

Thompson, Matthew A - DNR

From: Steph Judge <stephjudge@gmail.com>
Sent: Monday, April 26, 2021 4:47 PM
To: Mark Davidson
Cc: Thompson, Matthew A - DNR; Erica Klingfus; Jeff Anderson
Subject: Re: Judge's Cleaners additional sampling proposal
Attachments: Executed_10649001 Judge's Cleaners GW sampling proposal 111620.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi all,

Please find attached the executed Enviro Consulting Services Agreement for the Stevens Point site. My apologies for the long delay in getting this turned around. I needed to be sure I would have adequate funds in hand to pay associated invoices as they come due. Mark, please keep me well apprised of progress on this, particularly as invoices near \$10k total.

Thanks much and please let me know if you have any questions.
Steph
608-886-5752

On Wed, Nov 18, 2020 at 10:12 AM Mark Davidson <mdavidson@msa-ps.com> wrote:

Stephanie,

Please see the attached proposal to conduct additional groundwater sampling and conduct vapor intrusion investigations at the Former Judge's Cleaners site in Stevens Point, WI. Please let me know if you have any questions or need any additional information.

Thanks,

Mark



Mark Davidson, PG | Senior Project Hydrogeologist
MSA Professional Services, Inc.

100% Employee Owned
+1 (218) 499-3184





November 16, 2020

Thomas Judge Estate Trust
c/o Stephanie Judge
1115 Mohican Pass
Madison, WI 53711

Re: Proposal for Groundwater Sampling
Former Judge's Cleaners, 257 Division Street, Stevens Point, WI
BRRTS# 02-50-000298

Dear Ms. Judge:

Based on recent communications with you and Matt Thompson, the DNR project manager for this site, MSA Professional Services, Inc. (MSA) presents the following scope of work and cost estimate for your review and approval:

- MSA proposes two full rounds of semi-annual groundwater sampling for all existing wells for VOCs. This includes wells J-1, J-2, J-3 and J-3D on the former Judge's Cleaners property, wells KFC-1R, KFC-2, KFC-3, and KFC-4R on the Kentucky Fried Chicken property, wells TB-1 and TB-1D on the Pizza Hut property; and wells UWSP-1, UWSP-1D, UWSP-2, UWSP-3, UWSP-3D, UWSP-4, UWSP-4D, UWSP-5, and UWSP-5D on the University of Wisconsin - Steven's Point property (19 wells total). The purpose is to monitor the current groundwater plume concentrations and determine concentration trends and/or potential migration. The property owners/managers for the three offsite properties will be contacted prior to sampling to confirm access and notify them of the work.
- MSA proposes to replace or repair the flush mount well covers for monitoring wells TB-1, TB-1D, KFC-1R, and KFC-4R. It is expected that the work will be conducted in the spring of 2021 once the ground has thawed. MSA personnel will determine if a drilling subcontractor is needed during the initial groundwater sampling event.
- MSA proposes to confirm that the sub-slab vapor intrusion system at the former dry cleaner building is still operating. MSA personnel will check the system to confirm that the system is maintaining negative pressure at the outlet and the fan is still in operation.
- MSA proposes to conduct a vapor intrusion investigation on the Kentucky Fried Chicken parcel, the adjacent laundromat parcel, the Quandt Sports Complex, Baldwin Hall and Steiner Hall. The initial investigation will consist of a visit to each of the buildings to determine possible sub-slab vapor sampling locations, conduct ambient air monitoring and sample any sumps or potential intrusion points with a

332 W. Superior Street
Suite 600
Duluth, MN 55802

P (218) 722-3915
TF (800) 777-7380
F (218) 722-4548

www.msa-ps.com

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Former Judge's Cleaners, Stevens Point, WI
November 16, 2020

field meter. This will be followed by the installation of one or more sub-slab vapor sampling points in each building and the subsequent sampling of soil vapor for VOCs by EPA Method TO-15 during the heating and non-heating seasons.

- Prepare a letter report with the results of the sampling and vapor intrusion investigation. The letter report will discuss and analyze contaminant trends, determine if vapor intrusion is a threat to the nearby buildings and provide recommendations for additional investigation or closure based on the results.

