

**AGREEMENT  
BETWEEN  
CUYAHOGA COUNTY, OHIO  
AND  
HZW Environmental Consultants LLC  
FOR  
ENVIRONMENTAL SERVICES**

THIS AGREEMENT ("Agreement"), made and entered into this 21<sup>st</sup> day of October 2013 (the "Effective Date") by and between the County of Cuyahoga, Ohio (the "County"), a county and political subdivision of the state of Ohio, on behalf of the Department of Development ("DOD"), and HZW Environmental Consultants LLC ("Consultant"), an Ohio, Limited Liability Corporation with principal offices located at 6105 Heisley Road, Mentor, Ohio 44060.

**W I T N E S S E T H:**

**WHEREAS**, the County currently manages and administers an environmental assessment program (the "Program"); and

**WHEREAS**, the purpose of the Program is to inventory, characterize, and assess parcels of real property throughout the County of Cuyahoga, Ohio which qualify as a "brownfield site" under the Comprehensive Environmental Response Compensation, and Liability Act of 1980, 42 U.S.C. Chapter 103 ("CERCLA"), as amended by the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118 (the "Act"; for purposes of this Agreement, including all subsequent amendments thereto and all regulations promulgated thereunder); and

**WHEREAS**, in order to accomplish its responsibilities in connection with the Program, the County requires the assistance of one or more environmental consultants; and

**WHEREAS**, the County is empowered by the constitution and laws of the state of Ohio and the Act to engage consultants for purposes of conducting the Services (as defined below) with respect to the real property located at 1381 West Clifton Avenue, Lakewood, Ohio and more particularly described or shown on Exhibit A attached hereto and made a part hereof (the "Facility"); and

**WHEREAS**, the Consultant previously responded to a request for qualifications issued by the County and in such responses represented that it possesses the relevant professional experience, competence and knowledge, as required under the laws of the state of Ohio and the Act, to render the services to be provided under this Agreement, and desires to render such services to the County with respect to the Facility; and

**WHEREAS**, the County has requested a scope of services to be provided with respect to the Facility, a copy of which is attached hereto as Exhibit B (the "Services"), and

Consultant has provided and the County has accepted a proposal to perform the Services, a copy of which is attached as Exhibit C (the "Proposal"); and

**NOW, THEREFORE,** in consideration of the premises, covenants, and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Consultant, agree as follows:

**1. Scope of Services.**

A. The Consultant agrees to inventory, characterize, and assess the Facility in accordance with the Act, and to investigate, determine and analyze reasonably identifiable risks inherent in the existence of hazardous materials or wastes, petroleum products, toxic chemicals or substances, pollutants or contaminants, or any other material, chemical, waste, or substance, in any of their various forms ("hazardous substances"), which, in the Reasonable Judgment of the Consultant (as defined below), could give rise to liability or responsibility under any federal, state or local laws, statutes, regulations, ordinances, protocols, guidance or standards or under common law ("environmental laws"), including without limitation, the presence of hazardous substances in the soil, groundwater, or air associated with the Facility. For purposes of this Agreement, "Reasonable Judgment" means such skill, care and judgment normally exercised by recognized professional firms performing services of a similar nature in the State of Ohio in accordance with the laws of the State of Ohio and the Act.

B. Consultant shall perform the Services in accordance with the terms of this Agreement, the Requested Services, the Proposal, and the General Terms and Conditions, attached and incorporated herein as Exhibits B, C, D, and E respectively. Consultant acknowledges that Phase II service will commence ONLY upon approval of the SAP work plan by the County, and County has issued an authorization to proceed. County reserves the right, in its sole discretion, to terminate this Agreement upon completion of the Phase I Services. The terms and conditions in this Agreement shall prevail over any inconsistent terms in the Requested Services, General Terms and Conditions or the Proposal. Should any conflict exist between the Proposal and the Requested Services, the Requested Services shall govern.

**2. Quality of Services.**

A. The Consultant shall provide and direct any and all qualified personnel necessary to perform the Services required pursuant to the express and implied terms and conditions of this Agreement, with a degree of skill, care and judgment normally exercised by recognized professional firms performing services of a similar nature in the State of Ohio.

B. The Consultant shall assign the personnel identified in the Proposal to perform the Services, and shall not remove or replace those individuals without the prior written approval of the County, which approval shall not be unreasonably denied or withheld; the County's decision with respect to such removal or replacement shall be given in a timely manner so as not to delay Consultant's completion of the Services by the Completion Date. The Consultant represents and warrants that the identified personnel will be under the supervision or responsible charge of a

person meeting the definition of environmental professional as defined in the Act and any current or proposed regulations thereunder.

C. Consultant represents that it has developed a generic Quality Assurance Project Plan ("QAPP") meeting the requirements in "Quality Assurance Guidance for Conducting Brownfields Site Assessment", as outlined by current U.S. EPA guideline for Cuyahoga County Department of Developments Community Assessment Program. This generic QAPP will be submitted and approved by USEPA, Region V for approval prior to conducting any and all Phase II Environmental Assessment work for Cuyahoga County Department of Development. Consultant acknowledges and agrees it shall not receive compensation for any associated work in regards to the creation, preparation, and approval of the generic QAPP. Consultant shall customize its generic QAPP to create a site-specific Sampling and Analysis (SAP) workplan for the Facility, which includes Phase II environmental investigation for the Cuyahoga County Department of Development. Costs to customize the QAPP to the Facility shall be compensated under this Agreement.

### **3. Compensation.**

A. In consideration of Consultant's faithful performance of the Services, as directed by the County, Consultant shall receive compensation in an amount not to exceed \$4,726.00.

B. Compensation for Phase II Services, if any, shall be documented in accordance with paragraph 1 above, and shall be computed for each quarter of an hour incurred in connection with the Phase II Services at the hourly rates set forth in Section I of the rate schedule ("Rate Schedule") entitled "Fees for Professional Services of the General Terms and Conditions," attached hereto including all present, state, federal and local sales, use, excise, business and occupation and transportation taxes. Phase II Services, such as sub-surface investigation or other Services which may become necessary due to unforeseen circumstances shall only be performed by the Consultant upon prior written approval of the County, and at the rates set forth under Section I of the Rate Schedule plus reimbursable expenses calculated in accordance with Section II of the Rate Schedule.

C. In the event that Consultant encounters issues which would require additional time or expense, Consultant shall immediately notify the County and shall not proceed until the County has approved such additional time or expenses in writing.

D. Invoices. Detail on all invoices to County will follow the format specified in the budget attached to the Proposal. All invoices shall include copies of all subcontractor invoices. Markup on subcontractor costs in excess of 5% will be disallowed.

