



**MELICK-TULLY
AND ASSOCIATES, P.C.**
GEOTECHNICAL ENGINEERS AND
ENVIRONMENTAL CONSULTANTS

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Consultant:
RAYMOND J. TULLY, P.E.

March 25, 2016

Readington Township Board of Education
P.O. Box 807
Whitehouse Station, New Jersey 08889

Attention: Ms. Steffi-Jo DeCasas
Business Administrator/Board Secretary

**Confirming Proposal/Agreement for Environmental Consulting Services
Environmental Consultation and File Review
Three Bridges School Property
Readington Township, Hunterdon County, New Jersey
Readington Township Board of Education**

Introduction

Melick-Tully and Associates, P.C. (MTA) is pleased to present this confirming proposal to provide environmental consulting services, and conduct a review of NJDEP and municipal files related to three closed underground storage tanks (USTs) previously located at the Three Bridges School property. The subject property is located at 480 Main Street in Three Bridges, Readington Township, Hunterdon County, New Jersey.

The available information indicates that the three USTs at the Three Bridges School property were registered with NJDEP and closed by excavation following obtaining closure plan approval from NJDEP in September 1991. NJDEP recently provided Readington Township Board of Education (RTBOE) with a correspondence dated February 10, 2016, requiring RTBOE to provide documentation regarding the UST closure and issuance of the no further action letter by NJDEP, as Department records did not indicate that an NFA was issued for the USTs.

The purpose of our services will be to provide environmental consultation on behalf of RTBOE, and review NJDEP and municipal files related to the three Bridges school USTs. The NJDEP and municipal file reviews were recently conducted on March 21, 2016.

Our fee to provide the services outlined above would be computed on a time and expense basis in accordance with the attached Schedule of Charges for Environmental Consulting Services. We estimate our fee to complete the work will be approximately \$1,500.

The terms and conditions of our contract and work are subject to our standard General Terms and Conditions for Environmental Consulting Services, a copy of which is attached.

The conclusions of our study would not be scientific certainties, but rather our professional opinion regarding the significance of the data gathered. We would not be able to represent that the site contains no contamination, recognized environmental conditions or other latent conditions beyond those detected or observed by us during the study.

During the course of the work, we would provide Worker's Compensation Insurance as required by law, and Bodily Injury and Property Damage Insurance in the amount of \$5,000,000.

We trust the above is in accordance with your understanding of our agreement. If this is not the case, please contact us immediately. As per your verbal authorization, we have commenced work on this project. Please return one signed copy of this agreement for our records.

Please do not hesitate to contact us if you have any questions regarding this proposal.

Very truly yours,

MELICK-TULLY and ASSOCIATES, P.C.



Richard D. Lev, CPG, LSRP
Senior Associate



Eugene M. Gallagher, Jr., P.E.
Vice President

RDL:EMG/rl
4557-006*1E
(2 copies submitted)
Attachments

ACCEPTED

For: _____
(Type or Print Name of Payer)

By: _____
(Type or Print Name of Authorized Representative)

Title: _____

Signature: _____

Date: _____

Melick-Tully and Associates, P.C. (MTA)

Schedule of Charges for Environmental Consulting Services

HOURLY PERSONNEL CHARGES

Principals	\$240.00*
Senior Project Managers	\$190.00
Project Managers	\$165.00
Staff Engineers/Scientists	\$135.00
Senior Field Engineers/Geologists	\$ 95.00**
Field Engineers/Scientists	\$ 85.00**
Laboratory Director	\$ 90.00
Laboratory and Equipment Technicians	\$ 69.00
Drafting CADD Operator	\$ 69.00
Word Processing/Reproduction	\$ 52.00

*A rate of \$350.00 will be charged for time spent by a Principal of the firm in providing and/or directly preparing to provide testimony for litigation, arbitration or mediation.

**Unless otherwise specified in MTA's proposal, all field engineering work on Saturday, Sunday and legal holidays, or overtime beyond eight hours on-site on a normal work day, will be charged at 1.5 times the posted rates.

EQUIPMENT CHARGES

Expenses incurred for equipment, supplies and facilities furnished by MTA are charged to the client in accordance with the terms of the Agreement for Consulting Services.

REIMBURSABLE EXPENSES

Expenses incurred for services, equipment, and facilities not furnished by MTA are charged to the Client at cost plus 15 percent. Automobile travel is charged at the rate authorized by the Internal Revenue Service. Incidental expenses incurred for the specific benefit of the Client are also reimbursable.

