

Via Email (JGross@westorange.org & zcarballo@westorange.org)

February 1, 2023

Township of West Orange
66 Main Street
West Orange, New Jersey 07052
Attn: John Gross & Zayibeth Carballo

**RE: REMEDIAL ACTION ACTIVITIES
SELECTO FLASH INCORPORATED (FORMER)
18 CENTRAL AVENUE
BLOCK 9, LOT 36
TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
SRP PI NO. 027054
MATRIX NO. 17-296**

**BIDDELMAN, INC (FORMER)
4-10 CENTRAL AVENUE
BLOCK 9, LOT 32
TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
SRP PI NO. G000006148
MATRIX NO. 18-286-01**

Dear Ms. Carballo and Mr. Gross:

As requested, Matrix New World Engineering, Land Surveying and Landscape Architecture, P.C. (Matrix) is pleased to submit this proposal for environmental services for the completion of remedial action activities at the Selecto Flash property located at 18 Central Avenue, West Orange, New Jersey (Block 9; Lot 36) and the Biddelman property located at 4-10 Central Avenue, West Orange, New Jersey (Block 9, Lot 32). The Township of West Orange (Township) has previously prepared and submitted a Hazardous Discharge Site Remediation Fund (HDSRF) grant to the New Jersey Economic Development Authority (NJEDA) and New Jersey Department of Environmental Protection (NJDEP) for this work. This grant application has been approved by the NJEDA and the monies to complete the remediation are available.

The scope of this project includes the completion of Remedial Action (RA) activities and the preparation of a Remedial Action Reports (RAR) and Site-Wide Response Action Outcomes (RAO), if remediation is complete for the referenced Sites above (Selecto Flash and Biddelman). The RA is scoped to comply with the Site Remediation Reform Act (SRRA), N.J.S.A 58:10C-1 et seq., the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), N.J.A.C. 7:26C, the Technical Requirements for Site Remediation (TRSR), N.J.A.C. 7:26E, and applicable NJDEP Guidance Documents. Oversight of remedial activities will be conducted by a Matrix Licensed Site Remediation Professional (LSRP).

The proposed RA will include excavation and off-site disposal of all impacted soils with trichloroethene (TCE), tetrachloroethene (PCE), and vinyl chloride that exceed the NJDEP's Residential or Non-Residential Direct Contact Soil Remediation Standards (RDCSRS or NRDCSRS) and the Default Impact to Groundwater Soil Screening Levels (IGWSSL) (Selecto Flash Site) and NJDEP Residential Inhalation Exposure Pathway Soil Remediation Standards (RISRS), Residential Ingestion-Dermal Exposure Pathway Soil Remediation Standards (RIDSRS), and/or Migration to Groundwater Exposure Pathway Soil Remediation Standards (MGWSRS) (Former Biddelman Site) within the unsaturated zone. Prior to initiating the RA activities, New Jersey One Call will be notified, all permits will be obtained, and a Soil Erosion and Sediment Control (SESC) Plan will be completed and submitted to the Essex County

Soil and Water Conservation District (SWCD) in accordance with N.J.A.C. 7:26E-5.6. All approved SESC measures will be installed prior to the start of the RA activities. Post remediation groundwater monitoring will be conducted to monitor the effectiveness of the RA. The following sections describe each of these remedial tasks in more detail.

SCOPE OF SERVICES

The scope of services and associated fee is described in detail below:

Task 1: Selecto Flash Soil Remediation

Excavation will be required to remove the impacted soils above the NJDEP's RDCSRS and NRDCSRS in "Hot Spot" areas on the Selecto Flash Site. Based on existing data, five hot spot excavations are anticipated and include:

- Hot Spot Areas 1 and 2 - AOC-2A – French Drain Excavation: 50 ft by 10 ft by 4 ft (74 cubic yards) and 15 ft by 5 ft by 8 ft (22 cubic yards), approximately 120 cubic yards;
- Hot Spot Areas 3 and 4 - AOC-2B - Floor Drain in Wash/Rinse Room Excavation: 26 ft by 35 ft by 6 ft (202 cubic yards), approximately 202 cubic yards; and
- Hot Spot Area 5 - AOC-4 – Drum Storage Pad, AOC-10C – Paint and Solvent Storage Building, and AOC-11 – Staining on Drum Storage Pad: 55 ft by 45 ft by 7.5 ft (687.5 cubic yards), approximately 688 cubic yards.

