

June 28, 2023

Proposal No. 23-405832

**Via e-mail:** [elarson@ucesc.org](mailto:elarson@ucesc.org)

Union County Educational Services Commission  
45 Cardinal Drive  
Westfield, New Jersey 07090-3316

Attn.: Eric Larson  
Business Administrator/Board Secretary

**Re: Professional Services Proposal- Request for Change Order  
Health and Safety Services  
For the period of July 1, 2023 through June 30, 2024  
Union County Educational Services Commission  
Union County, New Jersey**

Dear Mr. Larson:

Partner Engineering and Science, Inc. (Partner) is pleased to submit the enclosed proposal, which includes changes the original Professional Services Proposal. This proposal to perform additional Health and Safety Services as requested.

Please feel free to contact me directly with any questions or comments regarding the scope, sequence, or fees as indicated at (732) 380-1700 ext. 1309.

Very truly yours,



Brian E. Nemetz  
Technical Director – Industrial Hygiene Services

**PROFESSIONAL SERVICES PROPOSAL – REQUEST FOR CHANGE ORDER  
HEALTH AND SAFETY SERVICES  
FOR THE PERIOD OF JULY 1, 2023 THROUGH JUNE 30, 2024  
UNION COUNTY EDUCATIONAL SERVICES COMMISSION  
UNION COUNTY, NEW JERSEY**

**INTRODUCTION**

In accordance with your request for a change order, Partner Assessment Corporation, Inc. (Partner) is pleased to submit the following proposal for a change order to perform select, additional OSHA/PEOSH Regulatory Compliance Services for Union County Educational Services Commission (the "Client") during the period of July 1, 2023 through June 30, 2024. It should be understood that at the time of the commencement of this proposal, if accepted, services will be led by Brian Nemetz, Dan Bracey and other staff members as members of the Partner team. The services provided below are in addition to the Partner Professional Services Proposal dated April 25, 2023, inclusive of Client responsibilities, scope, and Terms and Conditions.

Provided below are the services to be provided by Partner and the respective professional fees. Please note that additional services can be provided upon Client request and authorization.

**SCOPE OF SERVICES**

<b>Item 1:</b>	<b>NJ Public Employers 2023 Right-to-Know Survey Update</b>	
<b>Item 2:</b>	<b>Hazard Communication Education &amp; Training</b>	
<b>Item 3:</b>	<b>Bloodborne Pathogen Education &amp; Training</b>	
<b>Item 4:</b>	<b>Review/Update Written Exposure Control Plan</b>	
<b>Item 5:</b>	<b>Review/Update Written Chemical Hygiene Plan</b>	
<b>Item 6:</b>	<b>Additional Health &amp; Safety Consulting Services Upon Request</b>	
<b>APRIL 25, 2023 ORIGINAL FIXED FEE TOTAL (Items 1 through 6)</b>		<b><u>\$ 87,425.00</u></b>
<b>CHANGE ORDER FIXED FEE</b>		<b><u>\$ 16,642.00</u></b>
<b>REVISED FIXED FEE TOTAL (Original Total and Change Order)</b>		<b><u>\$ 104,067.00</u></b>

**CHANGE ORDER ITEM DESCRIPTIONS**

The scope of services and associated fees are described in detail below for the following 59 Locations per Client request.

Location	Services	Fee
Elizabeth Board of Education	<u>Existing Services:</u>  Item 1: New Jersey Public Employers 2023 Right-to-Know Survey Update Preparation Item 2: NJ Community Right to Know Education and Training - One (1) Session Item 3: Bloodborne Pathogen Education and Training - One (1) Session Item 4: Exposure Control Plan Item 5: Chemical Hygiene Plan	\$42,781.00
	<b><u>Additional Services Requested:</u></b>  Item 1: Additional 2 Schools for Right-to-Know Services: <ul style="list-style-type: none"> <li>St .Anthony #82-Annex Dwyer 9<sup>th</sup> Grade</li> <li>St. Michael School #15-Annex Christopher Columbus</li> </ul> Item 6: Replace/update Elizabeth SDS Binders for 59 Buildings	\$1,542.00   \$15,000.00
	<b>Elizabeth Revised Fixed Fee Total</b>	<b>\$59,323.00</b>

**Item 1: New Jersey Public Employers 2023 Right-to-Know Survey Update Preparation**

The Right-to-Know regulation requires public employers to submit a complete hazardous substance survey every five years. On July 15, 2024, the State of New Jersey Department of Health requires an updated Right to Know Survey be filed. The survey must contain a full chemical inventory list for each location reported.