MELICK-TULLY AND ASSOCIATES, INC. (MTA)

**GENERAL TERMS AND CONDITIONS FOR
ENVIRONMENTAL CONSULTING SERVICES**

1.0 MTA's RESPONSIBILITIES

- 1.1 MTA's services consist of those services performed by MTA, MTA's employees, MTA's subcontractors, and MTA's agents as defined in the Agreement for Consulting Services.
- 1.2 MTA's services shall be performed as expeditiously as is consistent with the Agreement for Consulting Services, skill, and the orderly progress of rendering services.
- 1.3 MTA shall provide notice to the client of any and all known discharges of hazardous substances, and the client shall be responsible for reporting in writing with appropriate copy to MTA any and all discharges in accordance with State and/or Federal statute, rule or regulation. Where regulated by law, MTA shall notify regulatory agencies directly of any and all known discharges of hazardous substances.
- 1.4 MTA shall take no responsibility for health and safety procedures that may be required to be instituted or maintained at the subject site by the client, client's employees, client's subcontractors, client's agents, or any third-party on the subject site.

2.0 CLIENT'S RESPONSIBILITIES

- 2.1 The client shall provide full information regarding requirements for the project.
- 2.2 If requested by MTA, the client shall furnish evidence of its financial ability to fulfill its obligations under the Agreement for Consulting Services. MTA reserves the right to suspend work and/or delay commencement of its services pending receipt and acceptance of requested financial data.
- 2.3 The client shall provide MTA with written consent providing for MTA's right of ingress and egress onto the project site for the purpose of performing services as defined in the Agreement for Consulting Services, and as MTA deems necessary.
- 2.4 The client shall be exclusively responsible for reporting any and all discharges of hazardous substances or wastes in accordance with any applicable Local, State and/or Federal statute, rule, regulation, code or ordinance.

3.0 DURATION OF FEE SCHEDULE IN THE PROPOSAL FOR AN AGREEMENT FOR CONSULTING SERVICES

- 3.1 The fee schedule included in the Proposal/Agreement for Consulting Services shall remain in full force and effect for a period of ninety (90) days from the date of the proposal.
- 3.2 Should the Proposal be accepted and the Agreement for Consulting Services be executed, then the fee schedule included in that agreement shall remain in full force and effect for a period of ninety (90) days from the date of execution of that agreement, unless terminated for any reasons set forth in Article 5 of these terms and conditions.
- 3.3 Upon the expiration of ninety (90) days from execution of the Agreement for Consulting Services, or upon earlier or later expiration of the Agreement for Consulting Services, MTA shall have the right to increase fees for services, and to adjust the time for and scheduling of performance of services to accommodate increased costs and changing work loads.

4.0 PAYMENT FOR SERVICES

- 4.1 Invoices for services rendered under the Agreement for Consulting Services shall be transmitted to the client on a monthly (or more frequent interval) basis, and are payable upon receipt unless specified otherwise in our written Proposal.
- 4.2 Any unpaid balances shall be subject to an interest rate of 1.5% per month or the maximum permitted by law, with interest beginning to accrue thirty (30) days from the date of the invoice. In the event that the invoice is not paid voluntarily and promptly, and must be referred to an attorney and/or agency for collection, client agrees to pay a collection and/or attorney fee equal to 25% of the total amount due at the time it is referred for collection together with costs of suit and prejudgment interest at 1.5% per month (18% annually) and post-judgment interest as may be permitted by current rules governing the court system.
- 4.3 Payments received shall first be applied to accrued interest, with the balance, if any, applied to outstanding sums due and owing on invoices.
- 4.4 If the services provided in the Agreement for Consulting Services are subject to taxation or fees, such will be additional costs to be charged to the client.
- 4.5 The compensation provided by the client to MTA in the Agreement for Consulting Services shall be based either on a lump sum price, time and material basis, or fixed fee.

4.6 Where the Agreement for Consulting Services is based on time and materials, the following terms and conditions shall apply:

4.6.1 MTA shall charge a minimum time unit of four (4) hours for any field work.

4.6.2 Where applicable, equipment rental charges shall be applied to the project to cover cost of pilot-scale facilities or sophisticated apparatus, instrumentation or technical equipment.

4.6.3 Normal and customary personnel billing rate increases will become effective upon MTA's authorization and will be reflected in invoices submitted to the client for payment.