### **4. Term and Time of Performance.**

A. The term of this Agreement shall begin on the Effective Date and shall expire, unless sooner terminated under the terms of this Agreement or extended by a written Amendment to this Agreement, on April 19, 2014.

B. The Consultant will initiate the Services within one week of receipt of a written authorization to proceed from DOD. Upon completion of the Services, Consultant shall provide the County with a written report or reports, as described in the Section 5, below.

5. **Report.** Any reports prepared by Consultant pursuant to the Agreement shall first be prepared and submitted, with all supporting information, to the County in draft form for initial review; the County reserves the right to request that such draft report and supporting information be submitted in electronic (e.g., Word or Adobe Acrobat) and/or non-electronic form. All final reports will be delivered to the county and/or designated recipients in format specified by county on a project by project basis. Not to exceed three electronic versions and one possible non-electronic (paper version) per report.

6. **Intellectual Property Rights.** All reports, documents, drawings, drafts, notes and /or other deliverables produced in response to this Agreement will be the sole property of Cuyahoga County and shall be delivered to the Cuyahoga County at the conclusion of the project. Consultant agrees that any and all works of authorship created or products developed by Consultant under this Agreement, either individually or jointly with others, in the course of the rendition of the services contemplated herein, shall be the exclusive property of Cuyahoga County.

7. **Termination.** Either the County or the Consultant may suspend the performance by the Consultant of all or any part of the Services to be provided under this Agreement or terminate for convenience all or any part of this Agreement, in either case, by written notice sent by certified mail, return receipt requested to a non-terminating party. Such suspension or termination shall be effective two (2) business days after receipt of the written notice. In the event of termination, the Consultant shall be entitled to compensation, for work completed up to the date of termination, in accordance with Section I of the Rate Schedule, together with its reimbursable expenses calculated as provided in Section II of the Rate Schedule and shall submit a final invoice to the County within thirty (30) days after the effective date of such termination. Upon request by the County, the Consultant will promptly furnish the County with a written report based upon the data and information collected by the Consultant as of the date of termination of this Agreement, the cost of which shall be paid for in accordance with Section I of the Rate Schedule.

8. **Representations and Warranties.** The Consultant represents and warrants that:

A. The Consultant shall have obtained and shall maintain any and all licenses and permits required by environmental laws for the performance of its Services pursuant to this Agreement;

B. The Consultant shall comply with all applicable environmental laws in performing the Services hereunder, and shall comply with directives of governmental agencies and the County relating to safety, security, traffic or other like matters relating to the Facility; and

C. The Consultant's professional Services will be performed, its findings obtained and its recommendations prepared in accordance with generally and currently accepted scientific and engineering principles and practices and in accordance with industry standards of care exercised

by recognized HzW Environmental Consultants LLC performing Services in Ohio, as established at the time the Services hereunder are to be performed.

9. **Indemnity.** The Consultant shall defend, hold harmless and indemnify the County from and against all claims, actions, suits, liabilities, damages and expenses (including attorney's fees) for personal injury (including death), property damage or other claims and liabilities arising out of, related to, or in connection with the Consultant's Services pursuant to this Agreement, including any Services performed by any subcontractor or agent of the Consultant, excepting only such claims, actions, suits, liabilities, damages and expenses arising directly out of the County's willful misconduct or gross negligence.

Consultant acknowledges that as an Ohio political subdivision, the County is prohibited by law from agreeing to indemnify any person or entity, and agrees that no provision of this Contract or any other contract or agreement between Consultant and the County may be interpreted to obligate the County to indemnify or defend Consultant or any other party.

10. **Insurance.** Consultant agrees to maintain at all times during the life of this Agreement worker's compensation, commercial general liability, comprehensive business automobile, professional liability (in particular covering errors and omissions), and umbrella liability insurances. Commercial General Liability, Contractors Pollution Legal Liability & Professional Liability, (in particular covering errors and omissions), shall be in an amount not less than Two Million Dollars (\$2,000,000) while the comprehensive business automobile, and umbrella liability insurances shall be in an amount not less than One Million Dollars (\$1,000,000).

Each of the Insurance Policies shall state that the issuing company thereof shall have no right of recovery or subrogation against the County or its agents, directors, officers, employees, representatives or insurers, and that the County shall in no way be held responsible for the payment or satisfaction of any deductible thereunder.

Consultant shall name the County and its employees as an additional insured on each of the Insurance Policies, up to the amounts specified herein, and shall furnish the County with Certificates of Insurance stating to that effect.

Should any one of the Insurance Policies terminate or be cancelled, refused, or for any other reason no longer be of effect, the Consultant and Insurance Carrier shall immediately furnish written notice to the County of the fact. At such time such notice is received by the County, this Agreement shall be held null and void and no longer enforceable or of effect; provided, however, that if the Consultant is able to obtain coverage from another insurer within five (5) business days of the loss of coverage, this Agreement shall continue to be in full force and effect and shall remain binding on the parties hereto.

All Insurance Policies required hereunder shall cover and include the specific work contemplated by the terms hereof. If such policies do not cover such work, then Consultant shall not be in conformity with the terms hereof, unless Consultant obtains written permission from the County to not be in conformity with such terms

11. **Independent Contractor.** The Consultant is acting and shall perform its Services under this Agreement as an independent contractor. Nothing contained in this

Agreement or in the relationship between the County and the Consultant shall be deemed to constitute a partnership, joint venture, or any other relationship among them, and the Consultant's authority is strictly limited to performing the Services set forth herein in accordance with the terms and conditions hereof. The Consultant shall have no authority to execute any contracts, subcontracts or agreements for or on behalf of the County, nor to assume or create any obligation or liability or make any representation, covenant, agreement or warranty, express or implied, on the County or the County's behalf, or to bind the County in any manner whatsoever, without, in each case, written consent, approval, or instructions having been given or provided by the County. Any and all subcontracts shall be submitted to and approved by the County prior to execution and delivery.

**12. Audits.** The Consultant by his, her or its acceptance of the monies granted hereunder agrees to cooperate in all regards with any audit of the Grants and distributions therefrom, where such audit is performed by any governmental entity or agency duly authorized and empowered to undertake such audit by the Act, whether such entity or agency be from the County of Cuyahoga, State of Ohio or Federal Government (the "Auditor"). Consultant agrees to present information in such format as reasonably requested by the Auditor, and to comply in all regards with all requirements and procedures as may be reasonably formulated by the Auditor from time to time.

