test borings will be located in the proposed amphitheater stage area and advanced to depths ranging from 20 to 80 feet below existing grade, three (3) test borings will be located in the Peel building and retaining wall area and advanced to depths of 25 feet below existing grade, one (1) test boring will be located in the planned pavement area and advanced to a depth of 10 feet, and one (1) test boring will be located in the graded lawn areas and advanced to depths of 10 feet below existing grade. The test borings shall be terminated at the indicated depths or refusal, whichever is encountered first. Areas where borings are performed will be backfilled immediately after drilling. Drilling locations will be marked in the field by Geo-Sci personnel using visual methods. Should more accurate locations or ground surface elevations be desired, Geo-Sci recommends Bialosky contract with a surveying firm to layout the boring locations.

Groundwater levels shall be noted during and upon completion of the drilling operations. Drilling, sampling, and standard penetration tests shall be conducted in accordance with applicable ASTM standards. Geo-Sci personnel shall notify the Ohio Utilities Protection Service and the utility companies whose names are provided to us prior to commencing the drilling operations. All private utilities are to be located and marked by the project owner or Bialosky prior to mobilization to the site.

#### **Laboratory Testing**

The samples collected shall be transported to our laboratory and selected samples may be tested as follows:

- Visual Classification in accordance with the Unified Soil Classification System;
- Moisture Content;
- Hydrometer Analysis;
- Atterberg Limits (Liquid Limit and Plastic Limit);
- Grain Size Analysis.
- Unconfined compressive strength

#### **Report**

A Geotechnical Report shall be prepared and shall include the following:

- Laboratory test results;
- Individual typed test boring logs and test boring location plan;



- Foundation design recommendations;
- Seismic site classification;
- Floor slab design parameters and pavement design parameters, including CBR recommendation;
- Retaining wall design soil parameters; and
- Construction considerations including groundwater, compaction and site preparation recommendations.

The presence or absence of gases or chemical contamination will only consist of apparent observations during drilling and handling of samples. Odors will be noted, however, chemical analysis of the soil samples is beyond the scope of this proposal.

#### Costs

The Geotechnical Services as described above shall be provided for a lump sum cost of **\$15,540.00**. In the event additional borings or depths are needed due to subsurface conditions, while the rig is still on the site, it will be charged at the rate of **\$45.00 per foot only after authorization from the client**. This rate includes field, laboratory and engineering services.

#### Project Schedules

Geo-Sci can begin work within ten (10) working days upon authorization. Generally, we can provide preliminary information during and soon after completion of the drilling operations. The final report will be issued within 28 days from authorization.

We trust that you will find the scope of work in this proposal in agreement with your requirements. Please inform us of your intentions so that we may plan our time accordingly. This proposal can be accepted by signing and returning a copy of the enclosed Terms and Conditions that form a part of this proposal or by issuing a purchase order or letter referencing this proposal.

We appreciate your consideration of our company for this project and look forward to being of service. Should you have any questions or if we may be of further assistance, please contact us at (440) 234-8985.

Sincerely,

**Geo-Sci, Inc.**

*Chett A. Siefring*

Chett Siefring, P.E.

Director of Engineering



**TERMS AND CONDITIONS**

**Fee**

The total fee shall be understood to be an estimate, based upon Scope of Service, and shall not be exceeded without written approval of the Client. Reimbursable expenses invoiced with a mark-up of no greater than 10%.

**Billings / Payments**

Invoices for services and reimbursable expenses shall be submitted, on a monthly basis and upon completion of the services. Invoices shall be payable within 30 days from the invoice date. A service charge of 1.5% per month will be applied to the unpaid balance after 30 days from the invoice date. Geo-Sci shall have the right to suspend/terminate services if payment is not received within 60 days after the invoice date and Geo-Sci shall have no liability for any resultant delays or damages incurred by Client as a result of such suspension/termination. Retainers shall be credited on the final invoice. The Client agrees to pay all costs of collection, including reasonable attorney's fees.

**Standard of Care**

In providing services under this agreement, Geo-Sci will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Geo-Sci will perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of Geo-Sci's part of the Project. Regardless of any other term or condition of the Agreement, Geo-Sci makes no express or implied warranty of any sort. All warranties, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

**Consequential Damages**

Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, neither the Client nor Geo-Sci shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business or income or any other consequential damages that either party may have incurred from any cause of action whatsoever.