**The 2023 New Jersey Public Employers Right-to-Know Survey update is due on July 15, 2024.**

Therefore, this item includes the tasks required to provide an updated Survey for each location (2023 reporting year), a location-specific hazardous product/chemical listing from the inventory database, and complete documentation of efforts made to all manufacturer/supplier contacts. The client will be required to provide any existing file information to Partner. Specifically, the following services will be performed:

**On-Site Inventory of Hazardous Chemicals and Products:**

The inventory process serves as the basis for all Right-to-know compliance activities and provides:

- A. Data for computer input.
- B. Data for the Right-to-Know Survey.
- C. Names and addresses of manufacturers and suppliers of substances for which SDSs must be acquired.
- D. A rational, defensible definition of the population of "exposed" or "potentially exposed" workers.
- E. Specific chemicals and classes of chemicals which must be covered in training.
- F. A listing of all chemicals that are outdated or whose containers are in poor condition.

Partner will conduct a physical inventory of all applicable locations in order to catalog product/chemical name of identifiable substances, the type of container used to store the substance, the amount of substance found on-site, the chemical state (solid, liquid, or gas) of the substance, the manufacturer and/or supplier name and address, and the type of label on the substance.

**Data Management, Analysis, and Computer Input:**

Once the inventory information has been gathered, Partner will utilize a customized database management system that is specific to inventory management. An intrinsic part of this service is the computer-driven determination of which substances are New Jersey Hazardous Substances as defined by the Right-to-Know Hazardous Substance List (8:59-9.1). Partner will perform the survey as follows:

- A. Identify the products for which a Safety Data Sheet (SDS) currently does not exist.
- B. Request an SDS from the manufacturer or supplier for all products identified above, documenting all such requests.
- C. Input chemical ingredient information from existing or newly acquired SDSs and product specific information from the inventory into the database.

After all SDS's have been obtained for the manufacturer and all information has been entered into the database, the client will receive a complete Central File which includes the following:

- A. A hazardous product/chemical listing from the inventory database that is location specific.
- B. All SDS's obtained and other information obtained.

- C. Complete documentation of diligent effort made to all manufacturer/supplier contacts.

**New Jersey Public Employers 2023 Right-to-Know Survey Update Preparation:**

Partner will prepare your online Right to Know Survey update for each of the client's facilities using the information gathered during the inventory process. The client will then log-in to the MyNewJersey website to review the cover page of each survey and submit the surveys. Once submitted, Partner will mail copies to the required agencies, which include:

- A. County Lead Agency
- B. Local Health Department
- C. Local Emergency Planning Committee
- D. Local Fire Department
- E. Local Police Department

Partner will provide a copy of the Right to Know Survey update for each location to be place in each facility's Central File.

**Review/Update Hazard Communication Plan:**

Partner will review and update the written Hazard Communication Plans to ascertain the accuracy of the following site-specific information:

- A. The person responsible for developing, evaluating the effectiveness of, and updating the written program.
- B. The person responsible for each aspect of the hazard communication program (labeling, SDSs, training): Names or titles must be indicated in the written program.
- C. A description of the system(s) used for container labeling and any warning methods used in the event of a chemical release or overexposure to a hazardous chemical that is in use in the workplace.
- D. The person responsible for obtaining and maintaining SDSs, if different from the individual taking care of the written program, and the procedures employees use to gain access to the SDSs: If the SDSs are electronically available, the backup method for accessing SDSs must be described.
- E. An explanation of the procedures used to train new employees at the time of their initial assignment and when a new hazard is introduced in the workplace, as well as the procedure for refresher training every 2 years.
- F. The means used to inform employees of the location of the written program and how and when the written program will be made available to employees.
- G. A description of the methods used for communicating hazards to others, such as subcontractors, and what protective measures are necessary for the subcontractor's employees: Details about how employees will be protected from hazardous substances brought into the workplace by the subcontractor must also be described.

- H. The methods the employer will use to inform employees of the hazards of non-routine tasks.
- I. A description of how the employer will provide employers at multi-employer workplaces with on-site access to SDSs and an explanation of the labeling system used at the site, and precautionary measures that are needed during normal operations and in foreseeable emergencies.

**Item 2: Hazard Communication Education and Training (NJAC 12:100-7 et seq.)**

Per the requirements of the Standard, the Partner Initial Trainings shall cover the following subject matter:

- A. Any operations in their work area where hazardous chemicals are present.
- B. The location and availability of the written hazard communication program, including the list(s) of hazardous chemicals required by the hazard communication program, hazardous substance fact sheets, the Right-to-Know Survey, the Right-to-Know Hazardous Substance List, and Safety Data Sheets required by this section.
- C. Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area.
- D. Explanation of the Globally Harmonized System
- E. The physical and health hazards of the chemicals in the work area.
- F. The measures employees can take to protect themselves from hazards.
- G. Information about the hazard communication program, Right-to-Know Survey, labeling, hazardous substance fact sheets, the Right-to-Know Hazardous Substance List, and the Right-to-Know poster, and how employees can obtain these documents and information and use appropriate hazard information from these sources.

