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17975 West Sarah Lane  
Suite 100  
Brookfield, WI 53045  
T: 262.754.2560  
F: 262.923.7758  
www.gza.com



January 11, 2024  
File No. 20.P000564.24

Mr. Patrick Schloss, Economic Development Executive Director  
City of West Allis  
7525 West Greenfield Avenue  
West Allis, Wisconsin 53214

Subject: Proposal for Case Closure Request Services  
67<sup>th</sup> Place Industrial Park  
1960 South 67<sup>th</sup> Street  
West Allis, Wisconsin

Dear Mr. Schloss:

As a follow-up to our telephone conversation on January 2, 2024, GZA GeoEnvironmental, Inc. (GZA) is pleased to present the City of West Allis ("City"/"Client") this proposal for closure reporting services (proposal) for the 67<sup>th</sup> Place Industrial Park located at 1960 South 67<sup>th</sup> Place in the City of West Allis, Wisconsin ("Site").

#### ORGANIZATION AND STAFF

Founded in 1964, GZA has a wealth of experience in redevelopment, site investigation, remediation, and environmental compliance throughout Wisconsin, the Midwest, and many areas of the United States. With over 700 professionals engaged in environmental programs, we believe we can offer tremendous depth and perspective to the City of West Allis. GZA is a leader in redevelopment services ranging from assessment, site investigation, remediation alternatives, and storm water and we have gained the respect of the regulatory community for the impartial and high-quality services provided by our firm. GZA was instrumental in assisting the Wisconsin Department of Natural Resources (WDNR) in the development of the closure regulations set forth in Chapter NR 726 of the Wisconsin Administrative Code (Wis. Adm. Code) in 1996, and is often asked by clients for assistance in supporting closure from the WDNR. Background information on GZA and our office locations is provided in **Attachment 1**.

#### SCOPE OF WORK

Based on our review of existing documents and our discussion on January 2, 2024, GZA developed the following anticipated scope of work for support of the Site:

1. Preparation of the NR 700 Semi-Annual Report;
2. Coordination with the WDNR Project Manager to provide a Site update and next steps in the project; and
3. Preparation of an updated Case Closure Request.

#### COST

Billings for GZA's professional services will be on a time and materials basis for the above scope of work in accordance with the Schedule of Fees provided in **Attachment 2**. Based on the proposed scope of work outlined above, we estimate the costs to execute this scope of work to be approximately \$3,000. We have assumed that additional NR749 Fees for Case Closure and



placement of the Site on the WDNR's GIS Registry (previously paid to the WDNR) will not be required. This estimate is based on the anticipated scope of work outlined above, which represents our present judgment as to the level of effort required. The actual charges may vary, either upward or downward, depending on the execution of the work.

#### **SCHEDULE**

GZA will commence work upon receipt of authorization from the City of West Allis.

#### **CONDITIONS OF ENGAGEMENT**

The conditions of engagement are described in the Terms and Conditions for Professional Services ("Terms and Conditions") provided in **Attachment 3**. GZA's submittals will be prepared on behalf of and for the exclusive use of the City. The City acknowledges and agrees that the submittals and the findings in the submittals shall not, in whole or in part, be disseminated or conveyed to any other party, or used or relied upon by any other party, in whole or in part, except for the specific purpose and to the specific parties alluded to above, without the written consent of GZA. GZA would be pleased to discuss the conditions associated with any such additional dissemination, use, or reliance by other parties.

#### **ACCEPTANCE**

This proposal can be accepted by signing in the appropriate space below and returning one complete copy to us. Issuance of a Purchase Order implicitly acknowledges acceptance of this proposal. This proposal is valid for a period of 30 days from the date of issue.

We appreciate the opportunity to submit this proposal. Please feel free to contact the undersigned at (414) 331-9392 or via email at [benjamin.verburg@gza.com](mailto:benjamin.verburg@gza.com) with questions.

Very truly yours,

**GZA GeoEnvironmental, Inc.**

A handwritten signature in blue ink, appearing to read 'Benjamin J. Verburg', is written over a horizontal line.

Benjamin J. Verburg, P.E.  
Associate Principal/Vice President

A handwritten signature in blue ink, appearing to read 'James F. Drought', is written over a horizontal line.

James F. Drought, P.H.  
Principal Hydrogeologist

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Attachments: GZA Background Information  
Schedule of Fees  
Terms and Conditions



This Proposal for Services, Schedule of Fees, and Terms and Conditions are hereby accepted and executed by a duly authorized signatory, who by execution hereof warrants that he/she has full authority to act for, in the name, and on behalf of the City of West Allis.