Attached are the DERF spreadsheets outlining the estimated costs for the scope of work outlined above. The total estimated cost is \$16,026.00. MSA will not markup any subcontractor prices; you will only be charged for the direct costs from subcontractors. MSA will not exceed this estimate without your prior approval. I have enclosed two copies of an Environmental Services agreement for the proposed work. To indicate your approval to proceed with this scope of work, please sign one copy of the agreement and return it to me in the enclosed envelope.

Please contact me at (218) 499-3184 or mdavidson@msa-ps.com if you have any questions.

Sincerely,

MSA Professional Services, Inc.



Mark Davidson
Senior Project Hydrogeologist

Cc: Matt Thompson, DNR Project Manager
Dick Lyster, MSA
Jeff Anderson, MSA
Erica Klingfus, MSA

Attachments:
DERF Budget Spreadsheets
Environmental Services Agreement

DERF Site Investigation Bid Summary Consultant Selection Cover Sheet

Notice: Use this form to notify the Department of Natural Resources of the consultant you are selecting to conduct a site investigation and to submit and summarize the bids required in the Dry Cleaner Environmental Response Fund (DERF) Program. This form is authorized under s. 292.65, Wis. Stats. and s. NR 169.23, Wis. Adm. Code. Completion of this form is mandatory for any person applying for DERF reimbursement. Persons who do not submit a completed form will not be eligible for reimbursement under DERF. Personal information will be used to manage the DERF program, and be made available to requesters under Wisconsin's Open Records laws (ss. 19.32-19.39, Wis. Stats.) and requirements.

Complete the following information and submit it to your DNR regional project manager. Copy this form as necessary.

Site Information

| | | |
|--|-----------------------|-----------------------------|
| Site name: Judge's Dry Cleaners | Facility Name: | BRRTS # 02-50-000298 |
|--|-----------------------|-----------------------------|

Consultant Selected

| | |
|-----------------------------|--|
| Consultant Name: MSA | Consultant Address: 332 West Superior Street, Suite 600, Duluth, MN 55812 |
|-----------------------------|--|

Summary of Costs:

| | |
|---|-----------------|
| Consultant Name: MSA Professional Services, Inc. | |
| Consulting costs: | \$8,920 |
| Drilling costs: | |
| Analytical costs: | \$4,330 |
| Miscellaneous costs: | \$2,776 |
| Total Costs: | \$16,026 |

| | |
|-------------------------|--|
| Consultant Name: | |
| Consulting costs: | |
| Drilling costs: | |
| Analytical costs: | |
| Miscellaneous costs: | |
| Total Costs: | |

| | |
|-------------------------|--|
| Consultant Name: | |
| Consulting costs: | |
| Drilling costs: | |
| Analytical costs: | |
| Miscellaneous costs: | |
| Total Costs: | |

Optional 4th bid information:

| | |
|-------------------------|--|
| Consultant Name: | |
| Consulting costs: | |
| Drilling costs: | |
| Analytical costs: | |
| Miscellaneous costs: | |
| Total Costs: | |

Justification for Selection: Ongoing consultant

Applicant Information and Certification

I certify that the information contained above is true and correct to the best of my knowledge.

| | | | |
|----------------|------|-------|----------|
| Applicant Name | | Date | |
| Street Address | City | State | Zip Code |
| Signature | | | |

Department Use Only

| | | |
|------------------------------------|--------------|------|
| Project Manager Approval Signature | Phone Number | Date |
|------------------------------------|--------------|------|

If not approved, reason for non-approval:

**DERF Site Investigation Bid Sheet
Consultant Bid Summary**

Form 4400-233 (R 4/04) Page 2 of 6

Site Information

Site Name Judge's Dry Cleaners, Steven Point

Consultant Name MSA Professional Services, Inc.

Applicant Name Thomas J

Bid Summary

| | |
|---------------------------------|--------------------|
| Drilling Costs Total = | \$0.00 |
| Analytical Costs Total = | \$4,330.00 |
| Consulting Costs Total = | \$8,920.00 |
| Misc Costs Total = | \$2,776.00 |
| Grand Total = | \$16,026.00 |

I certify that the costs are an accurate estimate of my total projected costs for the site investigation and I understand Stats. and ch NR 169, Wis. Adm. Code.

Consultant Signature

Date

Please attach to these forms a written narrative specifying how the tasks outlined in these sheets will be performed.