A total of 986 cubic yards or 1,479 tons of F-listed waste will need to be excavated and disposed of off-site. Matrix has added a 15% contingency on the (1) hot spot excavation volume as the soil expansion factor and (2) to the number of post excavation samples collected. The disposal of 1,133 cubic yards or 1,700 tons of F-listed waste is budgeted. Due to the most economical option, the F-listed waste will be transported to a facility in Canada and the costs per ton for disposal at this facility is expected to be between \$275 and \$300 per ton with 10% markup from the subcontractor. To be conservative, Matrix has used the \$300 per ton in the budget for disposal of the F-listed waste. Finally, the disposal facility has a surcharge of \$360 per load (flat fee to go through a TSDF with an export permit in place) and \$35 per truckload EPA manifest upload fee with a 10% markup from the subcontractor. This cost has been included.

Matrix will direct soil excavation activities at the "Hot Spot" areas using the historic data and visual and olfactory observations with a calibrated photo-ionization detector (PID) [MiniRae parts per billion (ppb) meter]. Upon the completion of the soil excavation activities, post excavation samples will be collected in accordance with the NJDEP TRSR. Up to 40 soil samples will be collected from the "Hot Spot" excavations including side wall and base samples. Post-excavation soil samples (for VOC analysis only) will be collected from the excavation sidewalls in accordance with NJDEP regulation and guidance at a rate of one sample location per 30 feet of sidewall. Bottom samples will be collected in accordance with NJDEP regulation and guidance at a rate of one sample per 900 square feet. In addition, up to 5 waste classification soil samples will be collected and analyzed per the facilities requirements. The disposal facility also requires the collection and analysis of one sample by a Canadian certified lab at a cost of \$1,500 plus shipping to Canada.

Following the remediation and post-excavation soil sampling activities, the excavation will be backfilled and compacted to grade with certified clean fill. All excavation activities will be documented in the form of photographs, field measurements referencing existing site features, and completion of applicable field forms. Before beginning excavation activities, the "Hot Spot" areas to be excavated will be clearly marked with the horizontal limits. Removal of impacted soils will be verified by post excavation sampling, which will be compared to the NJDEP's RDCSRS, NRDCSRS, DIGWSSL, and SSIGWSRS, where applicable.

Task 2: Biddelman Soil Remediation

Excavation will be required to remove the impacted soils at the Site above the NJDEP RISRS, RIDSRS, NRISRS, and/or NRIDSRS in "hot spot" areas on the Former Biddelman Site. In addition, some impacted soils at the Site above the NJDEP MGWSRS will be required to be excavated in order to help clean up groundwater or due to proposed redevelopment plans. Based on existing data, seven hot spot excavations are anticipated:

- Hot Spot Area 1 - AOC-3 – Floor Drains Excavation: 35 ft by 16 ft by 8 ft (165.9 cubic yards), approximately 166 cubic yards;
- Hot Spot Area 2 – AOC-1 – Former 4,000-gallon PCE AST Excavation: 50 ft by 25 ft by 15 ft (694.4 cubic yards), approximately 695 cubic yards;
- Hot Spot Area 3 – AOC-6C – NJDEP Case No. 17-04-20-1128-26 and AOC-15 – Former Operations Excavation: 40 ft by 60 ft by 8 ft (711.1 cubic yards), approximately 711 cubic yards;
- Hot Spot Area 4 – AOC-15 – Former Operations Excavation: 20 ft by 10 ft by 7.5 ft (55.5 cubic yards), approximately 56 cubic yards;
- Hot Spot Area 5 – AOC-15 – Former Operations Excavation: 70 ft by 75 ft by 9 ft (1,750 cubic yards), approximately 1,750 cubic yards;
- Hot Spot Area 6 – AOC-15 – Former Operations Excavations: 40 ft by 25 ft by 4 ft (148.1 cubic yards), approximately 148 cubic yards.
- Area 7 - Off-Site Hot Spot Area – AOC-18 – Off-site Soil Contamination: 35 ft by 10 ft by 8 ft (103.7 cubic yards), approximately 104 cubic yards.

