

Via Email (LLepore@westorange.org)

June 7, 2022

Mr. Leonard R. Lepore, P.E., Municipal Engineer
Township of West Orange - Director of Public Works
25 Lakeside Avenue
West Orange, NJ 07052

**Re: PROPOSAL FOR ENVIRONMENTAL SERVICES –
OFF-SITE VAPOR INTRUSION INVESTIGATIONS
4-10 CENTRAL AVENUE
BLOCK 9, LOT 32
WEST ORANGE, NEW JERSEY
MATRIX NO. 18-286-01**

Dear Mr. Lepore:

Matrix New World Engineering, Land Surveying, and Landscape Architecture, P.C. (Matrix) is pleased to provide this proposal to complete off-site vapor intrusion investigation activities and prepare a supplemental Remedial Investigation Report (RIR) for the Former Biddelman, Inc (Biddelman) property, located at 4-10 Central Avenue (Block 9, Lot 32) in the Township of West Orange (Township), New Jersey (Site). Matrix prepared an Application for a Hazardous Discharge Site Remediation Fund (HDSRF) Grant to complete this work (additional off-site vapor intrusion investigation activities) and submitted the HDSRF Grant Application to the New Jersey Economic Development Authority (NJEDA) and the New Jersey Department of Environmental Protection (NJDEP) on October 21, 2021. However, the NJDEP wants the off-site vapor intrusion investigations completed as soon as possible and is not willing to let the Township wait until the RA HDSRF Grant has been approved and the funds received by the Township. The NJDEP considers the RIR to be incomplete until the additional vapor intrusion sampling has been completed. According to DataMiner, the mandatory RIR deadline is August 5, 2022 therefore, the additional off-site vapor intrusion investigations will need to be completed and the RIR revised and submitted to meet this mandatory timeframe and remain in compliance with the NJDEP.

The off-site vapor intrusion activities will be completed in compliance with the NJDEP Technical Requirements for Site Remediation (TRSR), the Site Remediation Reform Act (SRRA), the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), and the NJDEP's applicable guidance documents.

SCOPE OF WORK

The scope of services and associated fees are described in below.

Task 1: Vapor Intrusion Investigation

Matrix will coordinate the necessary access agreements to conduct the vapor intrusion activities in the off-site properties identified below prior to scheduling the field activities. The vapor intrusion investigation activities will include the collection of sub-slab soil gas (SSSG), indoor air (IA), and ambient air (AA) samples from within and beneath the off-site property buildings. At least 24 hours prior to completing the SSSG and IA sampling, Matrix will complete building walkthroughs and

If the contaminants of concern are identified in the SSSG samples above the NJDEP RSGSL or NRSGSL, then the contingent IA/AA samples will be analyzed. The IA/AA samples will be compared to the NJDEP Non-Residential Indoor Air Screening Levels (NRIASL), the NJDEP Non-Residential Rapid Action Levels (NRRAL), NJDEP Residential Indoor Air Screening Levels (RIASL), and the NJDEP Residential Rapid Action Levels (RRAL).

Following receipt of the analytical results, Matrix will prepare the NJDEP required Full Laboratory Data Deliverable Form and Vapor Investigation Finding Letter for submission to the NJDEP, West Orange Health Department, the New Jersey Department of Health (if indoor air samples are analyzed), and owners/occupants of the investigated buildings. The report will summarize investigation activities, results, findings, conclusions, and recommendations for the property.

In addition, per NJDEP request Matrix will complete an Open Public Records Act (OPRA) request for the documents associated with an upgradient property located at 15 Central Avenue (Block 10, Lot 1.10) to confirm a vapor intrusion investigation has been completed. This property is currently within 100 feet of the Biddelman groundwater plume. However, this property is part of the Site Remediation Program (SRP) with Program Interest No (PI No) G00040517 (Former Kaye & Macdonald Incorporated) and based on analytical data provided by their LSRP has their own vapor intrusion trigger. Based on NJDEP DataMiner, a Full Laboratory Data Deliverables Form and Analytical Results were received by the NJDEP on February 27, 2019.