**13. Assignment, Transfer or Delegation.** Neither this Agreement nor any of the rights, interests or obligations of the Consultant hereunder may be assigned, transferred or delegated in whole or in part by the Consultant without the prior written consent of the County, which consent may be denied, withheld or granted in the sole discretion of the County.

**14. Notices: Entire Agreement.** Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered or on the second business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to the County or the Consultant, as the case may be, at the address set forth on the signature page of this Agreement or to such other address as the County or the Consultant may have designated in accordance herewith. The terms and conditions of this Agreement, including all exhibits and the Rate Schedule attached hereto, constitute the final written expression of the agreement between the parties and are a complete and exclusive statement of the terms and conditions of this Agreement and may not be amended except in a writing signed by the parties hereto. Any amendments or modifications to this Agreement shall be valid only when executed by the parties in a written instrument with the same formality as this Agreement. Any consents, approvals or instructions which may be required of the County under this Agreement may be given only by the County Development Director or the Deputy Development Director. All other notices or other communications required or permitted hereunder may be given by an authorized representative of the County.

**15. Confidentiality & Public Records.** The Consultant, its officers, agents and employees shall perform the Services in a discrete, confidential manner and shall not disclose any information or materials and reports gathered pursuant to this Agreement, or discuss such information or materials with anyone, other than authorized County representatives, without the prior written permission of the County; provided, however, that the Consultant is expressly authorized and permitted to disclose, where relevant, any such information or materials to any

third parties who are required under the terms of this Agreement to be contacted by Consultant in connection with its Services hereunder or who may be entitled to such information as a matter of law or pursuant to court order. All such information, materials and reports shall belong to the County.

Notwithstanding the foregoing, Consultant acknowledges that County is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media.

**16. Governing Law & Forum.** This Agreement shall be governed by the laws of the State of Ohio. Any suit, action, or proceeding brought under this Contract shall be in a state or federal court of competent jurisdiction located in Cleveland, Ohio, and the parties agree to the exclusive jurisdiction and venue of such court to resolve same.

**17. Applicable Ordinances:** This Agreement shall be subject to all applicable County ordinances, including, but not limited to: i) the Cuyahoga County Ethics Ordinance, ii) the Cuyahoga County Inspector General Ordinance, and iii) the Cuyahoga County Board of Control, Contracting and Purchasing Ordinance (the "County Ordinances"). Consultant shall comply with all County Ordinances as an integral part of this Agreement. . Copies of all County Ordinances are available on the County Council's web site at <http://council.cuyahogacounty.us/>.

**18. Force Majeure.** The time for performance or observance of any of the covenants and agreements to be performed or observed by Consultants under this Agreement shall be extended for delays caused by Force Majeure. For the purposes hereof, the term Force Majeure shall mean and include: (i) delays in the performance of the work by reasons for strikes, lockouts, accidents, acts of God or other causes beyond the Consultant's reasonable control, (ii) the failure by the County to furnish necessary information required under this Agreement, (iii) the failure by the County to approve or disapprove the Consultant's work as and when required under this Agreement, (iv) delays resulting from late, slow or faulty performance by the County, other contractors or consultants of the County, or by government agencies whose performance of work is precedent to or concurrent with the performance of the Consultant's work under this Agreement.

**19. Disputes.** Any dispute between Consultant and the County arising out of or relating to this Agreement, except for disputes relating to right of either party to terminate this Agreement in accordance with Article 7, shall be subject to mediation as an express condition precedent to the institution of any legal or equitable proceedings by either the Consultant or the County. The parties shall endeavor to resolve any such dispute through mediation conducted pursuant to the Construction Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party and with the American Arbitration Association. The prevailing party shall be entitled to reimbursement of the mediator's fee and the filing fees paid by such party. In addition, all costs and expenses incurred by either party in connection with the mediation shall be borne and paid by the unsuccessful party. The mediation shall be held in the County of Cuyahoga (in a place selected by County),

unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**20. Electronic Signature.** By entering into this Agreement, I agree on behalf of the contracting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with electronic signature policy of Cuyahoga County.

**IN WITNESS WHEREOF**, the parties have hereto executed this Agreement as of the Effective Date.

**HZW Environmental Consultants LLC**

BY: Barbara Knecht  
Barbara Knecht

**Cuyahoga County Executive**

Edward FitzGerald, County Executive

BY: Edward FitzGerald  
Edward FitzGerald  
2013-11-15 17:36:20



## **EXHIBIT A**

### **DESCRIPTION OF FACILITY**

The Former McKinley School Site ("Facility") is located at located at 1381 West Clifton Avenue, Lakewood, Ohio.

The Facility is located at Parcel 311-22-028 in Lakewood, Ohio.

The Facility is bounded by Northwood Avenue Properties to the North, Webb Road Properties to the East, West Clifton to the West, and Detroit Avenue Properties to the South.

The Facility consists of a former school building circa 1912 with addition in 1969.

The Facility is currently zoned for \_Commercial Public School land uses and proposed for PLANNED Development Zoning land uses.

The One parcel encompasses approximately 2.78 acres.

## **EXHIBIT B**

### **REQUESTED SERVICES LIST**

1. Phase I Property Assessment(s) as:  
  
☐ ASTM E1527-05 "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process" meeting the requirements for "all appropriate inquiries" under the Act and any regulations promulgated thereunder, 40 C.F.R. Part 312; or  
  
☐ Ohio EPA Voluntary Action Program Phase I Property Assessment in accordance with Ohio Revised Code § 3746.04 (B)(3) and Ohio Administrative Code §3745-300-06, including a VAP Eligibility Analysis in accordance with Ohio Administrative Code §3745-300-02; provided however, such preliminary assessment of the Facility shall meet and be performed in accordance with the criteria and requirements set forth in Title II, Subtitle A, Section 223 (2) (B) of the Act [42 U.S.C. 9601 (35)] or any current or proposed regulations promulgated thereunder.
2. \_\_\_ Regulatory File Review, as requested.
3. \_\_\_ Ohio EPA Voluntary Action Program Phase II Property Assessment under O.R.C. 3746.04 (B)(4) and AS MORE CLEARLY DESCRIBED IN ATTACHED PROPOSAL (Exhibit C)..
4. \_\_\_ Site-specific Sampling and Analysis Plan meeting the requirements set forth in the generic Quality Assurance Project Plan, and under O.R.C. 3746.04(B)(4) and O.A.C. 3745-300-07 for VAP; and under 40 C.F.R. 31.45, and EPA DQO and QA/QC Guidance Documents for Non-VAP
5. \_\_\_ Bureau of Underground Storage Tank Regulations Closure Assessment and/or 3-Tier Evaluation under O.A.C. 1301:7-19-12 and -13
6. ✓ Asbestos Survey under O.R.C. 3710; O.A.C 3745-20-02 – O.A.C. 3745-20-04; 40 C.F.R. 763.86 or equivalent; 40 C.F.R. 61 subpart M
7. \_\_\_ Lead Paint Inspection (to determine the presence of lead-based paint) under O.R.C. 3742 .
8. \_\_\_ Risk Assessment and Report for Voluntary Action Program projects conducted in accordance with O.R.C. 3746 and O.A.C. 3745-300-08 (Generic) and/or O.A.C. 3745-300-09 (Site-Specific), or for leaking USTs regulated by BUSTR conducted in accordance with BUSTR's Site Feature Scoring System (Generic) or 4-Tier (Site-Specific) risk assessment documents.
9. \_\_\_ Remedial Action Plan and Operation and Maintenance Plan under O.R.C. 3746 and O.A.C. 3745300-15 for Voluntary Action Program projects, or O.A.C. 1301:7-9-13 for leaking USTs regulated by BUSTR.
10. \_\_\_ Urban Setting Designation and/or Groundwater Feasibility Study conducted in accordance with O.R.C. 3746 and O.A.C. 3745-300-10(D).