A total of 3,630 cubic yards or 5,445 tons of F-listed waste will need to be excavated and disposed of off-site. Matrix has added a 15% contingency on the (1) hot spot excavation volume as the soil expansion factor and (2) to the number of post excavation samples collected. The disposal of 4,175 cubic yards or 6,260 tons of F-listed waste is budgeted. Due to the most economical option, the F-listed waste will be transported to a facility in Canada and the costs per ton for disposal at this facility is expected to be between \$275 and \$300 per ton with 10% markup from the subcontractor. To be conservative, Matrix has used the \$300 per ton in the budget for disposal of the F-listed waste. Finally, the disposal facility has a surcharge of \$360 per load (flat fee to go through a TSDF with an export permit in place) and \$35 per truckload EPA manifest upload fee with a 10% markup from the subcontractor. This cost has been included.

Matrix will direct soil excavation activities at the “Hot Spot” areas using the historic data and visual and olfactory observations with a calibrated PID [MiniRae parts per billion (ppb) meter]. All excavation activities will be documented in the form of photographs, field measurements referencing existing site features, and completion of applicable field forms. Before beginning excavation activities, the area to be excavated will be clearly marked with the horizontal limits. Since a few of the hot spot areas have been delineated using extrapolation due to safety concerns (drilling in an abandoned building), post excavation soil sampling will be completed to ensure removal of all impacted soils above the NJDEP RIDSRS, RISRS, and SSMGWSRS. Post excavation samples will be collected in accordance with the NJDEP TRSR. Up to 75 soil samples will be collected from the “Hot Spot” excavations including side wall and base samples. Post-excavation soil samples (for VOC analysis only) will be collected from the excavation sidewalls in accordance with NJDEP regulation and guidance at a rate of one sample location per 30 feet of sidewall. Bottom samples will be collected in accordance with NJDEP regulation and guidance at a rate of one sample per 900 square feet. In addition, up to 12 waste classification soil samples will be collected and analyzed per the facilities requirements. The disposal facility also requires the collection and analysis of two samples by a Canadian certified lab at a cost of \$3,000 plus shipping to Canada.

Excavated soils will be staged on plastic and covered with plastic at the conclusion of each day of excavation and stockpiling. Following facility approval, soils will be transported off-site and properly disposed. Following the remediation and post-excavation soil sampling activities, the excavation will be backfilled and compacted to grade with certified clean fill.

Following post-excavation soil sampling activities and before selected hot spot excavations are backfilled, an amendment (ABC+) will be introduced into the excavation to accelerate the reduction groundwater concentrations above NJDEP Class II-A GWQS. Redox Tech’s ABC+ is an emulsified vegetable oil and fatty acid ester product for anaerobic bioremediation. ABC+ also contains a phosphate buffer to maintain the pH in the optimal range for complete biodegradation. Subsequent to ABC+ introduction into the excavation, zero valent iron (ZVI) will be blended into the bottom of the excavation. ZVI will abiotically reduce chlorinated compounds and accelerate the decrease of dissolved oxygen and oxidation reduction potential favorable for in situ biodegradation. The excavations

will then be backfilled as discussed above. A Permit by Rule (PBR) Authorization Request will be applied for with the NJDEP in order to add the above amendments to the bottom of the selected hot spot excavations.

For residual VOC impacts (VOC impacts below residential soil remediation standards but above MGWSRS), engineering controls (i.e., capping) will be required to preclude infiltration of precipitation as required by NJDEP Capping of Volatile Contaminants for the Impact to Ground Water Pathway (January 2019, Version 1.1). Engineering controls will consist of future asphalt and/or concrete paving, and building coverage related to the planned future Site development which will provide protection from direct contact with contaminated soils and prevent leachate forming that could impact groundwater quality. Current redevelopment plans for the Site, consists mostly of an asphalt paved parking lot; however, at the east corner of the Biddelman Site limited grass/permeable areas are planned. All soil above site specific MGWSRS values will be excavated from this area in order to preclude any future impact to groundwater quality. Please note that the costs of the asphalt cap are not included in these costs as the NJDEP/HDSRF position is that the capping activities would be considered redevelopment costs.