Task 2: Revised Remedial Investigation Report

Following the receipt and evaluation of the vapor intrusion data, the RI Report and associated forms will be revised and will summarize the results of the additional off-site vapor intrusion remedial investigation activities. The report will consist of figures, tables, conclusions, and recommendations. Following a review of the Draft Report by the Township of West Orange, comments will be incorporated in the revised Final Remedial Investigation Report that will be submitted to NJDEP. This revised RIR will need to be submitted to the NJDEP on or before August 6, 2022.

The following forms may be required during the addendum RI:

- Case Inventory Document (CID)
- Authorization to Submit a Report Through NJDEP Online
- Cover/Certification Form
- CEA Fact Sheet
- Updated Receptor Evaluation

Finally, Matrix will notify the NJDEP of an off-site source of CVOCs mitigating onto the Biddelman Property from an unknown source. Once the NJDEP is notified, the LSRP will issue an Area of Concern (AOC) Response Action Outcome (RAO) to release the Township of responsible associated with the contamination identified in monitoring well MW-11D (off-site contamination not associated with Biddelman).

COSTS

The following are the estimated costs for the tasks described herein to complete the revised RI for the Biddelman Site. All work will be conducted in accordance with the attached standard terms and conditions and LSRP Special Provisions.

We thank you for the opportunity to be of service to you on this project. Matrix is prepared to implement the described Scope of Work upon receiving a signed copy of this letter. If you have any questions or require any additional information, do not hesitate to contact us at (973) 240-1800.

Sincerely,

Allison Molnar

Allison Molnar
Project Manager

Richard Britton

Richard Britton, P.G., LSRP
Senior Technical Director

Authorization to Proceed: _____
Name/Title

Date: _____

Attachments: Terms and Conditions
Special Provisions - LSRP

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES
Matrix New World Engineering, Land Surveying and Landscape Architecture, PC

Section 1: SERVICES

Matrix New World Engineering, Land Surveying and Landscape Architecture, PC (Matrix) agrees to perform the professional services (the "Services") as described in the Proposal incorporated herein by reference for the CLIENT on a best efforts, time and materials basis, consistent with the applicable standard of care, under the terms and conditions set forth below. Matrix reserves the right to amend the contents of the Proposal, if written authorization is not received within 90 days. These Terms and Conditions together with the Proposal constitute the agreement between Matrix and the CLIENT for the Services (the "Agreement").

Section 2: COMPENSATION

The CLIENT shall be responsible for all costs specifically enumerated in the proposal. For any costs set forth in the proposal as an estimated range, Matrix shall provide CLIENT with an exact cost as soon as it can be determined.

CLIENT shall also be responsible for any REIMBURSABLE COSTS not specifically set forth in the proposal. REIMBURSABLE COSTS include: out-of-pocket expenses, the cost of which shall be charged at actual cost plus an administrative charge of fifteen percent (15%) and shall be itemized and included in the invoice. Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (lodging, meals, etc.), job-related mileage at the prevailing IRS mileage rate, long distance telephone calls, printing and reproduction costs, and survey supplies and materials.

Section 3: CLIENT'S OBLIGATIONS

To assist Matrix in performance of the Services, CLIENT shall provide Matrix with appropriate material, data and information in its possession pertaining to the specific project or activity. Matrix shall be entitled to rely upon the accuracy and completeness of services and information furnished by the CLIENT and CLIENT's consultants.

The CLIENT will advise Matrix of the nature and extent of any hazardous waste at the site. If Matrix discovers after it undertakes the Services that the site is of a different nature of hazard as defined by the client, or if unanticipated hazards are presented, the CLIENT and Matrix agree that the scope of services, schedule and estimated budget fee shall be adjusted as needed to complete the work without injury or damage.

Unless otherwise specifically provided in this agreement, Matrix and its consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the project site.

Section 4: INVOICE PROCEDURE AND PAYMENT

Matrix will submit invoices to the CLIENT monthly and a final bill upon completion of the Services. Payment is due thirty (30) days from invoice date. CLIENT agrees to pay a finance charge of one and one-half percent (1.5%) per month, or the maximum rate allowed by law on past due accounts. CLIENT will be liable for all collection and court costs, disbursements, staff time expended for court appearances and depositions, and attorney's fees incurred in the collection of any outstanding invoices.