**Exhibit C**

**Consultant's Proposal**



HzW ENVIRONMENTAL  
CONSULTANTS, LLC

September 24, 2013

Northcoast Brownfield Coalition  
c/o Ms. Janise Bayne  
Cuyahoga County  
Department of Development  
Reserve Square  
1701 East 12<sup>th</sup> Street, First Floor  
Cleveland, Ohio 44114

***Subject: Proposal to Provide Professional Services at the Former McKinley School Located 1381 West Clifton Avenue, Lakewood, Cuyahoga County, Ohio***

Dear Ms. Bayne:

In accordance with your request, HzW Environmental Consultants, LLC (HzW) is pleased to submit for your consideration this proposal to provide environmental consulting services at the former McKinley School located at 1381 West Clifton Avenue, Lakewood, Cuyahoga County, Ohio (herein referred to as "the Property"). We propose to provide these professional services to the Northcoast Brownfield Coalition/Cuyahoga County, Department of Development, herein referred to as the Client, in accordance with the terms and conditions outlined below.

## **SCOPE OF SERVICES**

### **Task 1 – Asbestos Reinspection**

HzW proposes to provide an Asbestos Hazard Evaluation Specialist, who is certified by the State of Ohio, in accordance with the Ohio Department of Health (ODH) regulations, to conduct an asbestos reinspection of the building located at the Property. The asbestos reinspection will be conducted in accordance with the Environmental Protection Agency's (EPA's) Asbestos Hazard Emergency Response Act (AHERA) 40 CFR 763 Subpart E, 763.80 through 763.99. The asbestos reinspection at the building will consist of the following:

- A. Reviewing previous asbestos reinspection reports, the asbestos management plan and any previous abatement projects, as provided by the Client, prior to the asbestos reinspection being performed.
- B. Conducting a visual inspection of the building to identify any new homogeneous areas of building materials suspected of containing asbestos and not previously identified and sampled. Homogeneous areas will be separated out by color, texture, size and date of building construction as required by Section 763.83.

**MENTOR**

**AKRON**

**EUCLID**

**CANTON**

6105 Heisley Road, Mentor, Ohio 44060 • phone 440-357-1260 • 800-804-8484 • fax 440-357-1510  
www.hzwenv.com

- C. Collecting bulk samples from homogeneous areas **not previously sampled**, in accordance with AHERA protocol, specifically Sections 763.86 and 763.87 of the standard. Submitting any bulk samples collected to an independent laboratory accredited by the National Bureau of Standards (NBS) and the National Institute of Standard and Technology (NIST) under the National Voluntary Laboratory Accreditation Program (NVLAP) for analysis of asbestos content. The samples will be analyzed by polarized light microscopy (PLM) using the Environmental Protection Agency (EPA) Method 600-M4-020. In accordance with the United States EPA National Emissions Standard for Hazardous Air Pollutants (NESHAP), select ACMs identified by PLM as containing less than 10 percent asbestos will subsequently be analyzed by point count methodology.
- D. Upon receipt of the analytical results, HzW will prepare two (2) electronic copies of a letter report burned on compact disks for submittal to the Client. This letter report will include the following:
  - i) Date of the asbestos reinspection and signature of accredited individuals performing the survey and their accreditation number, and the State of their accreditation;
  - ii) The exact locations where samples were collected during the asbestos reinspection, a description of the manner used to determine sampling locations, the name and signature of the accredited inspector who collected the samples, State of accreditation, and, if applicable, his or her accreditation number. Existing Computer-Aided Drafting (CAD) drawings of the building will be updated to mark the locations of any additional bulk samples collected and locations of ACMs and any assumed ACMs identified, and will be included as part of the report;
  - iii) An assessment on the condition of all ACMs or assumed ACMs identified, the name and signature of the accredited individuals making the assessment, their accreditation number, and the State of their accreditation; and
  - vi) Any recommended response actions.

#### **SCHEDULE OF COMPLETION**

HzW will commence work on Task 1 of this project immediately upon receipt of authorization to proceed. The anticipated duration of Task 1 is approximately 6-8 weeks from receipt of authorization to proceed.

#### **INFORMATION/SERVICES PROVIDED BY THE COUNTY**

The following information and services shall be provided to HzW by the County:

1. Assistance in gaining access to the Property during normal working hours, as necessary.
2. Any previous asbestos reinspections, management plan and/or reports of abatement activities for the building.

## FEE AND BILLING

Attachment 1 presents the total, not-to-exceed cost for completing Task 1, outlined above. The hours and costs presented in Attachment 1 are the estimated hours and costs. While HzW will not exceed the project total cost indicated in Attachment 1, the actual hours and costs incurred may be modified. Invoices reflecting the hours incurred by HzW personnel and subcontractor costs incurred will be submitted to the County on a monthly basis. Invoices are due and payable twenty-five (25) days following receipt.

A list of all HzW personnel who will or may be assigned to perform the services presented in this proposal, which includes title, responsibilities and hourly rates, is presented below.