Task 3: Selecto Flash and Biddelman Historic Fill Material Remediation

Engineering controls (i.e., capping) will consist of future asphalt and/or concrete paving, landscaping, and building coverage related to the planned future Site development which will provide protection from direct contact with contaminated soils and prevent migration of contaminants. Costs associated with capping the properties are not included in this proposal as the NJDEP/HDSRF position is that these costs are associated with “preparing the Site for redevelopment and are not considered to be “remediation of a discharge”, therefore is not covered as part of the Remedial Action Grant. The LSRP oversight costs associated with this task are included in Task 6 – LSRP Oversight and Project Management below.

Task 4: Selecto Flash and Biddelman Groundwater Remediation

One pre-remediation round of groundwater samples will be collected from all Selecto Flash monitoring wells (MW-1R, MW-1DS, MW-3R, MW-4, MW-4D, MW-5R, MW-7, and MW-8R), Biddelman monitoring wells (MW-1, MW-1D, MW-2, MW-2D, MW-12, MW-12D, and MW-13), and off-site monitoring wells (MW-6, MW-9, MW-9D, MW-10, MW-11, and MW-11D). The groundwater samples will be collected from the on-site and off-site monitoring wells via low flow sampling technique or volume average sampling technique. During purging, field measurements including depth to groundwater, dissolved oxygen (DO) content, turbidity, pH, temperature, conductivity, and ORP will be collected for all monitoring wells. The groundwater samples will be analyzed for TCL VOCs+15. For QA/QC purposes, one duplicate sample and up to three field blanks will be collected and analyzed for TCL VOCs+15. One trip blank sample will be collected for TCL VOCs+15 analysis, per groundwater sampling event. This sampling event will serve two purposes including establishing pre-remediation baseline concentrations and evaluating which wells should be included in the post-remediation sampling program.

Upon completion of the source soil remediation activities, a long-term quarterly groundwater monitoring program will be implemented to monitor the effectiveness of the remedial action and to evaluate the viability of a monitored natural attenuation (MNA) remedy for groundwater. A total of eight quarters of groundwater sampling will be completed for monitoring for statistical trend analysis via the sampling method described above. The groundwater CEAs for VOCs will be re-evaluated and modified as necessary, with details included with an application for a Groundwater RAP for each Site.

During RI, the horizontal extent of PCE/TCE concentrations were extrapolated, therefore additional monitoring wells will be installed to confirm the extent of impacted groundwater associated with the Biddelman property. In addition, a few of the monitoring wells will need to be abandoned during the soil remediation activities and therefore re-installed. The installation of up to eight shallow monitoring wells, up to six deep monitoring wells, and abandonment of up to 11 monitoring wells are budgeted. The cost also include the management and disposal of the soil cuttings, well development water, and groundwater sampling purge water for all the monitoring wells installed and sampled on the Site. The disposal of non-hazardous investigative derived waste (IDW), up to 50, 55-gallon drums, is included in this cost. Following the installation of any additional monitoring wells, the wells will be surveyed by a New Jersey Licensed Surveyor.

Task 5: Selecto Flash Vapor Mitigation System

PLEASE NOTE, that the NJDEP/HDSRF position is that the Vapor Mitigation System (VMS) is not related to “preparing the Site for redevelopment” and is not considered to be “remediation of a discharge” and therefore is not covered as part of the Remedial Action Grant. However, based on the groundwater analytical results, historic vapor intrusion sampling, and the NJDEP regulations, a Vapor Mitigation System will be required to be installed on the proposed building during construction by the redeveloper. No costs are associated with this task and no funding will be able to be received through the HDSRF for the VMS.

Task 6: LSRP oversight and Project Management

The Quality Assurance Project Plan (QAPP) will be revised pursuant to N.J.A.C. 7:26E-2.2 and the site-specific Health and Safety Plan (HASP) will be revised with all requirements of 29 CFR 1910.120 and other applicable OSHA requirements.