Biennial (refresher) training, which shall be an abbreviated version of initial training, shall be conducted every two years. Employers shall ensure that all employees that participate in a training program be provided training at no cost to the employee and the training program takes place during working hours.

Information and training may be designed to cover categories of hazards (for example, flammability, and carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels, hazardous substance fact sheets, and Safety Data Sheets (SDS).

**Item 3: Bloodborne Pathogen Education and Training**

The Bloodborne Standard requires employers to provide training to employees who are occupationally exposed to potentially infectious materials at the time of initial assignment to tasks where such exposure may take place, and at least annually thereafter. The training program must contain, at a minimum, the following elements:

- A. Explanation of the Bloodborne Pathogens Standard.

- B. An explanation of the epidemiology and symptoms of bloodborne diseases.
- C. Modes of transmission of Bloodborne Pathogens.
- D. Explanation of employer's exposure control plan.
- E. Methods to reduce exposure.
- F. Types, proper use, and basis for selection of personal protective equipment.
- G. Information on the Hepatitis B vaccine, including its safety, the method of administration, benefits of receiving the vaccine, and the availability of vaccine.
- H. Information on appropriate actions to take and persons to contact in an emergency situation involving blood or potential infectious materials.
- I. Procedures and reporting methods to follow when an exposure incident occurs.
- J. Employer's requirements on post-exposure evaluation and follow-up after an employee exposure incident.
- K. Explanation of labels and signs and/or color-coding.
- L. Questions on the Bloodborne Pathogens Standard.
- M. Quiz

**Item 4: Bloodborne Pathogen Standard Program (29 CFR 1910.1040)**

**Review/Update Written Exposure Plan**

The Bloodborne Standard requires employers to prepare a written Exposure Control Plan that is designed to eliminate or minimize employee occupational exposure to blood and body fluids.

Partner will prepare a written draft Exposure Control Plan for review and comment prior to finalization. Partner will ensure that the plan contains the elements required for a compliant written plan and minimally include the following elements:

- A. Exposure determination.
- B. Schedule and method of implementation for Methods of Compliance, Hepatitis B, and Post Exposure Evaluation.
- C. Procedure to evaluate circumstances surrounding an exposure incident.

**Item 5: Review/Update Written Chemical Hygiene Plan**

**Review/Update of the Written Chemical Hygiene Plan:**

Partner will review all applicable written Chemical Hygiene Plans for the Union County Educational Services Commission school member district facilities to ensure that they contain the following site specific information:

- A. Standard operating procedures for safe use of chemicals in the laboratory.
- B. Methods to reduce and control employee exposure to laboratory chemicals.

- C. The methods by which the fume hoods will be evaluated to determine if they are functioning properly.
- D. The Plan for education and training of staff concerning the information contained in the Chemical Hygiene Plan.
- E. A description of the circumstances for which prior approval of a proposed laboratory procedure is required.
- F. Provisions for medical examinations.
- G. The designation of the Chemical Hygiene Officer.
- H. Procedures for the use of highly acutely toxic chemicals (if any).

**Item 6: Additional Health and Safety Consulting Services Upon Request**

<b>Services</b>	<b>Fees</b>
Asbestos Hazard Emergency Response Act (AHERA) Survey (40 CFR Part 763, Subpart E)	First School: \$900.00 Each Additional K-8: \$400.00 Each Additional High School: \$500.00
Lead in Drinking Water (N.J.A.C. 6A:26-12.4)	Per School Costs Lead Sampling Plan: \$500.00 Quality Assurance Project Plan: \$500.00 Drinking Water Sampling: \$27.50 per sample 2021 Statement of Assurance: \$150.00
Creation of Indoor Air Quality Program (NJAC 12:100-13)	\$350.00 Per Facility
Creation of Respiratory Protection Program and One (1) Education, Training, and Qualitative Fit Testing (29 CFR 1910.134)	\$1,500.00
Creation of Control of Hazardous Energy Program (Lockout/Tagout) (29 CFR 1910.147)	\$800.00 Per Facility
Designated Person Training (40 CFR Part 763, Subpart E)	\$500.00 Per Session



Asbestos Awareness Training (29 CFR 1910.1001)	\$500.00 Per Session
Control of Hazardous Energy Training (Lockout/Tagout) (29 CFR 1910.147)	\$500.00 Per Session

### **CLOSING**

Any item listed above which is not ordered will not be billed. Separate authorization from the client will be requested prior to commencing services outside the scope of this proposal.

