

CITY COUNCIL

The City of Orange Township, New Jersey

DATE May 16, 2023

NUMBER 215-2023

TITLE: **A RESOLUTION AUTHORIZING MATRIX NEW WORLD ENGINEERING, 26 COLUMBIA TURNPIKE, 2ND FLOOR, FLORHAM PARK, NEW JERSEY 07932 TO PROVIDE PROFESSIONAL ENGINEERING AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR THE CENTRAL AVENUE SPRAY PARK REPAIRS IN AN AMOUNT NOT TO EXCEED \$66,000.00.**

WHEREAS, the City of Orange Township did duly advertise on November 22, 2022, for Request for Qualifications for Consulting Engineering Services; and

WHEREAS, on December 7, 2022, the City of Orange Township received ten (10) qualification proposals; and

WHEREAS, pursuant to the fair and open process, and based upon review of the qualifications and recommendations therefore, certain professionals are qualified to provide consulting engineering services on an "as needed" basis for the City of Orange Township; and

WHEREAS, the Director of Public Works & Engineering evaluated all proposal submitted based upon qualifications, experience with similar projects, and project understanding; and

WHEREAS, Municipal Council of the City of Orange Township did approve by Resolution #508-2022 the ten (10) to provide professional consulting engineering services to the City of Orange Township on an "as needed" basis for the period of January 1, 2023, through December 31, 2023; and

WHEREAS, Resolution #508-2022 did not establish a contract and only listed qualified professionals for consideration on future projects; and

WHEREAS, a separate resolution is needed to enter into a contract for the Central Avenue Spray Park Repairs; and

WHEREAS, the Director of Public Works & Engineering agreed to select Matrix New World Engineering from the approved list of qualified professionals to provide engineering and construction administrative services for the Central Avenue Spray Park Repairs; and

WHEREAS, the Chief Financial Officer of the City of Orange Township has prepared the necessary Certificate of Availability of Funds, a copy of which is attached hereto, certifying that funds are available for this purpose in Account No. T-11-00-000-000-000 contingent upon Council approval and inclusion of said item in the Temporary Budget and adopted 2023 Budget, there will be sufficient funds to contract with Matrix New World Engineering.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange Township, New Jersey as follows:

1. The Mayor is hereby authorized and directed to execute the attached Agreement with Matrix New World Engineering in an amount not to exceed \$66,000.00.
2. Notice of this action shall be printed in the Orange Transcript as required by law within ten (10) days of its passage.
3. The agreement herein and this resolution are contingent upon certification of funds appropriate funding to render payment for services provided within.

Adopted: **May 16, 2023**

Joyce L. Lanier
City Clerk

Tency A. Eason
Council President

AGREEMENT

This is an agreement, made on _____ between the City of Orange Township, "City" with an address at 29 North Day Street, Orange, New Jersey 07050, and Matrix New World Engineering, 26 Columbia Turnpike, 2nd Floor, Florham Park, New Jersey 07932.

RECITALS

WHEREAS, the City of Orange is a municipal corporation of the State of New Jersey, and has its principal place of business at 29 North Day Street, Orange, New Jersey 07050.

WHEREAS, the City hereby retains and employs the services of **Matrix New World Engineering to engineering and construction administrative services for the Central Avenue Spray Park Repairs.**

WHEREAS, the "Consultant" is duly licensed to practice in the State of New Jersey and desires to render engineering services for the City as provided in the agreement.

NOW, THEREFORE, the City engages the services of the Consultant", and in consideration of the recitals and the mutual promises contained in this agreement, the parties agree as follows:

1. This agreement shall be effective commencing on the date approved by Resolution No. _____ of the City Council of the City of Orange Township, and shall continue in effect until completion of the project, unless sooner terminated by the City by giving ten (10) days written notice to the other party.

SERVICES

2. The “**Consultant**” shall render professional engineering services in accordance with its qualification proposal, dated April 27, 2023, a copy of which is attached here to.

USE OF AGENTS OR ASSISTANTS

3. To the extent reasonably necessary for the “**Consultant**” to perform the duties under this contract, the “**Consultant**” is authorized to engage the services of any agents or assistants that it deems reasonably necessary. Further, the “**Consultant**” may employ, engage, or retain the services of any other person or corporation to aid or assist in the proper performance of “**Consultant**” duties. The cost of services of these agents or assistances will be borne by the “**Consultant**” and any expenses incurred by the “**Consultant**” in engaging any agents or assistants shall be borne by the “**Consultant**”.