Consultant Name: MSA
 Site Name: Judge's Dry Cleaners
 BRRTS #: 02-50-000298
 Date: 11/11/2020

DERF Site Investigation Bid Sheet
Analytical Costs

Form 4400-233 (R 4/04) Page 4 of 6

| Parameter | WI Certified Lab | | | Field Test/Field Kit | | | Mobile Lab | | | Total Costs |
|--|------------------|-----------|-------------|----------------------|-----------|-------------|------------------|------------------|-------------|-------------|
| | \$/sample | # samples | Method Used | \$/sample | # samples | Method Used | \$/Sample \$/Day | # Samples # Days | Method Used | |
| Solids Analysis | | | | | | | | | | |
| VOCs | | | | | | | | | | \$0.00 |
| TCLP | | | | | | | | | | \$0.00 |
| RCRA Metals | | | | | | | | | | \$0.00 |
| Duplicate Analyses | | | | | | | | | | \$0.00 |
| Blank Analyses | | | | | | | | | | \$0.00 |
| Other: (Specify) | | | | | | | | | | \$0.00 |
| TOD | | | | | | | | | | \$0.00 |
| Water Analysis (low flow sampling assumed unless otherwise indicated at bottom of this sheet) | | | | | | | | | | |
| VOCs | 70 | 42 | 8260 | | | | | | | \$2,940.00 |
| Nitrate* | | | | | | | | | | \$0.00 |
| Dissolved Oxygen* | | | | | | | | | | \$0.00 |
| Temperature* | | | | | | | | | | \$0.00 |
| Ferrous Iron* | | | | | | | | | | \$0.00 |
| Sulfate* | | | | | | | | | | \$0.00 |
| Sulfide* | | | | | | | | | | \$0.00 |
| ORP* | | | | | | | | | | \$0.00 |
| pH* | | | | | | | | | | \$0.00 |
| TOC* | | | | | | | | | | \$0.00 |
| Alkalinity* | | | | | | | | | | \$0.00 |
| Chloride* | | | | | | | | | | \$0.00 |
| Spec. Conductance* | | | | | | | | | | \$0.00 |
| Ethene/Ethane/Methane* | | | | | | | | | | \$0.00 |
| Hydrogen* | | | | | | | | | | \$0.00 |
| Carbon Dioxide* | | | | | | | | | | \$0.00 |
| RCRA Metals | | | | | | | | | | \$0.00 |
| Duplicate Analyses | | | | | | | | | | \$0.00 |
| Blank Analyses | 70 | 2 | 8260 | | | | | | | \$140.00 |
| Other: (Specify) | | | | | | | | | | \$0.00 |
| | | | | | | | | | | \$0.00 |
| Air Analysis | | | | | | | | | | |
| VOCs | 250 | 5 | TO-15 | | | | | | | \$1,250.00 |
| TCE | | | | | | | | | | \$0.00 |
| PCE (minimum detection limit is <10 ppbv) | | | | | | | | | | \$0.00 |
| Other: (Specify) | | | | | | | | | | \$0.00 |
| | | | | | | | | | | \$0.00 |
| Waste Analyses (soil/water) | | | | | | | | | | |
| | | | | | | | | | | \$0.00 |
| | | | | | | | | | | \$0.00 |
| Miscellaneous (specify) | | | | | | | | | | |
| | | | | | | | | | | \$0.00 |
| | | | | | | | | | | \$0.00 |
| Charge for Mobile Lab (indicate # days and daily fee) | | | | | | | | | | |
| Total Analytical Costs | | | | | | | | | | \$4,330.00 |

* Natural Attenuation parameters required for consideration of NA as remedy.

Consultant Name: MSA
 Site Name: Judge's Dry Cleaners
 BRRTS #: 02-50-000298
 Date: 11/11/2020