All out-of-pocket expenses including, but not limited to, application fees, laboratory testing costs, mylar copies, certified mailings, photographs, blueprints, and special deliveries are considered additional to the proposal items unless specifically noted within the scope of this proposal.

The terms and conditions of this proposal are subject to the attached Partner Engineering and Science, Inc. (Partner) General Conditions. A current Partner Fee Schedule is also attached.

This proposal is submitted solely and exclusively for the use of Union County Educational Services Commission for consideration of the professional services of Partner. Disclosure of this proposal's content to any third party without prior written authorization from Partner is expressly prohibited.

In addition to the specific items as listed herein, the client may be required to demonstrate compliance with certain permit and approval conditions as may be imposed by one or more of the regulatory agencies. These conditions may require revisions to the plans and/or preparation of additional supporting documentation. This proposal does not include these additional items unless specifically outlined within the scope of this proposal.

### **PAYMENT SCHEDULE**

Payment shall be in accordance with the Charges, Billing, and Payment schedule outlined in the General Conditions attached to this proposal unless prior written arrangements have been made with Partner.

Please indicate your acceptance of this proposal by signing in the space provided below and returning one copy to this office. Acceptance of this proposal signifies the client's understanding that Partner will not be retained or asked to perform any services unless funding is secured and is available to pay all invoices within 30 days. Receipt of the signed proposal shall be considered authorization to proceed with all items described within this agreement. Any items not intended to be authorized shall be clearly and specifically noted as such within the client's signed and returned proposal.

We thank you for the opportunity to submit this proposal. Please feel free to ask any questions regarding the scope, sequence or fees as indicated.

**ACCEPTED BY:**

<b>NAME:</b>	<hr/>	
	<b>Signature</b>	<b>Print Name</b>
<b>TITLE:</b>	<hr/>	
<b>COMPANY:</b>	<b>Union County Educational Services Commission</b>	
<b>DATE:</b>	<hr/>	

The above signed represents that they have read and understand the attached General Conditions and have the authority to enter into this agreement on behalf of the client named above. The above signed also acknowledges that this contract includes a Limitation of Liability Clause as part of the General Conditions.

## GENERAL CONDITIONS

### 1. AGREEMENT

This Agreement (the "Agreement") between Partner Engineering and Science, Inc. (hereinafter designated as PARTNER) and CLIENT consists of the proposal (attached and incorporated by reference), and these General Conditions. The Agreement entails the entire agreement and understanding between the parties hereto with respect to the subject services and shall not be varied in its terms by any previous communications, negotiations and agreements, whether oral or written, between the parties with respect to such subject matter, and no addition to or modification or waiver of any provision of this Agreement shall be binding on either party unless made in writing and executed by PARTNER and a duly authorized agent of the CLIENT.

Unless otherwise specified in the Agreement, the fees and charges set forth in the proposal will be valid for a period of ninety (90) days from the date of the proposal. In addition, hourly rates are subject to change January 1 and July 1 of each year.

PARTNER will not initiate service without formal agreement on General Conditions and other terms and conditions set forth in this Agreement. For purposes of convenience, CLIENT may choose to accept this Agreement orally or to orally authorize PARTNER to initiate services. In either event, CLIENT specifically agrees that, as a material element of the consideration PARTNER requires to execute the services indicated herein, CLIENT's oral acceptance or authorization to initiate services shall be considered by both parties to constitute formal acceptance of all terms and conditions of this Agreement. CLIENT's or PARTNER's unilateral modification of this Agreement subsequent to PARTNER's initiation of service is expressly prohibited. Furthermore, all terms and conditions on CLIENT's purchase orders, work orders and/or other directives that are in conflict with the terms of this Agreement, are inapplicable to this Agreement and to PARTNER's involvement in CLIENT's project.

### 2. STANDARD OF SERVICES AND WARRANTY

Services performed by PARTNER under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the same profession currently practicing in the same locality under similar conditions. No other representation whatsoever, express or implied, and no warranty or guarantee whatsoever is included or intended in this Agreement, or as to any report, opinion, document or otherwise.