THE COST OF SUPPLIES AND EQUIPMENT

4. The cost of supplies, equipment and facilities necessary for the “**Consultant**” to meet its obligations under the term of this agreement shall be solely borne by the Consultant.

FEE

5. For services to be rendered under this agreement, the **Consultant**” shall be entitled to a fee of \$66,000.00.

DEVOTION OF TIME

6. The “**Consultant**” shall devote sufficient time to the performance of the duties under this agreement as is reasonably necessary for a satisfactory performance. Should the City require additional services not included in this agreement, the “**Consultant**”, shall subject to Paragraph 5, make a reasonable effort to perform these additional services without decreasing the effectiveness of the performance of the duties requires by this agreement.

INSURANCE

7. The “**Consultant**” (1) shall be an independent contractor and not an employee of the City under this agreement; (2) shall maintain a policy of liability insurance in the minimum amount of \$1,000,000.00 to cover any claims arising out of the performance of the services under this agreement; and (3) shall further indemnify, save harmless, and defend the City from any claims arising from negligent of any act or omission of the “**Consultant**” of the agents.

NON-DISCRIMINATION AND AFFIRMATIVE ACTION

8. Non-Discrimination and Affirmative Action – The Consultant shall comply with the requirements of all statutes, laws and regulations regarding non-discrimination and affirmative action in the employment of workers. In particular, the Consultant will be required to comply with the requirements of New Jersey P.L. 1975, c. 127. (N.J.A.C.17:27).

PRIOR AGREEMENT SUPERSEDED

9. This agreement constitutes the sole agreement of the parties and supersedes any and all prior understandings or written or oral agreements between the parties to this agreement with respect to its subject matter. No other agreement, statement, or promise relating to the subject matter of this agreement that is not contained in it shall be valid or binding.

ASSIGNMENT

10. Neither this agreement nor any duties or obligations under this agreement shall be assigned or delegated by the “**Consultant**” without the prior written consent of the City except provided in Paragraph 3. In the event of an assignment and/or delegation by the “**Consultant**” to which the City has consented, the assignee or the assignee’s legal representative shall agree in writing with the City personally to assume, perform, and be bound by the covenants, obligations, and agreements contained in this agreement.

PARTIES BOUND

11. This agreement shall be binding on and inure to the benefit of the parties to this agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns unless expressly prohibited by this agreement.

INDEMNIFICATION/HOLD HARMLESS

12. The “**Consultant**” agrees to defend (including attorney’s Fees), pay on behalf of, indemnify, and hold harmless the City of Orange Township, New Jersey, its elected and appointed officials, employees and volunteers and others working on behalf of the

City of Orange Township, New Jersey, against any and all claims, actions, demands, suits or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Orange Township, New Jersey, which arises out of or is in any way connected or associated with negligent acts or omissions of Consultant with this contract.

This indemnification includes, the Contract, including, without limitation, expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any liability, suit, action, loss, or damage arising or resulting from the “**Consultant’s**” participation in the Contract.

ATTORNEY’S FEES

13. If any action at law or in equity is brought to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney’s fees in addition to any other relief that may be available.

GOVERNING LAW

14. The validity of this agreement and of any of its terms or provisions, as well as the rights and duties of the parties to this agreement, shall be governed by and construed in accordance with the laws of the State of New Jersey.

AMENDMENT

15. This agreement only be amended or modified by writing executed by both parties to this agreement.

LEGAL CONSTRUCTION

16. In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the

invalidity, illegality, or unenforceability shall not effect any other provision of this agreement and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

NOTICE

17. All notices and other communications shall be sent by certified mail, return receipt requested, and shall be deemed to have been given when sent to the parties at their respective addresses as set forth above, unless a different address has been selected after the execution of this agreement and has been duly communicated to the party giving notice.

IN WITNESSED WHEREOF, the parties execute this agreement on the day and year first written above.