<u>Name</u>	<u>Title</u>	<u>Responsibilities</u>	<u>Hourly Rate</u>
Matt Knecht	President	Certified Professional	\$175.00/hour
Joan Sablar	Industrial Hygienist	Project Management	\$160.00/hour
Carmen Rocco	Environmental Technician	Asbestos Evaluation	\$73.00/hour
JoMarie Sherman	Technical Editor	Report Review	\$110.00/hour

## CLOSURE

In addition to the matters set forth herein, our agreement shall include and be subject to the Standard Provisions attached hereto and hereby incorporated herein. The term "the Client" as used in the Standard Provisions shall be understood to refer to the Northcoast Brownfield Coalition/Cuyahoga County, Department of Development. The Standard Provisions shall apply to this agreement, regardless of the method of authorization. Should any terms stated in the Standard Provisions and this letter proposal conflict, the terms of the letter proposal shall take precedence.

We hope that this proposal is acceptable to the County. Please call us should you have any questions. We look forward to working with you on this project.

Sincerely,

**HzW ENVIRONMENTAL CONSULTANTS, LLC**



Rebecca Florjancic  
Environmental Scientist

RLF\jas\js

Attachments: Attachment 1 – Cost Spreadsheet  
Attachment 2 – Principle Owners of Firm  
Attachment 3 – DBE Subcontractor Utilization Form (EPA Form 6100-4)  
Attachment 4 – Standard Provisions

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**ATTACHMENT 1**  
**COST SPREADSHEET**

# ATTACHMENT 1

## Proposal for Cuyahoga County Assessment Project

<b>Project Name: Former McKinley School Asbestos</b>			
<b>Site Location: 1381 West Clifton Avenue, Lakewood, Ohio</b>			
<b>Date of Proposal: September 24, 2013</b>			
<b>Task #1 - Asbestos Reinspection</b>			
<b>Labor Charges by Classification</b>	<b>Units</b>	<b>Rate</b>	<b>Total Cost</b>
Project Manager/Industrial Hygienist*	12	\$160.00	\$1,920.00
Environmental Technician	32	\$73.00	\$2,336.00
Technical Editor	2	\$110.00	\$220.00
*Includes Review of Asbestos Documentation and Reinspection Report Generation			
<b>Expenses</b>			
Sample Shipment	1	\$25.00	\$25.00
<b>Subcontractors</b>			
IATL - Asbestos Bulk Analysis	25	\$9.00	\$225.00
<b>SubTotal of Task</b>			<b>\$4,726.00</b>
<b>PROJECT TOTAL</b>			<b>\$4,726.00</b>

<b>DBE Percentages</b>	<b>%/Total</b>	<b>\$ Amount</b>
MBE Contractor		
WBE Contractor	94.71%	\$4,476.00



**ATTACHMENT 2**

**PRINCIPLE OWNERS OF FIRM**

**Firm Name HZW Environmental Consultants, LLC**

**Principal Owner (s) Identification Sheet**

Please complete the following information for all owners associated with the above named entity:

<b>Member Name</b>	<b>Title</b>	<b>Percentage of Ownership</b>
Barbara Knecht	CEO	37
Matthew Knecht	President	35
JoMarie Sherman	Mgr. of Quality Control	6
Joan Sablar	Senior Industrial Hygienist	6
Rebecca Florjancic	Environmental Scientist	5
Matthew Fergus	Industrial Hygiene Technician	5
Douglas Wetzel	Environmental Scientist	3
Jason McKenney	Biologist	3

**ATTACHMENT 3**  
**DBE SUBCONTRACTOR UTILIZATION FORM**



Environmental  
Protection Agency

OMB Control No: \_\_\_\_\_  
Approved: \_\_\_\_\_  
Approval Expires: \_\_\_\_\_

**Disadvantaged Business Enterprise Program  
DBE Subcontractor Utilization Form**

<b>BID/PROPOSAL NO.</b>	<b>PROJECT NAME</b> Former McKinley School
<b>NAME OF PRIME BIDDER/PROPOSER</b> HzW Environmental Consultants, LLC	<b>E-MAIL ADDRESS</b> BKnecht@hzwenv.com
<b>ADDRESS</b> 6105 Heisley Road, Mentor, Ohio 44060	
<b>TELEPHONE NO.</b> 440-357-1260	<b>FAX NO.</b> 440-357-1510

**The following subcontractors<sup>1</sup> will be used on this project:**

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?
IATL 9000 Commerce Parkway, Suite B Mt.Laurel, NJ 08054 (856) 231-9449	Analytical	225.00	No

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Barbara Knecht (for BK)  
Signature Of Prime Contractor

9-24-13  
Date

Barbara Knecht  
Print Name

CEO  
Title

<sup>1</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**ATTACHMENT 4**  
**STANDARD PROVISIONS**

**1. Information Provided by Others.** Client shall provide to HZW Environmental Consultants, LLC, ("Consultant") all pertinent background information related to the project. Client recognizes that it is impossible for Consultant to assure the sufficiency or accuracy of such information, either because it is impossible to do so, or because of errors or omissions by others which may have occurred in assembling the information. Accordingly, Consultant may rely on all information provided to it, and Client waives any claim against Consultant, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from errors, omissions, or inaccuracies in documents or other information provided to Consultant by sources which may include, but are not limited to, Client, and agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of, or otherwise regarding, any such claim.

**2. Right of Entry.** Client shall provide or assist Consultant in gaining the right to enter property owned by Client and/or other(s) in order for Consultant to fulfill the scope of services included hereunder.

**3. Notification of Hazardous Materials.** When wastes, materials and/or substances or other materials or substances hazardous and/or toxic to human health or to the environment, whether regulated or unregulated, ("Hazardous Materials") are known, assumed or suspected to exist at a site, Consultant is required to take appropriate precautions to protect the health and safety of its personnel, to comply with applicable laws and regulations, and to follow procedures that Consultant deems prudent to minimize risks to its employees and the public. Should Client know or have any reason to assume or suspect that Hazardous Materials exist at the project site, Client will inform Consultant prior to project initiation, and advise Consultant of such known or suspected Hazardous Materials' type, quantity, and/or location.

**4. Hazardous Materials.** It is understood and agreed that in seeking the professional services of Consultant under this Agreement, Client may request Consultant to undertake obligations involving or related to Hazardous Materials (including, but not limited to, asbestos). Such services shall be performed in accordance with generally accepted professional practice at the time when and the place where the services are rendered. Client agrees to hold harmless, indemnify, and defend Consultant from and against any and all claims, losses, damages, liabilities, and costs arising, or allegedly arising, out of or in any way connected with the presence, discharge, release, or escape of contaminants or Hazardous Materials of any kind, or environmental liability of any nature or in any manner related to services performed by Consultant under this Agreement, including the failure to discover any Hazardous Materials which exist in, on, above, beneath, about, or which have migrated onto, or under, the project site. Such indemnification shall not apply to claims, damages, losses, or expenses which are finally determined to result from willful or reckless disregard by Consultant of its obligations under this Agreement.