DERF Site Investigation Bid Summary Consultant Costs

Form 4400-233 (R 4/04) Page 5 of 6

| Position (specify) | Hourly Rate | Hours/Task | | | | | | | | | | | | | Total Costs | | | |
|-------------------------------|-------------|--------------------|----------------------------------|-------------|----------------------------------|--|--|--|--|--|----|---------------|--|--|-------------------|-----------------|--|--|
| | | Project Management | Contact adjacent property owners | GW Sampling | Waste Characterization/ Disposal | | | | | | | Status Report | | | | Other (specify) | | |
| | | | | | | | | | | | | | | | | | | |
| Professional Staff | | | | | | | | | | | | | | | | | | |
| Project Manager | 120 | 2 | | | | | | | | | 1 | | | | \$360.00 | | | |
| Senior Hydrogeologist | 110 | 8 | 12 | 2 | 1 | | | | | | 12 | | | | \$3,850.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| Field Staff | | | | | | | | | | | | | | | | | | |
| Environmental Tech | 79 | | | 54 | | | | | | | | | | | \$4,266.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| Office Support Staff | | | | | | | | | | | | | | | | | | |
| Drafting | 67 | | | | | | | | | | 6 | | | | \$402.00 | | | |
| Administrative Assist. | 42 | | | | | | | | | | 1 | | | | \$42.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| | | | | | | | | | | | | | | | \$0.00 | | | |
| Total Consulting Costs | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | \$8,920.00 | | | |

Consultant Name: MSA
 Site Name: Judge's Dry Cleaners
 BRRTS #: 02-50-000298
 Date: 11/11/2020

DERF Site Investigation Bid Summary Sheet Miscellaneous Costs

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| Major Activity | Specifications | Commodity Unit (specify) | Unit Rate | Number of Units | Total Cost |
|---|------------------|--------------------------|-----------|-----------------|-------------------|
| IDW Disposal | | | | | |
| Water from monitoring wells | Non-hazardous | gallon | \$3.00 | 300 | \$900.00 |
| | | | | | |
| Equipment Rental (list and include shipping costs if applicable) | | | | | |
| Helium Detector | | 1 day | \$75.00 | | \$75.00 |
| Helium Canister Refill | | 1 use | \$30.00 | | \$30.00 |
| Vacuum Gauges | | 1 day | \$30 | | \$30.00 |
| Leak Detection Kit | | 1 day | \$100 | | \$100.00 |
| Concrete Drill | | | | | n/c |
| photoionization meter | | day | \$75.00 | | \$75.00 |
| Field Supplies (list) | | | | | |
| Entech Probes | | each | \$60.00 | 5 | \$300.00 |
| Drums (to contain water) | | | \$150.00 | 6 | \$900.00 |
| Disposable Bailers | | each | \$7.00 | 38 | \$266.00 |
| Monitoring well covers | | each | \$25.00 | 4 | \$100.00 |
| | | | | | |
| | | | | | |
| Surveying | | | | | |
| | | | | | |
| | | | | | |
| Personal Protection Equipment (list) | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Sample Shipping Costs | | | | | |
| Summa Canisters to lab | Ground w. insur. | | | | |
| | | | | | |
| | | | | | |
| Other (specify) | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Total Miscellaneous Costs | | | | | \$2,776.00 |

Reminders: DERF does not reimburse for attorney, closure or GIS fees. Mileage and meals are also non-reimbursable. Also, costs to prepare a reimbursement application and discuss the application with the department are not reimbursable. No expedited shipping w/o prior PM approval.



Environmental Consulting Services Agreement

This AGREEMENT ("Agreement") is made on November 17, 2020, by and between the THOMAS J. JUDGE REMEDIATION TRUST (TRUST) and MSA PROFESSIONAL SERVICES, INC. (MSA), Baraboo, which agree as follows:

Scope of Services: For: Former Judges Cleaners site, 257 Division Street, Stevens Point, WI. MSA shall provide the scope of professional environmental consulting services for the TRUST, directly or indirectly, indicated in the letter proposal dated November 16, 2020 ("Services"). Any changes or additions to the Scope of Services shall be made by written amendment to this Agreement by MSA and TRUST.

Terms and Conditions: All Services performed by MSA pursuant to this Agreement shall be performed in accordance with, and MSA's and TRUST's obligations shall be governed by, the General Terms and Conditions attached hereto and incorporated herein by this reference. Any attachments or exhibits referenced in this Agreement are made part of this Agreement.

Authorization: MSA will commence performance of the Services on this project upon TRUST's written authorization. TRUST's written authorization is provided and acknowledged by the signatures of MSA's and TRUST's authorized representatives below. By signing this Agreement below, each of the undersigned parties represent and warrant that he or she has full right, power and authority to execute this Agreement and bind his or her respective party to the terms and conditions hereof. A copy of this fully-executed Agreement shall be returned for MSA's files.

Survival: The General Terms and Conditions incorporated into this Agreement shall survive the completion of the Services performed hereunder or the termination of this Agreement for any cause.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and intend to be bound thereby.