### 3. EXISTING CONDITION AND RIGHT OF ENTRY

- a) The CLIENT warrants to PARTNER that CLIENT has the legal right to authorize PARTNER's entry upon the real property where PARTNER's services are to be performed (hereinafter the "Site"). The CLIENT grants to PARTNER and its subcontractors the complete and unabridged right and authority to enter the Site and any property adjoining the Site, upon the CLIENT'S receipt of authorization, as is necessary to permit PARTNER to fulfill the work called for by this Agreement. CLIENT shall provide PARTNER with any written agreement relative to Site access and/or access to property adjoining the Site. In the prosecution of the work under this Agreement, PARTNER will take all reasonable precautions to avoid damage to subterranean structures or utilities and shall make notice to the utilities hotline. To the fullest extent permitted by law CLIENT shall waive any claim against PARTNER and its subcontractors, consultants, agents, officers, directors and employees, and shall indemnify, defend and hold them harmless from any claim or liability for injury or loss arising from damages to, or contact with, subterranean structures or utilities which are not identified by the utility mark out, or are not called to PARTNER's attention and/or not correctly shown on the plans furnished to PARTNER.
- b) PARTNER will take reasonable precautions to minimize damage to the Site and such adjoining properties. The CLIENT understands and agrees that PARTNER's activities may unavoidably cause some damage, the correction of which is not a part of this Agreement unless specified in the scope of services.
- c) The CLIENT shall provide "as built" drawings of any structures on the Site as well as any reports data, studies, plans, specification documents or other information which exists as required by PARTNER for the proper performance of its services. PARTNER shall be entitled to rely upon any such information, but shall assume no responsibility or liability for its accuracy. CLIENT shall defend, indemnify and save harmless PARTNER, its officers, agents and employees from and against any and all claims, costs, suits and damages, including attorney's fees, arising out of errors, omissions and inaccuracies in documents and information provided to PARTNER by CLIENT.

### 4. CONSTRUCTION PHASE SERVICES

If this Agreement includes the furnishing of any Services during the construction phase of the project, the following terms will apply:

- a) If PARTNER is called upon to observe the work of CLIENT'S construction contractor(s) for the detection of defects or deficiencies in such work, PARTNER will not bear any responsibility or liability for such defects or deficiencies or for the failure to so detect. PARTNER shall not make inspections or reviews of the safety programs or procedures of the construction contractor(s), and shall not review their work for the purpose of ensuring their compliance with safety standards.
- b) If PARTNER is called upon to review submittals from construction contractor(s), PARTNER shall review and approve or take other appropriate action upon construction contractor(s)' submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents. The PARTNER action shall be taken with such reasonable promptness as to cause no delay in the work while allowing sufficient time in PARTNER's professional judgment to permit adequate review. Review of such submittals will not be conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities.
- c) PARTNER shall not assume any responsibility or liability for performance of the construction services, or for the safety of persons and property during construction, or for compliance with federal, state and local statutes, rules, regulations and codes applicable to the conduct of the construction services. PARTNER shall have no influence over the construction means, methods, techniques, sequences or procedures. Construction safety shall remain the sole responsibility of the construction contractor(s).
- d) All contracts between CLIENT and its construction contractor(s) shall contain broad form indemnity in favor of CLIENT and PARTNER, and shall name both the CLIENT and PARTNER as additional insured.

**5. CHARGES, BILLING AND PAYMENT**

- a) For the performance of its services, PARTNER shall be paid by the CLIENT in accordance with the Agreement. PARTNER shall submit invoices to the CLIENT monthly, and a final invoice upon completion of all services. Payment is due upon presentation of an invoice and is past due thirty (30) days from the date of each invoice. The CLIENT agrees to pay a finance charge of two percent (2%) per month, or, if lesser, the maximum rate allowed by law, on past due accounts. In the event that the invoice is not paid voluntarily and promptly, and must therefore be referred to an attorney or agency for collection, the CLIENT agrees to pay a collection fee equal to the actual attorney or agency collection fee incurred by PARTNER. All past due payments which are made shall be applied first to accrued interest and then the principal unpaid amount.
- b) If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify PARTNER, in writing, of its objection within fifteen (15) days from the date of the invoice, give reasons for the objection, and pay that portion of the invoice not in dispute. In the event that payment to PARTNER is not maintained on a thirty (30) day current basis, PARTNER may, upon providing ten (10) days written notice to the CLIENT, suspend further performance and withhold any and all data from the CLIENT until such invoiced payment(s) is restored to a current basis.
- c) PARTNER will begin collection efforts for any invoices which are not paid within one hundred twenty (120) days of the date of the invoice. Any invoices that are not paid within thirty (30) days of CLIENT's receipt of collection action notification by an attorney or collection agency shall constitute a release of PARTNER from any and all contract claims which CLIENT may have against PARTNER for services performed under said invoice(s).
- d) CLIENT shall have no right to offset against the amounts due PARTNER and no deductions shall be made from PARTNER's compensation on account of any actual or alleged claims, action, breach, error, omission, liability, penalty or damage actually or allegedly caused by or arising from any of PARTNER's services under this Agreement.
- e) Expenses incurred for services, equipment and facilities not furnished by PARTNER are charged to CLIENT at cost plus fifteen percent. Automobile travel may be charged at the applicable Internal Revenue Service rate.