4.6.4 Project expenses properly chargeable to a time and materials contract shall include, but are not limited to: travel and living expenses incurred by MTA's field personnel furnishing services under the Agreement for Consulting Services; shipping and reproduction costs; computer, software, and record processing time; drafting materials and supplies; and materials and supplies purchased for performing services.

4.6.5 Fees for the services of professional consultants and technical subcontractors, advisors, and legal counsel retained for the project by MTA, and for equipment rental shall be billed to the client at cost plus a 15% handling and administrative charge.

5.0 TERMINATION OF SERVICES

5.1 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. Further, this agreement may be terminated by MTA upon two (2) days written notice to client in the event of client's failure to pay MTA invoices within fifteen (15) days of clients receipt of such invoices. In the event of termination, MTA shall be paid for services performed through the date MTA actually terminates performance of services together with reasonable termination expenses as defined in Section 5.2 below.

5.2 In the event of termination or suspension for more than three (3) months, prior to completion of all work contemplated by this agreement, MTA may complete such analysis and records as are necessary to complete its 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 MTA in completing such analyses, records and report.

5.3 In the event of a notice of termination, a final invoice will be issued on the first or fifteenth of the month in which the termination notice is issued, whichever comes first. The date of the termination notice shall be the effective date of termination.

5.4 Where compensation for MTA in the Agreement for Consulting Services is based on a Lump Sum, the invoice issued subsequent to termination notice will be calculated on a percentage of services performed prior to the notice of termination, plus reimbursement for termination costs and expenses.

5.5 Where compensation for MTA in the Agreement for Consulting Services is based on Time and Materials, the invoice issued subsequent to termination notice will be calculated on reimbursement for all services performed prior to the notice of termination, plus reimbursement for termination costs and expenses.

5.6 Where compensation for MTA in the Agreement for Consulting Services is based on a Fixed Fee, the invoice issued subsequent to termination notice will be calculated on a pro-rated sum of the fixed fee, plus reimbursement for termination costs and expenses.

5.7 In the event that a notice of termination is issued, MTA shall be entitled to termination expenses. Termination expenses are in addition to compensation, and include expenses which are directly attributable to termination, and shall be computed as a percentage of the total compensation for services rendered under the Agreement for Consulting Services, whether the agreement is based on a lump sum, time and materials or fixed fee, at 3% of the total compensation prior to termination.

5.8 Termination expenses shall be included in the final invoice issued in the event of termination.

6.0 EXISTING HAZARDOUS CONDITIONS

6.1 MTA shall assume no liability for the existence of any hazardous or toxic waste, material, chemical, compound, substance or any other type of environmental hazard or pollution, whether such be latent or patent, or for the release thereof on the Project, and the client agrees to indemnify MTA pursuant to Article 10.0 of these General Terms and Conditions.

6.2 MTA shall assume no liability for the creation of any hazardous or toxic waste, material, chemical, compound, substance or any other type of environmental hazard or pollution, whether such be latent, patent, or for the release thereof on the Project, and the client agrees to indemnify MTA pursuant to Article 10.0 of these General Terms and Conditions.

6.3 MTA shall have no liability for any release of environmental hazards in violation of any federal, state or local statute, law,

code, regulation, or ordinance, and the client agrees to indemnify MTA pursuant to Article 10.0 of these General Terms and Conditions.

7.0 UNFORESEEN OR CHANGED CONDITIONS

7.1 MTA shall not be required to provide services or to continue to provide services under the Agreement for Consulting Services when or upon discovery that conditions which were reasonably unforeseeable exist or which were known to the client, but not disclosed to MTA exist, or where conditions have changed subsequent to the execution of the Agreement for Consulting Services. In any such event, however, client shall pay MTA for services performed through date of such discovery or notice in accordance with Section 5.0 above.

7.2 Unforeseen and changed conditions shall include but not be limited to: the client's failure to provide information or facilities; delays caused by unforeseen events, including fires, strikes, riots, acts of God; unavailability of labor, materials, or other services; actions of courts, administrative agencies or of any legislative body.

8.0 DISPOSITION OF SAMPLES AND EQUIPMENT

8.1 Disposition of Unpolluted Samples: All samples of unpolluted soil, rock and water may be discarded 30 days after submission of our final report unless you advise us to deliver the samples to you, at your sole expense, or to store them for an agreed storage charge.