THOMAS J. JUDGE REMEDIATION TRUST MSA PROFESSIONAL SERVICES, INC.


Stephanie Judge


Jeffrey K. Anderson, Team Leader

Date: 4/26/2021

Date: November 17, 2020

1115 Mohican Pass
Madison, WI 53711

332 West Superior Street, Suite 600
Duluth, MN 55802
Phone: (218) 499-3175

MSA PROFESSIONAL SERVICES, INC. (MSA) – GENERAL TERMS AND CONDITIONS OF SERVICES (ENVIRONMENTAL)

1. The quoted fees and scope of services constitute the best estimate of the fees and tasks required to perform the services as defined. This agreement upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development service, activities often cannot be fully defined during initial planning. As the project progresses, facts uncovered may reveal a change in direction which may alter the scope. MSA will promptly inform the TRUST in writing of such situations so that changes in this agreement can be made as required.

2. MSA will bill the TRUST monthly with net payment due upon receipt. Past due balances shall be subject to an interest charge at a rate of 12% per year from said thirtieth day. In addition, MSA may, after giving seven days written notice, suspend service under any agreement until the TRUST has paid in full all amounts due for services rendered and expenses incurred, including the interest charge on past due invoices.

3. Costs and schedule commitments shall be subject to change for delays caused by the TRUST's failure to provide specified facilities or information or for delays caused by unpredictable occurrences including, without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults, by suppliers of materials or services, process shutdowns, acts of God or the public enemy, or acts of regulations of any governmental agency. Temporary delays of services caused by any of the above which result in additional costs beyond those outlined may require renegotiation of this agreement.

4. MSA intends to serve as the TRUST's professional representative for those services as defined in this agreement, and to provide advice and consultation to the TRUST as a professional. Any opinions of probable project costs, reviews and observations, and other decisions made by MSA for the TRUST are rendered on the basis of experience and qualifications and represents the professional judgment of MSA. However, MSA cannot and does not guarantee that proposals, bid or actual project or construction costs will not vary from the opinion of probable cost prepared by it.

5. This agreement shall not be construed as giving MSA, the responsibility or authority to direct or supervise construction means, methods, techniques, sequence, or procedures of construction selected by the contractors or subcontractors or the safety precautions and programs incident to the work of the contractors or subcontractors.

6. In conducting the services, MSA will apply present professional, engineering and/or scientific judgment, and use a level of effort consistent with current professional standards in the same or similar locality under similar circumstances in performing the Services. The TRUST acknowledges that "current professional standards" shall mean the standard for professional services, measured as of the time those services are rendered, and not according to later standards, if such later standards purport to impose a higher degree of care upon MSA.

MSA does not make any warranty or guarantee, expressed or implied, nor have any agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, MSA will not accept those terms and conditions offered by the TRUST in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt, or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

7. MSA shall make visits to the site at intervals appropriate to the various stages of construction as MSA deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work.

The purpose of MSA's visits to and representation at the site will be to enable MSA to better carry out the duties and responsibilities assigned to and undertaken by MSA during the Construction Phase, and, in addition, by the exercise of MSA's efforts as an experienced and qualified design professional, to provide for TRUST a greater degree of confidence that the completed work of Contractor will conform in general to the Contract Documents and that the integrity of the design concept of the

completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. On the other hand, MSA shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall MSA have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, MSA neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

8. This Agreement shall commence upon execution and shall remain in effect until terminated by either party, at such party's discretion, on not less than thirty (30) days' advance written notice. The effective date of the termination is the thirtieth day after the non-terminating party's receipt of the notice of termination. If MSA terminates the Agreement, the TRUST may, at its option, extend the terms of this Agreement to the extent necessary for MSA to complete any services that were ordered prior to the effective date of termination. If TRUST terminates this Agreement, TRUST shall pay MSA for all services performed prior to MSA's receipt of the notice of termination and for all work performed and/or expenses incurred by MSA in terminating Services begun after MSA's receipt of the termination notice. Termination hereunder shall operate to discharge only those obligations which are executory by either party on and after the effective date of termination. These General Terms and Conditions shall survive the completion of the services performed hereunder or the Termination of this Agreement for any cause.

This agreement cannot be changed or terminated orally. No waiver of compliance with any provision or condition hereof should be effective unless agreed in writing and duly executed by the parties hereto.

9. The TRUST agrees to clarify and define project requirements and to provide such legal, accounting and insurance counseling services as may be required for the project.