**5. Scope of Services.**

a. In the event that the Scope of Services for this Agreement was developed by Consultant, Client acknowledges that it was prepared at Client's direction and without input from Client and/or other professionals retained (directly or indirectly) by Client. Client further acknowledges that, as a result, Consultant has been required to make various assumptions about Client's needs and preferences, as well as Client's ability to obtain certain services from other sources. Accordingly, Client waives any claim against Consultant, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from the assumptions made by Consultant in developing the Scope of Services and agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such assumption in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

b. In the event that the scope of services for this project was developed by a party other than Consultant, Consultant makes no claims as to its adequacy, since Consultant was not involved in or privy to the information and considerations that it reflects. Accordingly, Client acknowledges that Consultant is forced to assume that the scope of services is fully adequate for Client's purposes. Client also acknowledges and understands that Consultant assumes that Client has an alternative source from which to obtain any needed or desired services not listed. Accordingly, Client waives any claim against Consultant, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from Consultant's failure to perform services limited by or not included in the scope of services, and agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such claim in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**6. Disturbance of Property/Adverse Property Conditions.** Client understands that use of sampling equipment may cause some disturbance to the property, the correction of which is not part of this Agreement. Client also understands that the discovery of certain conditions and/or taking preventive measures relative to these conditions may affect a property's value. Accordingly, Client waives any claim against Consultant, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from said conditions, and agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such claim in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**7. Limiting Conditions:** Certain conditions may be encountered in the field which limit the Consultant's ability to complete all or part of the Scope of Services. These may include (but are not limited to) locks on gates, doors, or fences; flooded basements; immovable equipment or machinery; structurally unsound buildings, walkways, "cat walks", etc.; snow cover; debris/fill piles; or active game hunting in the immediate area where the Consultant is to implement the Scope of Services. In the event of a limiting condition, the Consultant will endeavor to contact the Client as soon as practical to advise of the limiting condition, and request direction on how to complete the Scope of Services, given the limiting condition. Should the Client direct the Consultant to return to the site once the limiting condition has been removed or otherwise abated, such a re-inspection of the work site by the Consultant may be considered an Additional Service, and subject to additional compensation above that contemplated in the original agreement. Should the Client direct the Consultant to disregard the limiting condition, the Client will waive any claim against Consultant, and agree to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from said conditions, and agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such claim in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**8. Job Site Safety.** Consultant is responsible for its own employee's activities on the job site. Neither this Agreement, nor the professional activities of Consultant, nor the presence of Consultant or its employees and/or subcontractors shall be construed to imply Consultant has responsibility for the methods of work performance, superintendence, sequencing of construction, or safety of others in, on, or about the job site.

**9. Opinions of Cost.** Since Consultant has no control over the cost of labor, materials, equipment or services furnished by others or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to the costs of services, construction or materials shall be made on the basis of its experience and qualifications and represent its best judgment; however, Consultant cannot and does not guarantee that bids or actual costs will not vary from opinions of probable cost.

**10. Graphic Presentation of Physical Features.** Any graphic presentation of physical features on maps or in reports is based upon field measurement techniques (such as compass or distance triangulation, pace-and-compass traverses, etc.) using available physical landmarks, and will be considered approximate unless indicated otherwise.

**11. Reuse and/or Revision of Documents.** All documents prepared by Consultant pursuant to this Agreement are related exclusively to the services described herein. They are not intended or represented to be suitable for reuse by Client or others on extensions of this project or on any other project. Any reuse without written verification or adaptation by Consultant for the specific purposes intended will be at Client's sole risk and without liability or legal exposure to Consultant; and Client shall indemnify and hold Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising, or allegedly arising, out of or resulting therefrom. Any revision, verification or adaptation after Consultant's submission of its final work-product to Client will entitle Consultant to further compensation in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**12. Standard of Care.** In performing its professional services hereunder, Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by members of its profession practicing at the same time in the same or similar locality. No other warranty, express or implied, is made or intended by Consultant's undertaking herein or its performance of services hereunder.

**13. Maintenance of Professional Standards and Ethics.** Client acknowledges that Consultant's services in all cases must be rendered in accordance with prevailing professional standards and ethics, as well as certain laws or regulations that apply to Consultant. Client further acknowledges that the responsibility for making reports or disclosures to any governmental agency or third party is solely that of the Client and/or the owner of the property that is the subject of the services, unless otherwise required by prevailing legal or professional standards.

**14. Notice of Deficiency.** Client, Client's personnel, contractors and subcontractors shall promptly notify Consultant of any deficiency or suspected deficiency in Consultant's work, in order that Consultant may take prompt, effective measures to address any perceived deficiencies.

**15. Invoices.** Invoices will be submitted by Consultant to Client monthly for services performed and expenses incurred pursuant to this Agreement. Client recognizes that time is of the essence with respect to payment of Consultant's invoices and that timely payment is a material part of the consideration of this Agreement. Payment of each such invoice will be due within twenty-five (25) days. A service charge will be added to delinquent accounts at the maximum rate allowed by law for each month of delinquency.

**16. Non-Contingency.** Client acknowledges and agrees that the payment for services rendered and expenses incurred by Consultant pursuant to this Agreement is not subject to any contingency unless expressly set forth in writing in this Agreement.

**17. Failure to Pay.** If Client fails to make any payment due Consultant for services and expenses within sixty (60) days after Consultant's transmittal of its invoice therefor, Consultant may, after giving seven (7) days' advance written notice to Client, suspend services under this Agreement until it receives payment in full for all amounts due. Consultant may also initiate legal proceedings to collect. In cases where the Consultant has issued reports and/or letters of reliance, Consultant may also notify the Client and any other party to which these reports and/or letters of reliance were issued of the Consultant's withdrawal of reliance upon the information contained therein, and request return of all written reports, data, and other information as the rightful property of the Consultant, based upon the Client's failure to pay. In the case of such a request, the Client agrees to return of all documents and/or letters of reliance, and provide written notification to any party to which Consultant's reports or data were disseminated, notifying them of the Consultant's withdrawal of reliance. In addition to all amounts due and payable pursuant to Consultant's invoices, Consultant may collect accrued interest and its reasonable attorneys' fees and other expenses related to the collection proceeding. Such expenses shall include, but shall not be limited to, the cost of the time devoted by Consultant's officers, directors, employees, and agents devoted to such proceeding and Consultant's related expenses, determined in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**18. Compensation for Additional Services.** The undertaking of Consultant to perform professional services under this Agreement extends only to those services specifically described herein. If Client and Consultant agree that Consultant shall perform additional services ("Additional Services") hereunder, Client shall pay Consultant for the performance of such Additional Services (in addition to all other amounts payable under this Agreement) in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**19. Changed Conditions.** In the event of an occurrence or discovery that was not originally contemplated by or known to Consultant in developing the original scope of services and fees, Consultant, in its sole discretion, may request modification of this Agreement. In the event of such a request, Consultant shall identify to Client the change in conditions which, in Consultant's judgment, make such modification necessary. If a modified Agreement or specific Additional Services cannot be agreed to, this Agreement may be terminated.