Attest:

City of Orange Township

Joyce L. Lanier
City Clerk

Dwayne D. Warren, Esq.
Mayor

Attest:

Matrix New World Engineering
26 Columbia Turnpike, 2nd Floor
Florham Park, New Jersey 07932

Approved as to Form and Sufficiency

Gracia R. Montilus, City Attorney

CITY OF ORANGE
FINANCE DEPARTMENT

CERTIFICATION OF FUNDS
Municipal Open Space Trust Fund

I, Nile Clements, Chief Financial Officer for the City of Orange, do hereby certify to the best of my knowledge and belief that there are now sufficient funds in the Municipal Open Space Trust Fund to Contract with:

Vendor Name: Matrix New World Engineering
Land Surveying and Landscape

Address#1: 26 Columbia Turnpike
2nd Floor

City: Florham Park
State: New Jersey
Zip Code: 07932

Purpose: Engineering and Construction admin of Spray Park Repairs

Fund: Municipal Open Space Trust
Account Name : Municipal Open Space Trust Reserves
Account Numbers: T-11-00-000-000-000

Vendor ID: MATRI005

Purchase Order #: 23-01128

PENDING RESOLUTION

Amount not to exceed: \$ 66,000.00

Division Head

Date

Nile Clements

5/9/2023

Chief Financial Officer

Date

CITY COUNCIL

The City of Orange Township, New Jersey

DATE December 20, 2022

NUMBER 508-2022

TITLE:

A RESOLUTION APPROVING QUALIFIED CONSULTANT ENGINEERS TO PROVIDE CONSULTING ENGINEERING ON AN "AS NEEDED" BASIS FOR ONE (1) YEAR COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023.

WHEREAS, the City of Orange Township did duly advertise on November 22, 2022, for Request for Qualifications for Consulting Engineering Services; and

WHEREAS, on December 7, 2022, the City of Orange Township received ten (10) qualification proposals; and

WHEREAS, pursuant to the fair and open process, and based upon review of the qualifications and recommendations therefore, certain professionals are qualified to provide consulting engineering services on an "as needed" basis by the City of Orange Township; and

WHEREAS, the Director of Public Works Engineering having evaluated all proposals submitted based upon qualifications, experience with similar projects, and project understanding; and

WHEREAS, this is not a contract and is only a list of qualified professionals. Another resolution shall be needed to enter a contract setting forth the rates and terms.


NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the City of Orange Township does hereby approve those listed below to provide professional consulting engineering services to the City of Orange Township on an "as needed" basis for the period of January 1, 2023 through December 31, 2023:

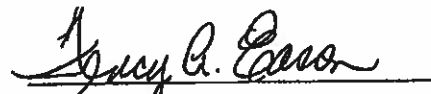
1. Remington & Vernick Engineers
2059 Springdale Road
Cherry Hill, New Jersey 08003
2. Pennoni Associates
24 Commerce Street, Suite 300
Newark, New Jersey 07102
3. Lewis Consulting Group
2604 Atlantic Avenue, Suite 600
Wall, New Jersey 07719
4. T&M Associates
1455 Broad Street, Suite 250

Bloomfield, New Jersey 07003

5. Neglia Engineering
34 Park Avenue
Lyndhurst, New Jersey 07071
6. Mott MacDonald
412 Mt Kemble Avenue Suite G22
Morristown, New Jersey 07960
7. Matrix New World Engineering
26 Columbia Turnpike
Florham Park, New Jersey 07932
8. CP Engineers
11 Park Lake Road
Sparta, New Jersey 07871
9. Colliers Engineering & Design
331 Newman Springs Road, Suite #203
Red Bank, New Jersey 07701
10. Frank J. Rotonda, P.E., P.P., C.M.E., LLC
5383 Gagnon Terrace
North Port, FL 34291

BE IT FURTHER RESOLVED that a copy of this resolution shall remain on file in the Office of the Municipal Clerk of the City of Orange Township.


Joyce L. Lanier
City Clerk


Tency A. Jason
Council President

Matrix New World Engineering, Land Surveying
and Landscape Architecture, PC
442 State Route 35, 2nd Floor
Eatontown, NJ 07724
732.588.2999 F: 973.240.1818
www.mnwe.com Certified WBE

MATRIXNEWORLD
Engineering Progress

April 27, 2023

Via Email (mmayes@ci.orange.nj.us)

City of Orange
29 North Day Street
Orange, NJ 07050

Attn: Marty Mayes, Director of Planning/Economic Development

**RE: PROFESSIONAL SERVICES PROPOSAL
CENTRAL AVENUE SPRAY PARK REPAIRS
CITY OF ORANGE, ESSEX COUNTY, NEW JERSEY
MATRIX NO. 23-0470**

Mr. Mayes:

Matrix New World Engineering, Land Surveying and Landscape Architecture, PC (Matrix) is pleased to submit the following proposal. This proposal encompasses professional engineering services as requested for the above-referenced project.