10. If, due to MSA's error, any required or necessary item or component of the project is omitted from the construction documents, MSA's liability shall be limited to the reasonable costs of correction of the construction, less what TRUST'S cost of including the omitted item or component in the original construction would have been had the item or component not been omitted. It is intended by this provision that MSA will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

11. TRUST acknowledges and agrees that MSA has had no role in generating, treating, storing, or disposing of hazardous substances or materials which may be present at the project site, and MSA has not benefited from the processes that produced such hazardous substances or materials. Any hazardous substances or materials encountered by or associated with Services provided by MSA on the project shall at no time be or become the property of MSA. MSA shall not be deemed to possess or control any hazardous substance or material at any time; arrangements for the treatment, storage, transport, or disposal of any hazardous substances or materials, which shall be made by MSA, are made solely and exclusively on TRUST's behalf for TRUST's benefit and at TRUST's direction. Nothing contained within this Agreement shall be construed or interpreted as requiring MSA to assume the status of a generator, storer, treater, or disposal facility as defined in any federal, state, or local statute, regulation, or rule governing treatment, storage, transport, and/or disposal of hazardous substances or materials.

All samples of hazardous substances, materials or contaminants are the property and responsibility of TRUST and shall be returned to TRUST at the end of a project for proper disposal. Alternate arrangements to ship such samples directly to a licensed disposal facility may be made at TRUST's request and expense and subject to this subparagraph.

12. MSA will maintain insurance coverage for: Worker's Compensation, General Liability, and Professional Liability. MSA will provide information as to specific limits upon written request. If the TRUST requires coverages or limits in addition to those in effect as of the date of the agreement, premiums for additional insurance shall be paid by the

TRUST. The liability of MSA to the TRUST for any indemnity commitments, or for any damages arising in any way out of performance of this contract is limited to such insurance coverages and amount which MSA has in effect.

13. Reuse of any documents and/or services pertaining to this project by the TRUST or extensions of this project or on any other project shall be at the TRUST's sole risk. The TRUST agrees to defend, indemnify, and hold harmless MSA for all claims, damages, and expenses including attorneys' fees and costs arising out of such reuse of the documents and/or services by the TRUST or by others acting through the TRUST.

14. To the fullest extent permitted by law, MSA shall indemnify and hold harmless, TRUST, and TRUST's officers, directors, members, partners, agents, consultants, and employees (hereinafter "TRUST") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of MSA or MSA's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "MSA"). In no event shall this indemnity agreement apply to claims between the TRUST and MSA. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that MSA is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of MSA to defend the TRUST on any claim arising under this agreement.

To the fullest extent permitted by law, TRUST shall indemnify and hold harmless, MSA, and MSA's officers, directors, members, partners, agents, consultants, and employees (hereinafter "MSA") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of the TRUST or the TRUST's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "TRUST"). In no event shall this indemnity agreement apply to claims between MSA and the TRUST. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that the TRUST is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of the TRUST to defend MSA on any claim arising under this agreement.

To the fullest extent permitted by law, MSA's total liability to TRUST and anyone claiming by, through, or under TRUST for any cost, loss or damages caused in part or by the negligence of MSA and in part by the negligence of TRUST or any other negligent entity or individual, shall not exceed the percentage share that MSA's negligence bears to the total negligence of TRUST, MSA, and all other negligent entities and individuals.

15. TRUST and MSA desire to resolve any disputes or areas of disagreement involving the subject matter of this Agreement by a mechanism that facilitates resolution of disputes by negotiation rather than by litigation. TRUST and MSA also acknowledge that issues and problems may arise after execution of this Agreement which were not anticipated or are not resolved by specific provisions in this Agreement. Accordingly, both TRUST and MSA will endeavor to settle all controversies, claims, counterclaims, disputes, and other matters in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, unless TRUST and MSA mutually agree otherwise. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. Neither demand for mediation nor any term of this Dispute Resolution clause shall prevent the filing of a legal action where failing to do so may bar the action because of the applicable statute of limitations. If despite the good faith efforts of TRUST and MSA any controversy, claim, counterclaim, dispute, or other matter is not resolved through negotiation or mediation, TRUST and MSA agree and consent that such matter may be resolved through legal action in any state or federal court having jurisdiction.