**CITY OF WEST ALLIS**

By: \_\_\_\_\_ Title: \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_ Date: \_\_\_\_\_

This Proposal for Services, Schedule of Fees, and Terms and Conditions may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by an e-mail delivery of a document in “.pdf” format, each such signature shall create a valid and binding obligation of the party executing the document, or on whose behalf each document is executed, with the same force and effect as if each such facsimile or “.pdf” signature were an original thereof.



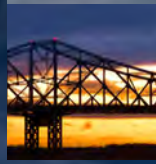
## **ATTACHMENT 1**

### **GZA Background Information**





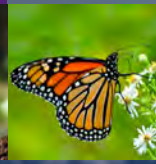
GEOTECHNICAL



ENVIRONMENTAL



ECOLOGICAL



WATER



CONSTRUCTION  
MANAGEMENT



## ENVIRONMENTAL







## ENVIRONMENTAL



*Field-screening of soils at an industrial remediation site*

We provide our clients with value-added solutions and a first-class consulting experience. As one of the first firms in the country to offer environmental services, GZA has built its reputation on the effective execution of multidisciplinary projects for a wide array of clients. Our success is rooted in the practical assessment of contamination in the natural and built environment, and the skillful integration of diverse technical resources to develop a complete solution. GZA has been at the forefront of providing environmental consulting services since its inception, and in combination with our geotechnical, ecological, water and construction management services, has the breadth and depth of capabilities to handle all of our clients' environmental needs. When faced with challenges that require the support, insight and wisdom of a recognized leader in the industry, **GZA is the firm to which clients turn.**

## PROJECT SPOTLIGHT

### Brownfield Redevelopment Project

#### THE CHALLENGE

GZA was retained to provide environmental remediation services as part of a brownfield redevelopment project. The property contained elevated arsenic concentrations in soils above remedial standards and was located adjacent to a Superfund site as well as a river. GZA was asked to develop a practical, cost-effective solution that would protect human health and the environment while allowing development to occur.

#### OUR SOLUTION

GZA worked with regulators and stakeholders to derive a site-specific arsenic standard based on arsenic and iron geochemistry, observed impacts to groundwater and eliminated future impacts to the river.

#### THE RESULT

By establishing a customized and acceptable standard for arsenic remediation, GZA saved the client \$1.5M, enabling the development of this proposed mixed-use site without impacting profitability through capping, using development features, targeted excavation and groundwater control.



*New town hall built on a successfully remediated brownfields site*





With strong technical leadership in each office throughout the company, GZA's leaders are proficient in site assessment, MGP investigation and remediation, brownfields, in-situ remediation, environmental compliance, transactional support, high-resolution site characterization, and biogeochemical remediation. We employ highly specialized technical practitioners such as:

- Licensed professionals
- Engineers
- Scientists
- Industrial hygienists
- Toxicologists

Serving a robust clientele in multiple market sectors, GZA is particularly focused on the needs of the institutional, power, industrial, oil and gas, government, commercial, and construction markets.



*Hazardous materials and demolition assessments*



*GZA personnel utilize in-situ biogeochemical remediation technologies*

GZA is able to identify complex challenges, quickly deploy the appropriate team, and resolve a situation using an integrated and value-added approach to environmental management that achieves our client's goals. With an acute awareness of new technical developments in the industry and a proactive program for learning and applying the latest regulations, GZA continually looks towards making our built and natural environments safe, pleasant, and progressive places to live, work and grow. When the time comes to seek environmental advice, **Choose GZA.**

#### ENVIRONMENTAL SERVICES

- ENVIRONMENTAL SITE ASSESSMENT AND INVESTIGATION
- SITE REMEDIATION
- ENVIRONMENTAL HEALTH AND SAFETY REGULATORY COMPLIANCE
- AIR QUALITY
- HAZARDOUS MATERIALS MANAGEMENT / DEMOLITION
- SUSTAINABILITY ADVISORY SERVICES