**20. Changed Costs.** Consultant shall have the right to increase the compensation payable by Client to Consultant for any non-lump sum project in the event that performance of this Agreement extends beyond March 1 (the date on which Consultant annually revises its fee and reimbursement schedule) of any calendar year and/or in the event that Consultant must modify services, facilities or equipment to comply with laws or regulations that become effective after execution of this Agreement.

**21. Indemnification by Consultant.** Consultant is protected by Workmen's Compensation Insurance and other insurance, and will furnish certificates of insurance upon request. Consultant agrees to hold Client harmless from loss, damage, injury, or liability arising, or allegedly arising, directly from the negligent acts or omissions of Consultant, its employees, agents, subcontractors and their employees and agents to the extent that the same is actually covered and paid under the foregoing policies of insurance.

**22. Limitation of Liability.** To the fullest extent permitted by law, Client will limit any and all liabilities, claims for damages, costs of defense, and/or expenses to be levied against Consultant (whether by Client or by any other person or entity) on account of any and all defects, errors, omissions, negligence and other claims and liabilities to the amount actually paid in compensation to Consultant or paid under said insurance policies, whichever is greater. Client shall defend and hold Consultant harmless from any claim or liability in excess of this amount. Further, Client agrees to notify any contractor or subcontractor who may perform work in connection with any design, report, or study prepared by Consultant of such limitation on claims and liabilities, and require as a condition precedent to its performance of such work an identical limitation on claims and liabilities on its part as against Consultant. In the event Client fails to obtain an identical limitation, Client shall hold Consultant harmless for any claims and liabilities in such a manner and to such extent that the aggregate liability of Consultant shall not exceed the aforementioned amount.

**23. Environmental Indemnity.** To the fullest extent permitted by law, Client agrees to indemnify, defend and hold harmless Consultant and its subcontractors, consultants, agents, officers, directors and employees of any of them from and against all claims, liabilities, damages, losses and expenses, including but not limited to attorneys fees, arising out of or resulting from any release or threatened release of Hazardous Materials that existed at the project site, prior to or after the commencement of Consultant's work, provided that such release or threatened release is not finally determined to have resulted from the sole negligence of Consultant. Without limiting the generality of the foregoing, the above indemnification extends to claims resulting from:

a. Client's violation or alleged violation of any federal, state or local statute, regulation or ordinance relating to the disposal of Hazardous Materials;

b. Client's or Consultant's undertaking of or arrangement for the handling, removal, treatment, storage, transportation or disposal of Hazardous Materials found or identified at the site;

c. Hazardous Materials introduced at the site by Client or third persons before or after the completion of services herein;

d. Allegations that Consultant is a generator, operator, treater, storer, transporter, arranger for transport, handler, or disposer under RCRA, the Comprehensive Environmental, Response, Compensation and Liability Act ("CERCLA") or any other federal, state or local law, regulation or ordinance.

**24. Consequential Damages.** Client shall not be liable to Consultant and Consultant shall not be liable to Client for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault, or whether it was committed by Client or Consultant, their employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

**25. Delays.** Consultant's field or technical work may be interrupted due to causes beyond its control. Client shall not hold Consultant responsible for damages or delays in performance caused by acts of God or other circumstances. For purposes of this Agreement, acts of God and other circumstances beyond the control of Consultant include, but are not limited to, unusual weather; floods; epidemics; war; riots; strikes; lockouts or other industrial disturbances; protest demonstrations; unanticipated site conditions; denial of, or impediment to, site access; insufficient or incomplete delivery of information requested from Client, regulatory agencies, or third parties; or inability, despite reasonable diligence, to obtain personnel, equipment or material for the project.

**26. Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days' written notice in the event of changed conditions or the substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of termination by either party, Consultant will be paid for all services rendered to the date of termination, all expenses subject to reimbursement hereunder, and other reasonable expenses incurred by Consultant as a result of such termination. In the event Consultant's compensation under this Agreement is a fixed fee, upon such termination the amount payable to Consultant for services rendered will be determined using a proportional amount of the total fee based on a ratio of the amount of the work done, as reasonably determined by Consultant, to the total amount of work which was to have been performed, less prior partial payments, if any, which have been made.

**27. Confidentiality.** Consultant agrees to keep confidential and not to disclose to any person or entity, other than Consultant's employees and subcontractors, without the prior consent of Client, all data and information which are furnished to Consultant by Client and which are marked CONFIDENTIAL; provided, however, that this provision shall not apply to data which are in the public domain, or were generated by or previously known to Consultant, or which were acquired by Consultant independently from third parties which have no obligation to Client to keep said data and information confidential. These provisions shall likewise not apply to information, in whatever form, that comes into the public domain through no fault of Consultant. Nor shall these provisions restrict Consultant from disclosing any information or data when ordered by a court, administrative agency or other authority with apparent jurisdiction. Consultant may use Client's name and a general description of Consultant's services for Client for marketing purposes.



**28. Binding Effect.** This Agreement shall bind, and the benefits thereof shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.

**29. Third-Party Exclusion.** Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Consultant and not for the benefit of any other party. Client agrees that Client shall not disclose to any third party any data, reports or other information furnished by Consultant to Client under this Agreement without the prior written consent of Consultant, and in the absence of such consent, Consultant shall have no liability to Client for claims resulting from such disclosure. Client further agrees to indemnify, defend and hold Consultant harmless from any claim or liability for injury or loss arising, or allegedly arising, from Client's disclosure to a third party, and/or a third party's use of, any data, reports or other information furnished by Consultant.

**30. Controlling Law.** This Agreement shall be governed by the law of the State of Ohio without regard to its conflict of laws procedures.

**31. Location of Litigation.** In the event that Client wishes to commence litigation against Consultant, Client agrees that it may bring such litigation only in the Court of Common Pleas for Lake County, Ohio or in the U.S. District Court for the Northern District of Ohio, Eastern Division or such other courts which include Lake County, Ohio within their territorial jurisdictions.