In accordance with the NJDEP SRRA, the ARRCs, and the TRSR, the retained Matrix LSRP will oversee the investigation and remedial action activities outlined above. This task includes project management, NJDEP correspondence and coordination, and the anticipation of future conference calls and/or meetings with the project team.

Task 7: Remedial Action Report and associated forms

The remediation activities will be reported as part of the Remedial Action Reports (RAR), one Report for each property. The report will be prepared in accordance with N.J.A.C. 7:26E-5.7. The RARs will discuss the remediation, the results of the post excavation and post remediation sampling, and will include the following:

- A summary of all remediation performed, associated disposal documentation, and clean fill certification;
- Results of all analyses, copies of laboratory data sheets and conversion of the laboratory deliverable to the required electronic data deliverables pursuant to N.J.A.C. 7:26E-2.1;
- A summary table of analytical methods and quality assurance indicators pursuant to N.J.A.C. 7:26E-2.2;
- Sample summary tables of all analyses, including sample location, media, sample depth and field and lab identification numbers pursuant to N.J.A.C. 7:26E-3.13(c)3. The summary tables will identify contaminant concentrations exceeding the applicable remediation standards, samples with elevated reporting limits (RLs) exceeding their applicable remediation standard will be identified and explained, and the remaining requirements pursuant to N.J.A.C. 7:26E-3.13(c)3 will be met;
- Field data from each sampling point, including field instrument readings for each sample will be generated and presented in the Summary Report;
- Figures will be prepared indicating the areas of remediation and post excavation samples. Figures will identify contaminant exceedances above their respective remedial standard by contaminant and depth;
- An updated QAPP prepared pursuant to N.J.A.C. 7:26E-2.2; and
- Submit a completed case inventory document worksheet and other NJDEP required forms.

The purpose of the RA is to complete remedial actions that will prevent further exposure of any receptor to residual contamination and include a presumptive remedy consistent with Table 5-1 Presumptive Remedies for Soil Contamination at Schools, Child Care Centers and Residences. The remedial action for the historic fill material and any VOC residual impacts underlain at the Sites will include filing a Deed Notice pursuant to N.J.A.C. 7:26C-7.2 and Remedial Action Permit (RAP) for Soil. Based on the post remedial monitoring of the groundwater, the CEAs will be modified as necessary and included with an application for a RAP-Groundwater. Long term monitoring and maintenance requirements will be set forth in the Deed Notice, RAP-Soil, and RAP-Groundwater. The Township of West Orange is an exempt entity under N.J.A.C 7:26C-7.10(c) and is not required to establish Financial Assurance.

COSTS

The following are our fixed fee costs for the tasks described herein. All work will be conducted in accordance with the attached standard terms and conditions and LSRP Special Provisions.

Task 1 – Selecto Flash Soil Remediation	\$873,000
Task 2 – Biddelman Soil Remediation	\$2,887,000
Task 3 – Selecto Flash and Biddelman Historic Fill Material Remediation ...	\$Costs associated with redevelopment
Task 4 – Selecto Flash and Biddelman Groundwater Remediation	\$202,480
Task 5 – Selecto Flash Vapor Mitigation System	\$Costs associated with redevelopment
Task 6 – LSRP oversight and Project Management	\$368,000
Task 7 – Remedial Action Report and Associated Forms	<u>\$110,000</u>
Total Fixed Fee Cost for Scope of Work	\$4,440,480

75% of Remedial Action Cost Covered by Grant\$3,330,360

**25% of Remedial Action Costs to be Contributed by
the Township.....\$1,110,120**

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 Matrix Terms and Conditions for Professional Services.

This proposal is submitted solely and exclusively for the use of Township of West Orange for consideration of the professional services of Matrix. Disclosure of this proposal's content to any third party without prior written authorization from Matrix 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. Based on the results of the post excavation soil samples additional work may be required and costs will be provided under separate proposal.

PAYMENT SCHEDULE

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

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 clients' understanding that Matrix 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 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

Mark Sprengel

Mark Sprengel, LSRP
Project Manager

Authorization to Proceed: _____
Name/Title

Date: _____

**ATTACHMENT 1
TERMS AND CONDITIONS**

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

to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without express written consent of Matrix.