**6. NON-DISCLOSURE AGREEMENT**

The technical and pricing information contained in any proposals submitted by PARTNER as to this project, or in this Agreement or any addendum thereto, is to be considered confidential and proprietary, and shall not be released, disclosed or otherwise made available to any third party without the express written consent of PARTNER.

**7. SUSPENSION AND/OR DELAY OF SERVICES**

- a) CLIENT may, at any time, by ten (10) days written notice to PARTNER, suspend further performance by PARTNER. If payment of invoices by CLIENT is not maintained on a thirty (30) day current basis, as stated above PARTNER may by ten (10) days written notice to the CLIENT suspend further performance until such payment is restored to a current basis. Suspensions for any reason exceeding thirty (30) days shall, at the option of PARTNER, make this Agreement subject to termination or renegotiation.
- b) All suspensions and/or delays in the performance of this Agreement not caused by PARTNER (other than under the Force Majeure provision of paragraph 9) shall extend the contract completion date for a term consistent with the extent of such suspension or delay. PARTNER shall be paid for all services performed up to the date of suspension or delay, plus suspension and/or delay charges. Suspension and/or delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred which are attributable to any suspension and/or delay.

**8. 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, PARTNER shall be paid for services performed to the termination notice date, plus reasonable termination charges. Termination charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred which are attributable to termination.

**9. FORCE MAJEURE**

Neither party shall be deemed in default of this Agreement or any order hereunder to the extent that any delay or failure in the performance of any obligation (other than the payment of money) results from any causes beyond its reasonable control and without its fault or negligence. For this purpose, such acts or events shall include, but are not limited to, storms, floods, unusually severe weather, epidemics, civil disturbances, terrorism, war, riot, strikes, lockouts or other industrial disturbances, and inability within reasonable diligence to supply personnel, information or material to the project. In the event that such acts or events occur, it is agreed that both parties shall use their best efforts to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the services covered by this Agreement.

**10. OWNERSHIP, MANAGEMENT AND USE OF DOCUMENTS**

- a) All materials resulting from PARTNER's efforts on this project including documents, calculations, maps, photographs, drawings, computer printouts, notes, samples, specimens and any other pertinent data, are instruments of PARTNER's professional service ("Instruments of Service"), and PARTNER shall retain ownership and property interest, including all patents and copyrights.
- b) PARTNER shall maintain for the CLIENT all materials as described in paragraph 10a above, in kind or on electronic media, for a period of not less than five (5) years after completion of the project, except for soil samples and specimens which shall be maintained for a period of two (2) months after the submission of PARTNER's final report, unless the CLIENT otherwise specifies, or unless otherwise required by applicable law. The CLIENT shall specify in advance and pay for all arrangements where special or extended maintenance of such materials by PARTNER is to occur.
- c) All Instruments of Service resulting from PARTNER's efforts on this project are not intended or represented to be suitable for reuse by the CLIENT or others. Reuse of said reports or other materials by the CLIENT without written permission from PARTNER for the specific purpose intended shall be at the user's sole risk, without any liability whatsoever on PARTNER's part, and to the fullest extent permitted by law CLIENT agrees to indemnify and hold harmless PARTNER for all claims, damages and expenses, including, but not limited to, attorneys' fees, arising out of such unauthorized reuse or from and against any action or claim brought by any person or entity claiming to have relied on the Instruments of Service without PARTNER's written authorization. Any reuse

of the Instruments of Service occurring with PARTNER's written permission shall entitle PARTNER to further compensation in amounts to be agreed upon with the CLIENT.