**32. Expenses of Litigation.** In the event litigation in any way related to the services performed hereunder is initiated against Consultant by Client, its contractors, or subcontractors, and such litigation concludes with the entry of a final judgment favorable to Consultant, Client shall reimburse Consultant for all of its attorneys' fees and other expenses related to said litigation. Such expenses shall include, but shall not be limited to, the cost to Consultant for any time spent and expenses incurred, in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

**33. Alternative Dispute Resolution.** In the event of a dispute between Consultant and Client which is not resolved in good faith negotiation, Client agrees to negotiate in good faith to find or craft an alternative dispute resolution mechanism.

**34. Time Limit for Claims.** Client agrees that it will not pursue claims against Consultant more than two (2) years after Consultant's performance of the work from which the claim arises or to which it relates.

**35. Extension of Protections.** Client agrees to extend any and all limitations, indemnifications and waivers provided by Client to Consultant to those individuals and organizations Consultant retains for proper execution of the work. These include, but are not limited to, Consultant's officers, directors, and employees and their heirs and assigns, as well as Consultant's agents, subconsultants and subcontractors and their officers, directors, employees, and their heirs and assigns.

**36. Instruments of Service.** All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Consultant are copyrighted instruments of service. In the case of a failure to pay the Consultant by the Client, all such instruments of service will be considered the rightful property of the Consultant, not the Client, and returned to the Consultant in accordance with the Failure to Pay paragraph of these provisions. These instruments of service will be retained by Consultant for a period of ten (10) years following completion of the work, during which time they will be made available to Client, upon prior request, for review at reasonable times. Further, the contents of this proposal may not, for any purpose, be copied, or be provided or otherwise communicated, in whole or in part, to any party other than Client or Client's legal counsel.

**37. Photographs.** Photographs of any completed project embodying the services of Consultant provided hereunder may be made by Consultant and shall be considered as its property and may be used by it for publication, marketing or other promotional purposes.

**38. Severability.** The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of the other provision hereof. If any provision of this Agreement is unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable.

**39. Survival.** The above terms and conditions regarding limitation of liability and indemnification shall survive the completion of the services under this Agreement and the termination of this Contract for any cause.

**40. Titles.** The titles used in this Agreement are for general reference only and are not part of the Agreement.

**41. Merger.** This Agreement constitutes the entire Agreement between Consultant and Client, and all negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both Consultant and Client.

Initial by Client: \_\_\_\_\_

Initial by Consultant: RLF

## **Exhibit D**

### **GENERAL TERMS AND CONDITIONS**

#### **I. Fees for Professional Services**

The fees for professional services will include all amounts as specified in the September 24, 2013 dated proposal for all employees/subcontractors listed on said proposal. All time including travel hours spent on the project by professional, technical, and clerical personnel will be invoiced. Unless otherwise stated, the foregoing rates shall apply to both Phase I Services and Phase II Services set forth in the Agreement to which these terms and conditions are attached, it being understood that, unless otherwise provided in the Agreement, the compensation payable to the Consultant is lesser of the actually incurred amount utilizing the foregoing rate schedule and the maximum amount set forth in the Agreement and that the Agreement does not provide for a fixed lump-sum price. If it is apparent that the maximum amount is insufficient to complete the project satisfactorily, the County will be advised as soon as practicable.

#### **II. Reimbursable Expenses**

The sum of \$4,726.00 for the scope of services set forth by HzW Environmental Consultants LLC in the September 24, 2013 document "Proposal to Provide Professional Services at the Former McKinley School Located at 1381 West Clifton Avenue, Lakewood, Cuyahoga County, Ohio" submitted by HzW Environmental Consultants LLC, to the County will be the maximum amount of compensation payable to the Consultant for expenses incurred.

#### **III. Invoices and Payments**

Consultant shall be paid monthly on the basis of invoices submitted. The invoices submitted will be for the portion of the agreed upon compensation earned by the Consultant during that month. Consultant shall be paid for all such invoices within thirty (30) days of submittal. In the event the County disputes any invoice or any portion thereof, the undisputed portion shall be paid to Consultant in accordance with the Agreement. Invoices not in dispute and unpaid after thirty (30) days shall accrue interest at the rate of one and one-half percent per month (or the maximum percentage allowed by law, whichever is the lesser). **Payment shall be made to the Consultant, as follows:** "HzW Environmental Consultants LLC 6105 Heisley Road, Mentor, Ohio 44060". Additional support documentation, if requested by the County shall be furnished at an additional administrative charge as required to compile the documentation.

#### **IV. Insurance**

The Consultant is covered by worker's compensation insurance, employers' liability insurance, commercial general liability insurance covering bodily injury (including death) and property damage, automobile liability insurance covering bodily injury (including death) and property damage, professional consultants liability insurance, contractor's pollution legal liability and Umbrella/Excess Liability Insurance as follows:

Worker's Compensation	Minimum Statutory Amount
Employers' Liability Insurance	Minimum Statutory Amount
Commercial General Liability Insurance	\$ 2 million
Professional Errors and Omissions Liability Insurance	\$ 2 million
Automobile Liability Insurance	\$ 1 million
Contractors Pollution Legal Liability Insurance	\$ 2 million
Umbrella/Excess Liability Insurance	\$ 2 million

Consultant shall deliver certificates evidencing such insurance coverage to the County before commencing work under this proposal. Each such policy shall provide that such coverage will not be changed or canceled without at least 30 days' prior written notice to the County. The Consultant shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverage and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

**Exhibit E**

**Rate Schedule**

### Proposal for Cuyahoga County Assessment Project

<b>Project Name: Former McKinley School Asbestos</b>			
<b>Site Location: 1381 West Clifton Avenue, Lakewood, Ohio</b>			
<b>Date of Proposal: September 24, 2013</b>			
<b>Task #1 - Asbestos Reinspection</b>			
<b>Labor Charges by Classification</b>	<b>Units</b>	<b>Rate</b>	<b>Total Cost</b>
Project Manager/Industrial Hygienist*	12	\$160.00	\$1,920.00
Environmental Technician	32	\$73.00	\$2,336.00
Technical Editor	2	\$110.00	\$220.00
*Includes Review of Asbestos Documentation and Reinspection Report Generation			
<b>Expenses</b>			
Sample Shipment	1	\$25.00	\$25.00
<b>Subcontractors</b>			
IATL - Asbestos Bulk Analysis	25	\$9.00	\$225.00
<b>SubTotal of Task</b>			<b>\$4,726.00</b>
<b>PROJECT TOTAL</b>			<b>\$4,726.00</b>

<b>DBE Percentages</b>	<b>%/Total</b>	<b>\$ Amount</b>
MBE Contractor		
WBE Contractor	94.71%	\$4,476.00