8.2 Hazardous or Potentially Hazardous Samples and Materials: In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment, as defined by federal, state or local statutes, regulations, or ordinances, we will, after completion of testing and at your (Client's) expense, 1) return such samples and materials to Client, or 2) using a manifest signed by Client as generator and transporter, we will have such samples and materials transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transport and disposal of samples and materials. Client recognizes and agrees that we are acting as a bailee and at no time assume title to said waste.

8.3 Contaminated Equipment: All laboratory and field equipment contaminated in performing our services will be cleaned at your (Client's) expense. Contaminated consumables will be disposed of and replaced at Client's expense. All such equipment shall be delivered to Client or disposed of in a manner similar to that indicated for hazardous samples. Client agrees to pay the fair market value of any such equipment which cannot reasonably be decontaminated.

9.0 SUBTERRANEAN STRUCTURES AND EXISTING TERRAIN

9.1 MTA shall have no liability for damages or injury relating or resulting from disturbances to subterranean structures, such as pipes, tanks, lines or cables, unless the client has provided full information to MTA regarding the location of such, and the client agrees to indemnify MTA pursuant to Article 10.0 of these General Terms and Conditions.

9.2 MTA shall have no liability for damages to existing terrain which may unavoidably result from the acts, studies, project work activities, and movement of equipment, and the client agrees to indemnify MTA pursuant to Article 10.0 of these General Terms and Conditions.

10.0 INDEMNIFICATION

10.1 The client agrees to indemnify, save and hold harmless, and defend MTA, its shareholders, directors, officers, employees and agents from against any and all claims, damages, losses, actions, fines, expenses and liabilities, whether direct, indirect or consequential to have resulted from or which are caused by the acts, errors, omissions of the client, its agents, contractors, representatives or employees; or arising from any act or negligence of client or any of its employees, agents, contractors, or representatives; or arising by reason of any act of fraud, dishonesty, forgery, embezzlement, wrongful abstraction or willful misapplication by client, and from and against costs, counsel fees, expenses, liabilities incurred or arising from any such claim or any action or proceeding brought thereon. It is the intention of this indemnification provision that client shall indemnify MTA to the fullest extent permitted by law.

10.2 In addition to and not by way of limiting or otherwise restricting the indemnification provided in Section 10.1 above, the client agrees to indemnify, save and hold harmless and defend MTA, its shareholders, directors, officers, agents and employees from and against all damages, losses, expenses, actions, fines and liabilities resulting from any of the matters described in sections 6.1, 6.2, 6.3, 8.1 and/or 8.2 above, including costs, legal counsel fees, expenses and liabilities incurred or arising from any claim or action or proceeding brought thereon.

11.0 DELAYS

11.1 MTA shall not be responsible for any damages to the client or any other party for delays, lost profits, or any other consequential or incidental damages of any kind, whether or not such damages were reasonably foreseeable.

12.0 PROMOTIONAL MATERIALS

12.1 MTA shall have the authority without prior consent of the client, to use the client's name, a general description of the

services performed, and a general description of the project for promotional purposes.

13.0 MODIFICATIONS

13.1 The Agreement for Consulting Services, and these General Terms and Conditions constitute the entire Agreement between the parties.

13.2 The Agreement for Consulting Services and these General Terms and Conditions shall not be modified, except if such modifications are made in writing and signed by MTA and the client.

14.0 RISK ALLOCATION

14.1 Many risks potentially affect MTA by virtue of entering into this Agreement for Consulting Services on behalf of client. The principal risk is the potential for human error by MTA. For Client to obtain the benefit of a fee which includes a nominal allowance for dealing with MTA's liability, Client agrees to limit MTA's liability to Client and to all other parties for claims arising out of MTA's performance of the services described in this Agreement. The aggregate liability of MTA will not exceed \$25,000 for negligent professional acts, errors, or omissions, and Client agrees to indemnify and save harmless MTA, its shareholders, directors, officers, agents and employees from and against all claims, damages, losses and expenses, including costs and counsel fees in excess of the monetary limit established above.

14.2 Limitations on liability and indemnities in this Agreement are business understandings between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action, except for willful misconduct or gross negligence. The parties also agree that Client will not seek damages in excess of the limitations indirectly through suits with other parties who may join MTA as a third-party defendant. Parties mean Client and MTA and their officers, employees, agents, affiliates, and subcontractors.

14.3 Both Client and MTA agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential or punitive damages arising out of or related to this Agreement.

14.4 The above General Terms and Conditions have been reviewed and are hereby agreed to and accepted on the same date as the Agreement for Consulting Services of which they are apart and signed.