The Central Avenue Park is located at the corner of Central Avenue and Carteret Place. The intent of this project is to repair the spray park which was damaged by Hurricane Irene.

It is our understanding that the improvements will be funded through a combination of FEMA funding and insurance payments. It is our understanding that an evaluation of the spray park facility and systems was previously completed by the contractor that constructed the park. Matrix will perform a new evaluation, but this proposal is based on the general scope of work from the previous inspection findings.

PROJECT UNDERSTANDING

It is our understanding that the City currently has a total budget of \$343,000.00 (including professional fees) for the project with the majority of the budget consisting of insurance payments and FEMA Hazard Mitigation funds. The intent of the project is to complete the entirety of the repairs within this funding allotment. In the event that the cost of the necessary repairs exceeds the available funding for the project, Matrix will alert the City.

This proposal does not include administering the grants with FEMA, which we understand will be performed by others. These items can be added as a supplemental proposal, if required in the future.

SCOPE OF SERVICES

The scope of services and associated fees are described in detail below:

ITEM 1: ENGINEERING DESIGN SERVICES

Matrix will attend up to two (2) meetings with the City of Orange during the design phase. Matrix will hold a kick-off meeting which will include all team members including the City and other interested

parties. The purpose of this meeting is to provide introductions for all personnel involved with the project and to collaboratively establish the project goals and objectives. A second meeting will be scheduled once the construction documents are approximately 75% complete.

Matrix will perform an evaluation of the existing spray park system and review previous evaluations of the damage. It is assumed that the City will provide access to facilitate the inspection.

Utilizing this information, Matrix will develop designs for conceptual design (30%) and final design (90%). A final set of construction level documents will be prepared incorporating the comments received during final design. Technical specifications and a cost estimate will also be provided for each document submission.

Matrix will coordinate with the City of Orange to bid the construction of the project through public advertisement under New Jersey Local Public Contracts Law.

Matrix will provide the engineering design for the following improvements:

A. Spray Park System Repairs (Insurance funded)

The spray park system was heavily damaged. The suggested repairs for the spray park water circulation system are as follows:

- Repair or replacement of the "VakPak" control system
- Replacement or repair of pumps, piping, and filters
- Replacement or resetting of chemical tanks

B. Spray Park Mitigation (FEMA funded)

The existing enclosure will be replaced with an elevated structure to protect the equipment from future storms. Matrix will review flood elevations at the park and design a new structure which will provide satisfactory protection from future flood events. It is anticipated that with the exception of the holding tank is the only component needed to be below grade.

LUMP SUM: \$38,000.00

ITEM 2: CONSTRUCTION MANAGEMENT

Once the project has been awarded to the successful low bidder, Matrix will provide the necessary personnel and complete the construction administration of the project. The scope for the construction administration phase will include:

- Attend and chair the pre-construction meeting and prepare and distribute the minutes of that meeting
- Manage all submittals and develop and maintain a shop drawing log. Matrix will review for approval/disapproval all shop drawings, schedules, and other submittals
- Perform construction observation services as required during construction of the proposed improvements. Matrix will provide part-time observation of construction for conformance with the contract documents and approved shop drawings and report any deviations to the City and the Contractor
- Review and recommend for approval to the City, contractor's quantities, measurements, and requests for payment on a monthly basis

- Maintain pertinent job records including contract drawings, addenda, change orders, payment estimates, and daily inspection reports
- Maintain copies of all files related to this project including, but not limited to, all correspondence, permits, Requests for Information (RFIs), shop drawings/reviews, design modifications, payment estimates, change orders, cost estimates, inspection reports, record plans and specifications, etc.
- Prepare a punch list of remaining work near completion of the project
- Witness required and authorized equipment, material, and performance testing
- Prepare final estimate and closeout project as per the Contract Specifications

It is anticipated that the construction duration will be approximately six (6) weeks. Matrix will provide an average of 8 to 12 hours per week for six (6) weeks of on-site inspection services and 4 hours per week for ten (10) weeks of project management services.