Section 5: OWNERSHIP OF DOCUMENTS

All survey notes, drawings, bills of materials, specifications, blueprints, reports, calculations, and all other material prepared by Matrix and its consultants in connection with the specific project, including those in electronic form, are Instruments of Service to be used solely with respect to this Project. Matrix and its consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights including copyright.

Upon execution of Agreement, Matrix grants to CLIENT a non-exclusive license to reproduce the Instruments of Service solely for the purposes of constructing, using, and maintaining the Project, provided that CLIENT shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. CLIENT shall not assign, delegate, sub-license, pledge or otherwise transfer any license granted herein to any other party without the prior written agreement of Matrix.

Any unauthorized use and/or use of the Instruments of Service in violation of this Agreement, shall be at CLIENT'S sole risk and without liability to Matrix and its consultants, and CLIENT shall defend and indemnify MATRIX and its consultants against any claim and damages arising from such unauthorized use. The terms of this Section shall apply unless and until it is adjudged by a court of competent jurisdiction that CLIENT rightfully terminated this Agreement for cause under Section 19.

If and upon the date that Matrix is adjudged in default of this agreement by a court of competent jurisdiction, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting CLIENT to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections, or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

If set forth in the Proposal, the Instruments of Service shall become the co-owned property of the CLIENT and shall be transferred to the CLIENT upon completion of the project and upon receipt of complete payment for the scope of work outlined in the Proposal. Matrix may retain a single copy of such information and documents.

Section 6: CONFIDENTIALITY

Matrix agrees to keep confidential and not to disclose to any person or entity, other than Matrix's employees and subcontractors, without the prior consent of the CLIENT, all data and information not previously known to and generated by Matrix, or furnished to Matrix and marked CONFIDENTIAL by the CLIENT in the course of Matrix's performance hereunder; provided, however, that this provision shall not apply to data which are in the public domain, or were previously known to Matrix, or were acquired by Matrix independently from third parties not under obligation to CLIENT to keep said data and information confidential. CLIENT shall not restrict Matrix from complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction.

The technical and pricing information contained in any proposal submitted by Matrix as to this project, or in the Agreement or any addendum thereto, is

Matrix may terminate services if proof of additional insured status is not provided prior to the start of construction without any liability to CLIENT for resulting damages, whether due to delay or otherwise.

Section 13: INDEMNITY**A. Matrix**

Matrix agrees to indemnify and hold harmless CLIENT from and against any damages (including legal fees and costs of investigation where recoverable by law) to the actual extent of negligence of Matrix in the performance of the Services hereunder, provided that such loss, damage, liability or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property.

B. CLIENT

The CLIENT, agrees to indemnify and hold harmless Matrix from and against any damages, (including legal fees and costs of investigation where recoverable by law) to the actual extent of negligence of the CLIENT, or anyone directly or indirectly employed by the CLIENT, in the performance of the CLIENT's obligations under the Agreement, any non-conforming wastes waste(s) or discrepancies in the pertinent manifest(s) as defined by applicable regulations, or an condition existing at the work site(s) prior to the date of the Agreement or caused by anyone directly or indirectly employed by the CLIENT.