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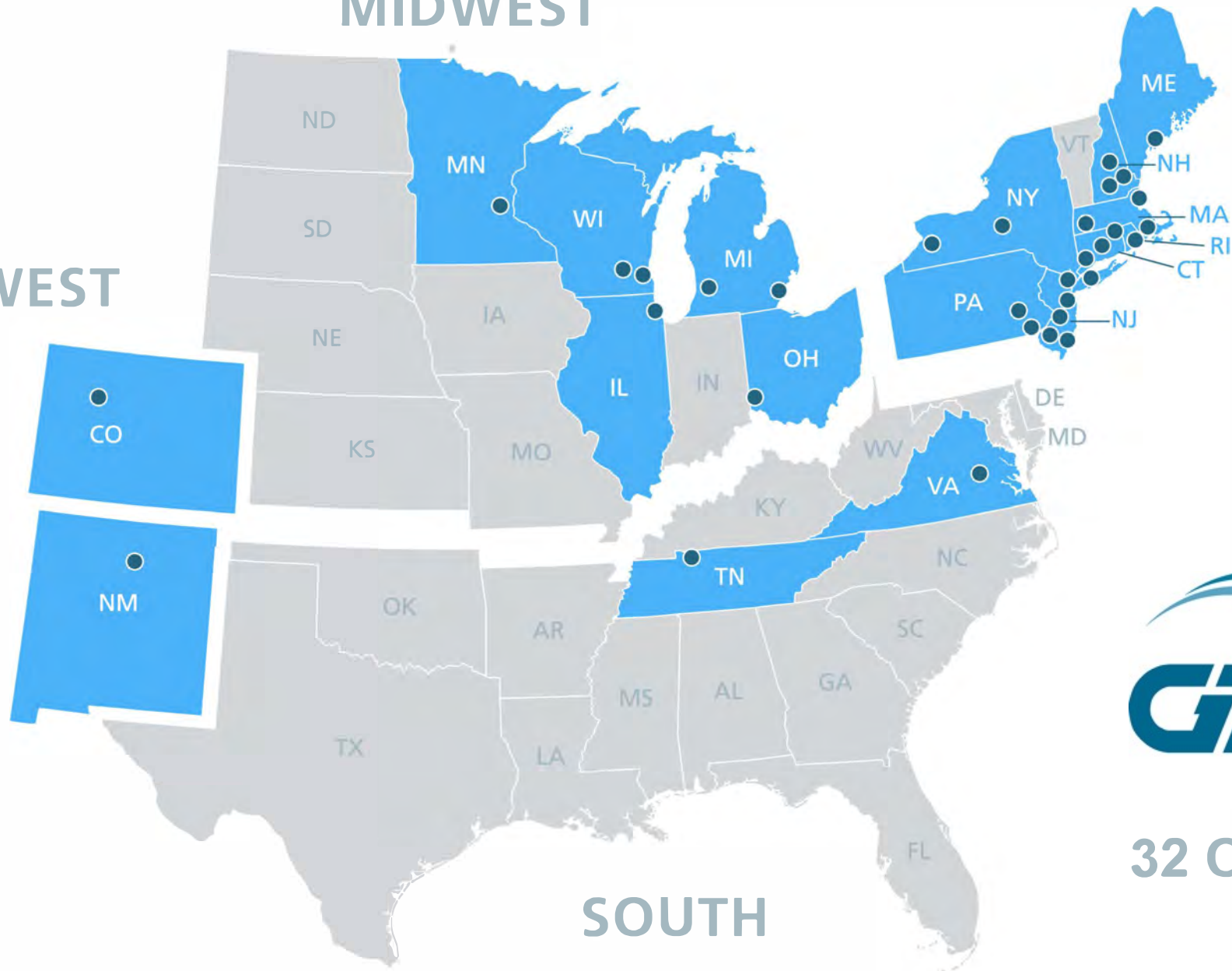
CONSTRUCTION MANAGEMENT



MIDWEST

NORTHEAST

WEST



32 Offices



## OFFICE DIRECTORY

### Colorado

4430 Arapahoe Avenue,  
Suite 220  
Boulder, CO 80303  
(720) 360-3080

### Connecticut

95 Glastonbury Boulevard  
3<sup>rd</sup> Floor  
Glastonbury, CT 06033  
(860) 286-8900  
Fax: (860) 633-5699

35 Nutmeg Drive  
Suite 325  
Trumbull, CT 06611  
(203) 380-8188  
Fax: (203) 375-1529

Ecosystem/GZA  
135 Sheldon Road  
Box 1, Unit I  
Manchester, CT 06042  
(860) 742-0744  
Fax: (860) 742-0715

### Illinois

GZA/Huff & Huff, Inc.,  
A Subsidiary of GZA  
915 Harger Road, Suite 330  
Oak Brook, IL 60523  
(630) 684-9100 (H&H)  
Fax: (630) 928-0709