BASED ON TIME AND EXPENSES

NOT TO EXCEED: \$28,000.00

Exceptions and Assumptions

- 1) Services not specifically outlined above
- 2) Grant coordination and submissions
- 3) Topographic, tree, or boundary surveying
- 4) Reimbursable, reproduction, and miscellaneous charges not specifically identified within this proposal
- 5) Environmental studies and/or NJDEP permits
- 6) Application or permit fees to regulatory agencies
- 7) Utility design or coordination with utility companies
- 8) Environmental investigations or testing
- 9) Changes or revisions beyond our control or changes in the basic concept after design work has been completed
- 10) Design of any buildings or any other unforeseen work not outlined herein

CLOSING

Any item listed above which is not ordered will not be billed. Separate authorization from the client will be requested prior to commencing services outside the scope of this proposal.

All reimbursable expenses including, but not limited to, application fees, laboratory testing costs, mylar copies, certified mailings, photographs, blueprints, and special deliveries are considered additional to the proposal items unless specifically noted within the scope of this proposal.

The terms and conditions of this proposal are subject to the attached Matrix Terms and Conditions for Professional Services. A current Fee Schedule is also attached.

This proposal is submitted solely and exclusively for the use of City of Orange for consideration of the professional services of Matrix. Disclosure of this proposal's content to any third party without prior written authorization from Matrix is expressly prohibited.

In addition to the specific items as listed herein, the client may be required to demonstrate compliance with certain permit and approval conditions as may be imposed by one or more of the regulatory agencies. These conditions may require revisions to the plans and/or preparation of additional supporting documentation. This proposal does not include these additional items unless specifically outlined within the scope of this proposal.


PAYMENT SCHEDULE

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

Please indicate your acceptance of this proposal by signing in the space provided below and returning one copy to this office. Acceptance of this proposal signifies the clients' understanding that Matrix will not be retained or asked to perform any services unless funding is secured and is available to pay all invoices within 30 days. Receipt of the signed proposal shall be considered authorization to proceed with all items described within this agreement. Any items not intended to be authorized shall be clearly and specifically noted as such within the client's signed and returned proposal.

We thank you for the opportunity to submit this proposal. Please feel free to contact me directly with any questions or comments regarding the scope or fees as indicated at (973) 264-5321 or via email to ndecotiis@mnwe.com.

Sincerely,



Nicholas DeCotiis, PE, CME
Senior Engineer
New Jersey License No. 24GE04785900

ND:lb

Enclosures: Matrix Terms and Conditions & Fee Schedule

ACCEPTED BY

NAME:

_____ Signature	_____ Print Name
--------------------	---------------------

TITLE:

COMPANY:

DATE:

The above signed represents that they have read and understand the attached Terms and Conditions and have the authority to enter into this agreement on behalf of the client named above. The above signed also acknowledges that this contract includes a Limitation of Liability Clause as part of the Terms and Conditions.

Matrix New World Engineering, Land Surveying, and Landscape Architecture, PC

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

Section 1: SERVICES

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

Section 2: COMPENSATION

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

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

Section 3: CLIENT'S OBLIGATIONS

To assist Matrix in performance of the Services, CLIENT shall provide Matrix with appropriate material, data and information in its possession pertaining to the specific project or activity.

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

Section 4: INVOICE PROCEDURE AND PAYMENT

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

Section 5: OWNERSHIP OF DOCUMENTS

All survey notes, drawings, bills of materials, specifications, blueprints, reports, calculations and all other material prepared in connection with the specific project shall be property of the CLIENT and shall be transferred to the CLIENT upon completion of the project and upon receipt of complete payment for the scope of work outlined in the proposal. Matrix may retain a single copy of such information and documents.

Section 6: CONFIDENTIALITY

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

The technical and pricing information contained in any proposal submitted by Matrix as to this project, or in the Agreement or any addendum thereto, is to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without express written consent of Matrix.

Section 7: BURIED UTILITIES

Matrix will conduct the research that in our professional opinion is necessary to locate utility lines and other man-made objects that may exist beneath the sites surface. The CLIENT recognizes that Matrix's research may not identify all subsurface utility lines and man-made objects. Matrix will take reasonable precautions to avoid damage or injury to any subsurface utilities or structures. The CLIENT agrees to hold Matrix harmless and the CLIENT agrees to pay for damages to underground utilities or structures which are not called to Matrix's attention or correctly shown on plans furnished by the CLIENT or third parties.