Section 14: LIMIT OF LIABILITY

Notwithstanding any other provision contained in the Agreement

- A. In no event shall Matrix, its employees, agents, consultants (including subcontractors) be responsible for any incidental, indirect, impact, or consequential damages (including loss of profits), liabilities or expenses incurred by the CLIENT or any third party as a result of Matrix's performance or nonperformance of the Services contracted for herein, and the CLIENT waives all such incidental, indirect, impact, or consequential damages.
- B. The obligations of Matrix under the Agreement are not intended to and shall not be personally binding on, nor shall any resort be had to the private properties of, any parent, subsidiary or affiliate of Matrix, or any of their respective officers, directors, shareholders, partners, principals, members, managers, beneficiaries, employees, consultants (including sub-contractors) or agents. Any provision in this Agreement that inures to the benefit of Matrix shall also inure to the benefit of Matrix's officers, directors, shareholders, partners, principals, members, managers, beneficiaries, employees, consultants (including sub-contractors) or agents.
- C. Matrix's total liability to CLIENT for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to the Agreement from any cause or causes, including but not limited to Matrix's errors, negligence, omissions, strict liability, breach of contract or breach of warranty, shall not exceed the total contract amount for the Services provided by Matrix or the limit of liability available at the time of the claim, whichever is lesser.
- D. Matrix disclaims, and the CLIENT waives, any implied warranties of merchantability or fitness for a particular purpose with respect any equipment or other personal property procured by Matrix and provided to the CLIENT as part of any Services.
- E. Matrix and CLIENT agree that, to the extent any damages are covered by property insurance during construction, or afterwards, Matrix and CLIENT waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Matrix and CLIENT, as appropriate, shall require of the contractors, sub-consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.
- F. CLIENT recognizes and expects certain Change Orders may be required due, in whole or in part to omissions, ambiguities, or inconsistencies in the Drawings, specifications, and other design documentation furnished by Matrix or as a result of the other professional services performed or furnished by Matrix under this Agreement, and that Matrix is not responsible for the costs associated with these Change Orders to the extent Change Orders include any cost that CLIENT would have incurred if the covered Change Order work had been included originally in the Drawings, specifications, and other design documentation, without any omission, ambiguity, or inconsistency in the Construction Documents.
- G. To the maximum extent permitted by law, the limitations on damages, the releases from liability, the limitations of liability, and the exclusive remedies provisions expressly provided in the Agreement shall apply even in the event of the fault of Matrix(in whole or in part), including but not limited to negligence, strict liability or breach of contract of Matrix.

Section 15: PROJECT DELAYS

If Matrix is delayed at any time in performing the Services for any specific project or activity by an act, failure to act, or neglect of the CLIENT or the CLIENT'S employees or any third parties; by changes in the scope of work; by unforeseen circumstances including delays authorized by the CLIENT and agreed to by Matrix; by acts of force majeure including, without limitation, fires, floods, riots, and strikes; by delays caused by foreign or domestic governmental acts or regulations; or by any cause beyond the reasonable control of Matrix, then the time for completion of the Services shall be extended based upon the impact of the delay. Matrix shall receive an adequate compensation adjustment if the delays caused by any of the above result in changes, require additional services, or result in additional costs to Matrix.

Section 16: ASSIGNMENT

Matrix and CLIENT shall not assign the Agreement in whole or part without the written consent of the other, except that CLIENT may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the CLIENT'S rights and obligations under this Agreement, including full payment of all sums due for services rendered. Matrix shall only execute consents reasonably required to facilitate such assignment. Matrix in no way is prohibited from retaining consultants or subcontractors, or persons and entities not in its employ, when it is appropriate to do so. Such persons and entities include, but are not limited to, surveyors, specialized consultants, drilling contractors, and testing laboratories. Matrix's use of others for additional services shall not be unreasonably restricted by the CLIENT provided Matrix notifies the CLIENT in advance.

Section 17: THIRD PARTY EXCLUSION

Nothing in this Agreement shall be construed to create a cause of action in favor of any third parties, it being the express intent not to create any third-party beneficiaries to this Agreement.

Section 18: SEVERABILITY

If any clause or section of the Agreement shall be deemed void or invalid, such a decision shall only apply to that particular section(s) and shall not render the rest of the Agreement invalid. The balance of the Agreement shall remain in force.

ATTACHMENT 2
SPECIAL PROVISIONS - LSRP

- 1.5 The Client shall permit Matrix and its LSRP to rely upon work product prepared by any prior environmental consultant in order to allow Matrix and its LSRP to meet their obligations under this Agreement and the LSRP Program.
- 1.6 As part of the LSRP Program, the NJDEP may audit with or without cause, work product developed under the LSRP Program, respectively. If the NJDEP conducts such an audit, the LSRP responses to such requests for information and additional services not included in the current Scope of Services and that Matrix New World shall be compensated therefore on substantially the same basis as it is compensated for Services provided under this Agreement.