### Maine

707 Sable Oaks Drive  
Suite 150  
South Portland, ME 04106  
T: 207.879.9190  
F: 207.536.1173

### Massachusetts

249 Vanderbilt Avenue  
(Corporate)  
Norwood, MA 02062  
(781) 278-3700  
Fax: (781) 278-5701  
Fax: (781) 278-5702

144 Elm Street  
Amesbury, MA 01913  
(781) 278-4800  
Fax: (978) 834-6269

1350 Main Street  
Suite 1400  
Springfield, MA 01103  
(413) 726-2100  
Fax: (413) 732-1249

### Michigan

GZA/Rose & Westra  
The Widdicomb Building  
601 Fifth Street NW  
Suite 102  
Grand Rapids, MI 49504  
(616) 956-6123  
Fax: (616) 288-3327

19500 Victor Parkway  
Suite 300  
Livonia, MI 48152  
(734) 462-0207  
Fax: (734) 464-6042

### Minnesota

GZA/Vieau Associates  
7505 Metro Boulevard  
Suite 300  
Edina, MN 55439  
(952) 893-7931  
Fax: (952) 893-7932

### New Hampshire

5 Commerce Park North  
Suite 201  
Bedford, NH 03110  
(603) 623-3600  
Fax: (603) 624-9463  
  
372 West Street, Suite 100  
Keene, NH 03431  
(603) 283-0300

Emery & Garrett, a  
Division of GZA  
P.O. Box 1578  
56 Main Street  
Meredith, NH 03253  
(603) 279-4425  
Fax: (603) 279-8717

### New Jersey

55 Lane Road  
Suite 407  
Fairfield, NJ 07004  
(973) 774-3300  
Fax: (973) 774-3350

856 So. White Horse Pike  
Suite 1  
Hammonton, NJ 08037  
(609) 567-9330  
Fax: (609) 567-9335

Melick-Tully and Assoc.,  
A Division of GZA  
117 Canal Road  
South Bound Brook, NJ  
08880  
(732) 356-3400

### New York

GZA of NY  
300 Pearl Street  
Suite 700  
Buffalo, NY 14202  
(716) 685-2300  
Fax: (716) 248-1472

GZA of NY  
104 West 29th Street  
10th Floor  
New York, NY 10001  
(212) 594-8140  
Fax: (212) 279-8180

6296 Fly Road  
East Syracuse, NY 13057  
(315) 800-1800  
Fax: (315) 437-5444

324 South Service Road  
Suite 119  
Melville, NY 11747

### Ohio

3644 Werk Road #58707  
Cincinnati, OH 45258  
(513) 314-9999

### Pennsylvania

100 West Main Street  
Suite 413  
Lansdale, PA 19446  
(215) 591-3800  
Fax: (267) 319-1014

1515 Market Street  
Suite 945  
Philadelphia, PA 19102  
(215) 591-3800  
Fax: (267) 319-1014

### Rhode Island

188 Valley Street  
Suite 300  
Providence, RI 02909  
(401) 421-4140  
Fax: (401) 751-8613

### Tennessee

P.O. Box 30574  
Clarksville, TN 37040  
(781) 278-5847

### Virginia

12220 Chattanooga Plaza  
#115  
Midlothian, VA 23112  
(774) 256-4306

### Wisconsin

247 W. Freshwater Way  
Suite 542  
Milwaukee, WI 53204  
(414) 831-2539

17975 West Sarah Lane  
Suite 100  
Brookfield, WI 53045  
(262) 754-2560  
Fax: (262) 923-7758





## **ATTACHMENT 2**

### **Schedule of Fees**

**GZA GEOENVIRONMENTAL, INC.**  
**CITY OF WEST ALLIS**  
**SCHEDULE OF FEES**

**LABOR**

**Per Hour**

Principal	\$ 220
Associate Principal / Project Reviewer	\$ 200
Senior Consultant	\$ 200
Senior Project Manager/Senior Technical Specialist	\$ 185
Project Manager/Technical Specialist	\$ 165
Assistant Project Manager / Senior Field Staff	\$ 145
Engineer / Geologist / Environmental Specialist / Scientist I	\$ 130
Engineer / Geologist / Environmental Specialist / Scientist II	\$ 120
Consulting Scientist	\$ 120
Engineering / Geological Technician I*	\$ 100
Engineering / Geological Technician II*	\$ 95
Sr. CAD / Technical Designer*	\$ 140
CAD / Technical Designer / Technical Graphics Technician*	\$ 135
Sr. Administrative Assistant*	\$ 110
Administrative Assistant*	\$ 95
Outside Services and Subcontractors	Cost plus 15%
Expenses	Cost plus 15%

\* For these personnel, overtime work will be charged at a rate equal to 1.5 times the Standard Rate.

The above rates for technical and support personnel will be charged for actual time worked on the project. In addition, there will be charges for:

- Time required for travel from Company office to job or meeting site and return.
- For expert (sworn) testimony the above rates will be charged at two times the fee schedule.