Section 7: BURIED UTILITIES AND HIDDEN CONDITIONS

Matrix will conduct the research that in our exclusive professional opinion is a reasonable precaution to locate utility lines and other man-made objects that may exist beneath the project site surface. The CLIENT recognizes that Matrix's research may not identify all subsurface utilities or other subsurface objects, and therefore the CLIENT agrees to release, hold Matrix harmless and indemnify and pay for damages to underground utilities/structures and/or other damages related to construction activities, worker health/safety, schedule delays, etc. Which may be attributable to underground objects which are not identified by the CLIENT or third parties or correctly shown on plans furnished by the CLIENT or third parties.

In the event that the services provided by Matrix are for renovations and/or addition to an existing structure, there may exist existing conditions which cannot be identified or verified without expending great sums of money and/or destroying portions of the building. CLIENT agrees that Matrix shall not be responsible for damages or additional costs which arise out of hidden conditions not identified and/or located by Matrix.

In the event that the services provided by Matrix involve the investigation of, or assumptions about, subsurface conditions of any kind, the CLIENT recognizes that subsurface conditions may vary from those encountered at the location where, and at the time when, borings, sampling, or testing is performed by Matrix and that the data provided by Matrix are based solely on the information available to Matrix. The CLIENT agrees to release, defend indemnify and hold Matrix harmless from and against all claims, damages, losses and expenses arising from the interpretation by others of data provided by Matrix.

Section 8: DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

Hazardous materials or certain types of hazardous materials may exist at a site where there is no reason to believe they could or should be present. Matrix and the CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of Services and compensation for the Services or termination of the Agreement. Matrix agrees to notify the CLIENT as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. The CLIENT authorizes Matrix to take measures that in Matrix's professional opinion are justified or legally required to preserve and protect the health and safety of Matrix's personnel and the public, and/or the environment, and the CLIENT agrees to compensate Matrix for the additional cost of such measures.

In addition, the CLIENT waives any claim against Matrix, and agrees to indemnify, defend and hold Matrix harmless from any claim or liability for injury or loss arising from Matrix's encountering, reporting or responding to unanticipated hazardous materials or suspected hazardous materials. The CLIENT also agrees to compensate Matrix for time spent and expenses incurred by Matrix in defense of any such claim, with such compensation to be based upon Matrix's prevailing fee schedule and expense reimbursement policy.

Section 9: STANDARD OF CARE

The Services provided by Matrix under the Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee, in fact or by law, whether of merchantability or fitness for a particular purpose or otherwise, is included or intended in the Agreement, or in any report, opinion, document or otherwise.

Matrix shall not have control over or charge of and shall not be responsible for the acts or omissions of CLIENT and/or Builder/Contractor, subcontractors, consultants or their agents or employees, or of any other persons or entities performing portions of the Work. Matrix shall not supervise, direct or have control over the contractor(s) work, nor shall Matrix have any authority over, or responsibility for, the means, methods, techniques, sequences or procedures of construction selected by the contractor(s), or for any safety precautions or programs incident to the work of the contractor(s), or for any failure of the contractor(s) in furnishing or performing its(their) work. Matrix neither guarantees the performance of any construction contracts by contractor(s), nor assumes responsibility or liability for the contractor's(s) failure to furnish or perform its (their) work in accordance with the applicable contract documents.

When provided, and unless otherwise expressly provided in the Scope of Services, field visits are to observe the progress and general quality of the work completed by the contractor. Unless expressly stated otherwise, such visits and observation are not intended to be an inspection of the quality or quantity of the Contractor's work but rather are solely intended to allow this office to become generally familiar with the work in progress and to determine, in general, if the work is proceeding in accordance with the Construction Documents directly related to this office's scope of services. During or as a result of these site visits, this office shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work. Unless required in this Agreement, material testing and inspection shall be provided by a material testing and testing agency retained by others.