**Hazardous Materials / Mold**

Geo-Sci shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form including mold. The existing or constructed building may, as a result of post-construction, use, maintenance, operation or occupation, contain or be causted to contain mold substances which can present health hazards and result in bodily injury, property damage and/or necessary remedial measures and costs for which Geo-Sci shall have no responsibility.

**Indemnifications**

The Client agrees, to the fullest extent permitted by law, to indemnify and hold Geo-Sci and its subcontractors harmless from and against any and all damage, losses or cost (including reasonable attorney's fees and defense costs) caused in whole or in part by its acts, errors or omissions and those of anyone for whom they are legally liable. Geo-Sci further agrees to indemnify the Client for damages arising from its own negligent errors acts or omissions.

**Risk Allocation**

In recognition of the relative risks and benefits of the project to both the Client and Geo-Sci, the Client agrees, to the fullest extent permitted by law, to limit Geo-Sci's total liability to the Client or anyone making claims through the client, for any and all damages or claim expenses (including attorney's fees) arising out of this Agreement, from any and all clauses, to the total amount of Geo-Sci's fee, or \$10,000, whichever is less.

**Termination of Services**

This agreement may be terminated upon 10 days written notice by either party should the other fail to perform their obligations hereunder. In the event of termination, the Client shall pay Geo-Sci for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

**Ownership of Documents**

All documents produced by Geo-Sci under this agreement, including electronic files, shall remain the property of Geo-Sci and may not be used by the Client for any other purpose without the written consent of Geo-Sci. Any such use or reuse shall be at the sole risk of Client who shall defend, indemnify and hold Geo-Sci and its sub consultants harmless from any and all claims and/or damages arising there from. Electronic files are not contract documents and cannot be relied upon as identical to contract documents because of changes or errors induced by translation, transmission, or alterations while under the control of others. Use of information contained in the electronic files is at the user's sole risk and without liability to Geo-Sci and its consultants.

**Defects in Service**

The Client shall promptly report to Geo-Sci any defects or suspected defects in the Consultant's services. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like agreement. Failure by the Client and the Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

**Construction Activities**

Geo-Sci shall not be responsible for the acts or omissions of any person performing any of the Work or for instructions given by the Client or its representatives to any one performing any of the Work, nor for means and methods or job-site safety.

**Dispute Resolution**

Any claim or dispute between the Client and Geo-Sci shall be submitted to non-binding mediation, subject to the parties agreeing to a mediator(s). If the Parties cannot agree upon a mediator, the claim or dispute shall be submitted to the American Arbitration Association (AAA) for mediation in accordance with the Construction Arbitration and Mediation Rules of the AAA then in effect. Unless otherwise specified, the laws of the State of Ohio shall govern this agreement.

**Relationship of the Parties**

All services provided by Geo-Sci are for the sole use and benefit of the Client. Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Geo-Sci.

Accepted by: \_\_\_\_\_

Organization: \_\_\_\_\_

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

Date: \_\_\_\_\_

**RESOLUTION NO. 2024-\_\_**

**A RESOLUTION TO APPROVE A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE BLACK RIVER LANDING STAGE CAPITAL PROJECTS FUND.**

**WHEREAS** since the Lorain Port Authority is in the process of constructing an amphitheater at the Black River Landing festival venue; and

**WHEREAS** the Lorain Port Authority has partnered with the Lorain County, the City of Lorain, and continues the fundraising on this project; and

**WHEREAS** it is necessary to transfer Five Hundred Thousand Dollars (\$500,000.00) from the General Fund to the Black River Landing Stage Capital Projects Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the transfer of funds pertaining to the amendment is hereby approved and that the Executive Director is hereby authorized to transfer funds from the General Fund to the Black River Landing Stage Capital Projects Fund (affirmative majority vote required).

**SECTION II.** That pursuant to the budget amendment and appropriation of funds, the Executive Director is also authorized to request an amended Certificate of Estimated Resources from the County Auditor.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

\_\_\_\_\_  
Brad Mullins, Chairman

\_\_\_\_\_  
Tom Brown, Executive Director