16. This agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.

17. TRUST hereby irrevocably submits to the jurisdiction of the state courts of the State of Wisconsin for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement. TRUST further consents that the venue for any legal proceedings related to this Agreement shall be, at MSA's option, Sauk County, Wisconsin, or any county in which MSA has an office.

18. TRUST ACKNOWLEDGES AND AGREES THAT THE INFORMATION DEVELOPED OR IDENTIFIED BY MSA PURSUANT TO THIS AGREEMENT MAY TRIGGER FOR THE TRUST OBLIGATIONS UNDER LOCAL, STATE OR FEDERAL ORDINANCES, LAWS, RULES OR REGULATIONS TO REPORT THE DISCOVERY OF CONDITIONS TO LOCAL, STATE OR FEDERAL REGULATORY OR GOVERNMENTAL AUTHORITIES. TRUST ACKNOWLEDGES THAT MSA DOES NOT PROVIDE ANY ADVICE, RECOMMENDATION OR CONCLUSION REGARDING THE REPORTABLE NATURE OF ANY OF THE FINDINGS OR OBSERVATIONS RESULTING FROM THE PERFORMANCE OF SERVICES HEREUNDER. THE DETERMINATION OF THE TRUST'S REPORTING REQUIREMENTS OR OBLIGATIONS UNDER LAW IS A LEGAL CONCLUSION FOR WHICH MSA ASSUMES NO RESPONSIBILITY AND ABOUT WHICH MSA PROVIDES NO OPINION, CONCLUSION, FINDING OR CERTIFICATION. TRUST ACKNOWLEDGES AND AGREES THAT TRUST MUST SEEK THE ADVICE OF LEGAL COUNSEL TO DETERMINE TRUST'S OBLIGATIONS SHOULD ENVIRONMENTAL RELEASES OR CONDITIONS BE IDENTIFIED.

19. MSA shall perform its Services under this Agreement in accordance with laws and regulations in effect at the time of execution of this Agreement. TRUST shall retain responsibility for compliance with all laws and regulations applicable to its property, employees, and operations, including but not limited to: the reporting of any hazardous substance releases, disclosing information to protect employees and public health, applying for and obtaining required permits or licenses, submitting reports, providing a safe work place, and providing the proper management of wastes and hazardous substances and materials.

20. All data, documents, reports and other information relating directly or indirectly to the Services shall be supplied by MSA to the TRUST for the TRUST's sole and exclusive use in connection with the evaluation of property. All such data, reports, and other information shall be held in confidence for the aforementioned use only to the extent allowable by law. Data, documents and reports prepared by MSA pursuant to this Agreement are prepared for the exclusive use of the TRUST and not for use or reliance upon by any third-party. Any third-party necessarily has different interests, purposes, concerns, and motives than the TRUST with regard to such documents and reports. Therefore, use of such documents by any third-party is expressly prohibited without the joint written authorization of the TRUST and MSA, which shall necessarily include the precondition that the third-party agree to accept the terms and conditions of this Agreement, including the limitation of liability and indemnification protections. Data, documents and reports prepared by MSA pursuant to this Agreement are intended to be presented and reproduced only in their entirety, complete with all supporting data, assumptions, limitations, and, if applicable, recommendations. Such documents shall not be used by TRUST or any party in any form other than in their entirety and all abridged or altered versions are prohibited.

21. TRUST shall assist MSA in performance of the Services hereunder by placing at MSA's disposal all available documents and information pertinent to the Services, including, but not limited to, those that relate to the identity, location, quantity, nature, or characteristics of any hazardous substance or waste at, on, or under the site. In addition, TRUST shall furnish or cause to be furnished such other reports, data, studies, plans, specifications, documents, and other information on surface and subsurface site conditions required by MSA for performance of its Services.

The TRUST shall furnish information identifying utility types and locations, and other manmade objects beneath the surface. MSA shall take reasonable precautions to avoid damaging the utilities and objects in conjunction with activities performed with its Services. TRUST shall approve the work plan and Scope of Services. TRUST agrees to waive any claim against MSA and to indemnify, defend, (by counsel of MSA's choice) and hold harmless MSA and its subcontractors, consultants, agents, officers, directors, and employees from any claim or liability for injury or loss, cost, fee or expense arising from damaged utilities or other objects that were not called to MSA's attention or which were not properly

located on plans and information furnished to MSA. TRUST shall continue to supply to Consultant all material information and documents in its possession, custody or control known to TRUST and material to the Site and the Services, including the location of subterranean structures and conditions such as, but not limited to, pipes, tanks and telephone cables. TRUST will give prompt notice to Consultant whenever it becomes actually aware of any development that materially and adversely affects the scope or timing of the Services.