Section 10: INDEPENDENT CONTRACTOR

Matrix shall be an independent contractor in performing the Services and shall not act as an employee of the CLIENT. As such, and subject to the terms and conditions hereof, Matrix shall be responsible for its employees, subcontractors, and agents and for their compensation, benefits, contributions, and taxes, if any.

Section 11: JOBSITE HEALTH AND SAFETY

Insofar as jobsite safety is concerned, Matrix is responsible solely for its own employees' and subcontractor's activities on the jobsite, but this shall not be construed to relieve the CLIENT or his contractors from their responsibility for methods of work performance, superintendence, sequencing of construction, or safety in, on or about the jobsite.

Section 12: INSURANCE

Matrix is insurance as follows: 1) Worker's Compensation Insurance as required by applicable law, 2) General Liability and Automobile Liability Insurance (in the amount of \$1,000,000 combined single limit) for bodily injury and property damage, and 3) Professional Liability (Errors & Omissions) with policy limits equal to at least \$1,000,000. Upon request, Matrix shall provide insurance certificates illustrating the coverage herein.

CLIENT shall require the contractor(s) hired for the project to maintain general liability insurance (including coverage for premises, personal injury, property damage, completed operations, and contractual liability) naming CLIENT, Matrix and its consultants and employees, as additional insureds.

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.

Section 19: TERMINATION

Matrix may terminate the Agreement upon five (5) days' written notice if the CLIENT defaults in the payment for the Services or for any other material default by the CLIENT under the Agreement. The CLIENT or Matrix may terminate the Agreement upon fourteen (14) days' written notice for any reason which may arise or for no reason. In the event of such termination of the Agreement for any reason which may arise or for no reason, the termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall affect termination of the cause therefore, the CLIENT shall within thirty (30) calendar days of termination remunerate Matrix for the Services rendered and costs incurred (including all reimbursable costs hereunder), in accordance with Matrix's prevailing rate schedule.

Section 20: GOVERNING LAW AND VENUE

Unless otherwise provided in an addendum, the law of the State of New Jersey will govern the validity of the Agreement, its interpretation and performance, and remedies for any other claims related to the Agreement. Any litigation arising from this Agreement shall be venued in the Superior Court of New Jersey, Morris County.

**ATTACHMENT 2
FEE SCHEDULE**

MATRIX **NEW** WORLD

Engineering Progress

2023 FEE SCHEDULE

TITLE	HOURLY RATE
Subject Matter Expert/Witness	\$300.00
Executive Engineer	\$275.00
Senior Technical Director	\$250.00
Senior Project Manager	\$225.00
Technical Director	\$210.00
Senior Technical Manager	\$200.00
Project Manager	\$190.00
Senior Project Professional	\$180.00
Project Professional	\$170.00
Senior Project Specialist	\$165.00
Project Specialist	\$160.00
Senior Technical Professional	\$150.00
One-Man Robotic Crew	\$140.00
Senior Technical Specialist	\$135.00
Technical Specialist	\$125.00
Senior Data/Field Specialist	\$115.00
Second Survey Crew Member	\$115.00
Data/Field Specialist	\$110.00
Senior Technical Assistant	\$100.00
Technical Assistant	\$95.00
Junior Technical Assistant	\$90.00
Junior Data/Field Technician	\$80.00
Data Entry Specialist	\$70.00

2023 REIMBURSABLE EXPENSES

ITEM	FEE
Black & White Copy 8½ x 11	\$0.20/sheet
Black & White Copy 8½ x 14	\$0.30/sheet
Black & White Copy 11 x 17	\$0.40/sheet
Black & White Copy 18 x 24	\$1.50/sheet
Black & White Copy 24 x 36	\$3.00/sheet
Black & White Copy 30 x 42	\$4.50/sheet
Color Copy 8½ x 11	\$0.40/sheet
Color Copy 11 x 17	\$0.80/sheet
Color Copy 24 x 36	\$30.00/sheet
Color Copy 30 x 42	\$40.00/sheet
Mylar 24 x 36	\$30.00/sheet
Mylar 30 x 42	\$50.00/sheet
Robotic per diem	\$275.00
Scanner per diem	\$425.00
Subconsultants	115% of cost
Out-of-pocket expenses	115% of cost

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