## 11. ELECTRONIC DOCUMENTS

- a) All drawings, specifications and/or other documents prepared by PARTNER or its subconsultants in electronic or other machine-readable format (Electronic Documents) are provided merely as a convenience to the CLIENT in connection with the CLIENT's performance of its responsibilities and obligations relating to the Work. Electronic Documents do not replace or supplement the paper copies of any drawings, specifications or other documents.
- b) The parties agree that Electronic Documents are not, nor shall they be construed to be, a product. It is expressly agreed by the CLIENT that there are no warranties of any kind made with respect to such Electronic Documents or in the media in which they are contained, either express or implied.
- c) If any differences exist between the printed and any Electronic Documents, the information contained in the Instruments of Service shall be presumed to be correct and take precedence over the Electronic Documents, unless PARTNER specifically advises CLIENT to the contrary in writing.
- d) CLIENT agrees not to add to, modify or alter in any way, or to allow others to add to, modify or alter in any way, Electronic Documents or any printed copies thereof, unless CLIENT has received the express written consent of PARTNER to do so.
- e) CLIENT further agrees that the electronic Documents were prepared for use in connection with this project only and that the Electronic Documents are supplied to CLIENT for the limited purpose stated above only. CLIENT agrees not to use, or allow others to use, the Electronic Documents, in whole or in part, for any purpose or project other than as stated above.
- f) To the fullest extent permitted by law CLIENT agrees to indemnify, defend and hold harmless PARTNER from any and all claims, judgments, suits, liabilities, damages, costs or expenses (including reasonable defense and attorneys fees) arising as the result of either: 1) a defect, error or omission in the Electronic Documents or the information contained therein, which defect, error or omission was not contained in the paper copies of the Instrument of Service or where the use of the paper copies of the Instrument of Service would have prevented the claim, judgment, suit, liability, damage, cost or expense; or 2) from any addition to, modification, alteration, change to, or misinterpretation, of the Electronic Documents.

## 12. INSURANCE

PARTNER maintains workers' compensation, employer's liability insurance, comprehensive general, automobile and \$1,000,000 of professional liability insurance coverage. Certificates of insurance evidencing such coverage shall be provided upon request.

## 13. INDEMNITY

- a) To the fullest extent permitted by law, CLIENT shall indemnify, defend and hold harmless PARTNER from and against all claims, damages, losses and expenses, whether direct or indirect, including but not limited to fees and charges of attorneys and court or alternative dispute resolution proceedings as set forth in Section 18, arising out of or resulting from the services or work of PARTNER or any claims against PARTNER arising from the acts, omissions or work of others, unless it is proven in a court of competent jurisdiction that PARTNER is guilty of negligence or willful misconduct in connection with the services and such negligence or willful misconduct was the cause of the damages, claims and liabilities.
- b) The obligations under this Section 13 and all other obligations to provide indemnity under this Agreement shall survive the termination of this Agreement.

## 14. LIMITATIONS OF LIABILITY

- a) PARTNER's liability for injury or loss arising from, out of or in any way relating to this Agreement from any cause(s) whatsoever, including, but not limited to, PARTNER's negligence, errors, omissions, strict liability, breach of contract or breach of any statutory duty or obligation, shall not exceed the total compensation received by PARTNER under this Agreement or \$50,000, whichever is greater.
- b) The CLIENT agrees to indemnify, defend and hold harmless PARTNER from any loss in excess of the limits determined in paragraph 14a above for injury or loss sustained by any person or entity including, without limitation, injury sustained by the CLIENT or any third party, allegedly caused by PARTNER's performance of services hereunder.
- c) To the fullest extent permitted by law CLIENT agrees to indemnify, defend and hold harmless PARTNER from any and all claims, judgments, suits, liabilities, damages, costs or expenses (including reasonable defense and attorneys fees) arising as the result of either: 1) a defect, error or omission in the Electronic Documents or the information contained therein, which defect, error or omission was not contained in the paper copies of the instrument of service or where the use of the paper copies of the instrument of service would have prevented the claim, judgment, suit, liability, damage, cost or expense; or 2) from any addition to, modification, alteration, change to, or misinterpretation, of the Electronic Documents.
- d) CLIENT agrees to notify any parties (e.g. construction manager, contractor, subcontractor, consultant, etc.) who may reasonably be expected to perform work on behalf of CLIENT in connection with any instrument of service prepared by PARTNER, of said limitation of professional liability, and require, as a condition precedent to their performing their services, a similar limitation of liability on their part in favor of PARTNER.
- e) It should be expressly understood that this limitation of liability is agreed by PARTNER and the CLIENT to be a reasonable assumption of risk based on the fee structure outlined in this Agreement. In the event that the CLIENT is unwilling to limit PARTNER's liability in accordance with the provisions set forth herein, CLIENT may, upon written request prior to acceptance of this Agreement request an increase in the limit of PARTNER's liability in consideration of increased professional fees for the assumption of greater risk for the services covered under this Agreement.
- f) Neither CLIENT or PARTNER shall be liable to each other for incidental or consequential damages, including, without limitation, loss of use or loss of profits, incurred by the CLIENT or the CLIENT's subsidiaries or successors, regardless of whether such claim is based upon alleged breach of contract, breach of any statutory duty or obligation, willful misconduct or negligent act or omission, whether professional or non-professional, of either party.
- g) The limitation of liability established under this Agreement shall survive the expiration or termination of this Agreement and shall apply to any additional services provided as the result of additional work orders, change orders or other CLIENT directives.