22. The TRUST will furnish right-of-entry and complete access for MSA, its subcontractors, consultants, agents, officers, directors and employees to such property as may be necessary for MSA to perform the Services under this Agreement. MSA will take reasonable precautions to minimize damage to the property caused by MSA's equipment, but has not included in MSA's fee the cost of restoration of damage which may result from MSA's operations. If the TRUST requires MSA to restore property to its former condition, the costs associated with restoration will be added to MSA's fee.

23. The Scope of Services may not be adequate to identify environmental hazards or problems, even if performed in accordance with "current professional standards", and, therefore, MSA cannot guarantee the accuracy of results or conclusions relating thereto.

Information provided to MSA by individuals familiar and/or associated with the property and/or facility, or adjacent land parcels and/or facilities, that is the subject of this Agreement has been accepted by MSA in good faith and is assumed to be accurate. Similarly, information provided to MSA by database search services or via governmental or regulatory records or databases, has been accepted by MSA in good faith and is assumed to be accurate. TRUST has neither requested nor paid MSA to independently verify the truthfulness, accuracy or completeness of the information provided to MSA by database search services, governmental or regulatory records or databases, or by individuals. MSA assumes no responsibility for and provides no certification, warranty or guarantee of the truthfulness, validity, accuracy or completeness of governmental or regulatory records or databases, database search services, or information provided by others to MSA.

MSA's findings, opinions, conclusions and recommendations are based on the actually observed conditions and operations at the property or facility on the specific date or dates of the site tour. TRUST acknowledges that conditions that limit visual observation, such as the presence of snow, thick vegetation, pavement, or structures may interfere with the identification of possible environmental factors or conditions. Hidden or concealed conditions, subsurface conditions, subsequent changes to those conditions actually observed, or incomplete disclosure by others to MSA of past or present activities at, upon or beneath the property or facility, may alter MSA's findings, opinions, conclusions and recommendations. MSA does not accept, and specifically disavows any responsibility or liability for environmental conditions at the property or facility which currently exist, formerly existed, or may exist in the future.

TRUST acknowledges that the TRUST has approved the scope of services and the level of effort for MSA to undertake and, therefore, has determined the corresponding degree of uncertainty as acceptable for the TRUST's purposes. The scope of any sampling or assessment performed by MSA hereunder is limited to the sampling and laboratory analysis of soil and/or groundwater only in certain selected locations. This sampling is intended to investigate the potential for the presence of contaminants in the immediate vicinity of the sampling point or location. Laboratory analysis is only performed for those parameters identified as potential contaminants prior to conducting the sampling or assessment. MSA assumes no responsibility for and expresses no opinion, finding, conclusion or recommendation regarding the presence or absence of any compounds or contaminants for which no such sampling or laboratory analysis was requested or performed. TRUST acknowledges that TRUST has neither requested nor paid MSA to sample and test for compounds or contaminants other than those identified herein.

24. Neither party shall assign this Agreement or any part hereof without the prior written consent of the other party. Any assignment not made in accordance with this Agreement shall be void.

25. AS REQUIRED BY THE WISCONSIN CONSTRUCTION LIEN LAW, MSA PROFESSIONAL SERVICES, INC. HEREBY NOTIFIES TRUST THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON TRUST'S LAND MAY HAVE LIEN RIGHTS ON THAT LAND AND ON THE BUILDINGS ON THAT LAND IF THEY ARE NOT PAID FOR SUCH LABOR OR MATERIALS. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO

MSA PROFESSIONAL SERVICES, INC., ARE THOSE WHO CONTRACT DIRECTLY WITH THE TRUST OR THOSE WHO GIVE THE TRUST NOTICE WITHIN 60 DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, TRUST PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO THE MORTGAGE LENDER, IF ANY, MSA PROFESSIONAL SERVICES, INC. AGREES TO COOPERATE WITH THE TRUST AND THE LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID.

26. This agreement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements not embodied herein (unless agreed in writing duly executed) shall be of any force or effect, and this agreement supersedes any other prior understanding entered into between the parties on the subject matter hereto.