Section 8: DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

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

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

Section 9: STANDARD OF CARE

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

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

Section 10: INDEPENDENT CONTRACTOR

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

Section 11: JOBSITE HEALTH AND SAFETY

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

Section 12: INSURANCE

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

Within the limits of said insurance, Matrix agrees to save the CLIENT harmless from and against loss, damage, injury or liability arising from negligent acts or omissions of Matrix, its subcontractors, and their respective employees and agents acting in the course and scope of this project. Matrix shall not be responsible for any loss, damage, or liability arising from any acts by the CLIENT, its agents, staff, and other consultants and subcontractors employed by the Client.

Section 13: INDEMNITY

A. Matrix

Matrix agrees to indemnify and hold harmless CLIENT from and against any and all losses, damages, liabilities, and expenses (including, but not limited to, legal fees and costs of investigation) to the extent resulting or arising out of negligence or willful misconduct of Matrix or performance of the Services hereunder, provided that such loss, damage, liability or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, and not caused in whole or in part by any acts or omissions of the CLIENT, a third party, or anyone directly or indirectly employed by the CLIENT.

B. CLIENT

The CLIENT, agrees to indemnify and hold harmless Matrix from and against any and all losses, damages, liabilities, and expenses (including, but not limited to, legal fees and costs of investigation) to the extent resulting or arising out of negligence or willful misconduct of the CLIENT, or anyone directly or indirectly employed by the CLIENT, or the performance of the CLIENT's obligations under the Agreement, any non-conforming wastes waste(s) or discrepancies in the pertinent manifest(s) as defined by applicable regulations, or an condition existing at the work site(s) prior to the date of the Agreement or caused by anyone directly or indirectly employed by the CLIENT.

Section 14: LIMIT OF LIABILITY

Notwithstanding any other provision contained in the Agreement

- A. In no event shall Matrix, its employees, agents, or sub-contractors be responsible for any incidental, indirect, impact, or consequential damages (including loss of profits), liabilities or expenses incurred by the CLIENT or any third party as a result of Matrix's performance or nonperformance of the Services contracted for herein, and the CLIENT waives all such incidental, indirect, impact, or consequential damages.
- B. The obligations of Matrix under the Agreement are not intended to and shall not be personally binding on, nor shall any resort be had to the private properties of, any of parent or affiliate of Matrix, or any of their respective officers, directors, shareholders, partners, principals, members, managers, beneficiaries, employees or agents.
- C. Matrix's total liability to CLIENT for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to the Agreement from any cause or causes, including but not limited to Matrix's errors, negligence, omissions, strict liability, breach of contract or breach of warranty, shall not exceed the total contract amount for the Services provided by Matrix or the limit of liability available at the time of the claim, whichever is lesser.
- D. To the maximum extent permitted by law, the limitations on damages, the releases from liability, the limitations of liability, and the exclusive remedies provisions expressly provided in the Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability or breach of contract of Matrix. The remedies provided in the Agreement are exclusive, except that the CLIENT shall in addition have the right to obtain specific performance and all other injunctive relief that may be available. Matrix disclaims, and the CLIENT waives, any implied warranties of merchantability or fitness for a particular purpose with respect to any equipment or other personal property procured by Matrix and provided to the CLIENT as part of any Services.

Section 15: PROJECT DELAYS

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

Section 16: ASSIGNMENT

Matrix shall not assign the Agreement in whole or part except that Matrix may use the services of persons and entities not in its employ when it is appropriate to do so. Such persons and entities include, but are not limited to, surveyors, specialized consultants, drilling contractors, and testing laboratories. Matrix's use of others for additional services shall not be unreasonably restricted by the CLIENT provided Matrix notifies the CLIENT in advance.

Section 17: THIRD PARTY EXCLUSION

The Agreement shall not create any rights or benefits to parties other than the CLIENT and Matrix, except such other rights as may be specifically called herein.

Section 18: SEVERABILITY

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

Section 19: TERMINATION

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

Section 20: GOVERNING LAW

Unless otherwise provided in an addendum, the law of the State of New Jersey will govern the validity of the Agreement, its interpretation and performance, and remedies for contract breach or any other claims related to the Agreement.

2023 FEE SCHEDULE

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

2023 REIMBURSABLE EXPENSES

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

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