## 15. INDEPENDENT CONTRACTOR

PARTNER is and shall perform its services under this Agreement as an independent contractor and not as the CLIENT's agent, partner or joint venture. PARTNER is employed to render professional services only, as specified in the scope of services, and any payments made by the CLIENT are compensation solely for such services rendered. PARTNER's review or supervision of work prepared or performed by any individuals or firms employed by the CLIENT shall not relieve

those individuals or firms of complete responsibility for the adequacy of their work.

**16. ASSIGNMENT**

There shall be no assignment of the rights or obligations in this Agreement by either party without the written consent of the other party.

**17. DISPOSAL OF CONTAMINATED MATERIAL**

All materials, samples and/or waste of, or containing, hazardous, toxic and/or radioactive contaminants are the property and responsibility of the CLIENT and shall be the responsibility of CLIENT respecting the proper disposal thereof.

**18. DISPUTES**

All claims, disputes and other matters in question between the parties arising out of or relating to this Agreement or the breach thereof shall be addressed in the following manner:

- a) The parties shall enter into good faith negotiations to select a method of dispute resolution other than litigation, such as, arbitration, mediation or other methods of alternative dispute resolution;
- b) In the event the parties are unable to agree on a method of dispute resolution other than litigation, such suit shall be brought in the Superior Court of the State of New Jersey and the parties agree to submit to the jurisdiction of such Court.

**19. NOTICES**

Any notice given hereunder shall be deemed served when delivered in person or by commercial courier or express delivery service to an officer or other duly appointed representative of the party to whom the notice is directed, or if sent by registered, certified or duly posted regular mail, to the business address identified in the Proposal.

**20. GOVERNING LAW**

Unless otherwise provided in an attachment to this Agreement, the law of the State of New Jersey shall govern the validity of this Agreement, its interpretation, and remedies for contract breach or any other claims related to this Agreement.

**21. NO THIRD PARTY RIGHTS**

This Agreement shall not create any rights or benefits to parties other than the CLIENT and PARTNER.

**22. SEVERABILITY**

If any term, condition or provision of this Agreement is declared void or unenforceable, or limited in its application or effect, such event shall not affect any other provision hereof and all other provisions shall remain fully enforceable.

**23. SIGNATURES**

The signatories as identified in the proposal and/or other work orders, contract amendment requests or other CLIENT directives are the authorized representatives upon whose authority each party may rely in performance of this Agreement. Any information or notices as required or permitted under this Agreement are deemed to have been sufficiently given to either party if provided to the signatories at their referenced addresses, or to such parties and/or addresses as such signatories may subsequently designate.

PERSONNEL RATES	
TITLE	HOURLY RATE
Principal	\$195.00
Senior Technical Director	\$190.00
Senior Project Manager	\$185.00
Technical Director	\$175.00
Senior Technical Manager	\$165.00
Project Manager	\$155.00
Senior Project Professional	\$150.00
Technical Manager	\$150.00
Project Professional	\$145.00
Senior Project Specialist	\$140.00
Project Specialist	\$135.00
Senior Technical Professional	\$125.00
Technical Professional	\$120.00
Senior Technical Specialist	\$110.00
Technical Specialist	\$100.00
Senior Data/Field Specialist	\$95.00
Data/Field Specialist	\$85.00
Senior Technical Assistant	\$80.00
Technical Assistant	\$75.00
Junior Technical Assistant	\$70.00
Junior Data/Field Technician	\$65.00
Data Entry Specialist	\$55.00
Licensed Site Remediation Professional	\$225.00
REIMBURSABLE EXPENSES	
ITEM	FEE
Black & White Copy 8½ x 11	\$ 0.20/sheet
Black & White Copy 8 ½ x 14	\$ 0.30/sheet
Black & White Copy 11 x 17	\$ 0.40/sheet
Black & White Copy 24x36	\$ 2.85/sheet
Black & White Copy 30 x 42	\$ 4.25/sheet
Color Copy 8½ x 11	\$ 0.40/sheet
Color Copy 11 x 17	\$ 0.80/sheet
Color Copy 24 x 36	\$27.00/sheet
Color Copy 30 x 42	\$40.00/sheet
Mylar 24 x 36	\$27.00/sheet
Mylar 30 x 42	\$40.00/sheet
CD	\$50.00/disc
Subconsultants	115% of cost
Out-of-pocket expenses	115% of cost
Messenger Service up to 100 Miles Round Trip	\$100.00

Additional reimbursables include, but are not limited to delivery over 100 miles and mileage charged at Federal prevailing rates.