**EXPENSES**

- Laboratory service, rental of specialized field or monitoring equipment and vehicle charges based on GZA standard unit prices.
- Printing, reproduction, photographs, shipping charges and material purchases.
- Communication fee charged at 3.0% of labor invoiced for total cost of local, long distance, and cellular phone equipment and connectivity; electronic data communication and transmission; facsimile and document scanning; and USPS postage.
- Company van/pick-up for projects \$0.75/Mile. Personal vehicle travel for projects \$0.67/Mile, or prevailing federal government rate.

**INVOICES**

Progress invoices will be submitted to the client periodically and a final bill will be submitted upon completion of our services. Each invoice is due within thirty (30) days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1-1/2%) per month, or if lower, the maximum lawful rate, on past due accounts.

It is our Firm's practice to consider adjustments to hourly rates once annually at the beginning of the year.

**BUDGETS**

The Budget contained within GZA's Proposal represents our estimate of the work involved. Actual charges can vary either upward or downward depending upon many factors. GZA considers a significant budget variance to be 15% and we will not exceed this variance without notifying Client.

**FUNDS PAYABLE IN UNITED STATES CURRENCY**

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### **ATTACHMENT 3**

#### **Terms and Conditions**



## TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

© 2023 by GZA GeoEnvironmental, Inc.

Client ("You" or "you"): City of West Allis

Proposal No: 20.P000564.24

Site: 1960 South 67th Street, West Allis, Wisconsin

These Terms and Conditions, together with GZA's Proposal, make up the Agreement between GZA and You, Client, named above.

**BEFORE SIGNING THE PROPOSAL, BE SURE YOU READ AND UNDERSTAND THE PARAGRAPHS ENTITLED "INDEMNIFICATION" AND "LIMITATION OF REMEDIES" WHICH DEAL WITH THE ALLOCATION OF RISK BETWEEN YOU AND GZA.**

- 1) **Services.** GZA will perform the services set forth in its Proposal and any amendments or change orders authorized by you (the "Services"). Any request or direction from you that would require extra work or additional time for performance or would result in an increase in GZA's costs will be the subject of a negotiated amendment or change order.
- 2) **Standard of Care; Warranties.**
  - a) GZA will perform professional Services with the degree of skill and care ordinarily exercised by qualified professionals performing the same type of services at the same time under similar conditions in the same or similar locality.
  - b) **NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTY OF MARKETABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE OR INTENDED BY GZA'S PROPOSAL OR BY ANY OF GZA'S REPORTS.**
  - c) GZA assigns to you any manufacturers' warranties of equipment or materials purchased from others, to the extent they are assignable, and your sole recourse will be against the manufacturer. Full risk of loss of materials and equipment will pass to you upon delivery to the Site, and you will be responsible for insuring and otherwise protecting them against theft and damage.
- 3) **Payment.**
  - a) Except as otherwise stated in the Proposal, you will compensate GZA for the Services at the rates set forth in the applicable Proposal, amendment or change order; reimburse its expenses, which will include a communication fee calculated as a percentage of labor invoiced; and pay any sales or similar taxes thereon.
  - b) Any retainer specified in GZA's Proposal shall be due prior to the start of Services and will be applied to the final invoice for Services.
  - c) GZA will submit invoices periodically, and payment will be due within 20 days from invoice date. Overdue payments will bear interest at 1½ percent per month or, if lower, the maximum lawful rate. GZA may terminate the Services upon 10 days' written notice anytime your payment is overdue on this or any other project and you will pay for all Services through termination, plus termination costs. You will reimburse GZA's costs of collecting overdue invoices, including reasonable attorneys' fees (including costs for time expended by in-house counsel, which will be charged to you at the prevailing market rate for attorneys of similar experience practicing in the jurisdiction).
- 4) **Your Responsibilities.**
  - a) Except as otherwise agreed in writing, you will secure the access agreements, approvals, permits, licenses and consents necessary for performance of the Services. If you are the owner or operator of the Site, you will provide GZA with all documents, plans, information concerning underground structures (including but not limited to utilities, conduits, pipes, and tanks), information related to hazardous materials or other environmental or geotechnical conditions at the Site (including, if applicable, asbestos containing materials ["ACM"]) and other information that may be pertinent to the Services or, if you are not the owner or operator of the Site, you agree to make reasonable efforts to obtain these same documents and provide them to GZA. Unless otherwise indicated in writing, GZA will be entitled to rely on documents and information you provide.
  - b) If you use the services of a contractor or construction manager at the Site, you agree to use best and reasonable efforts to include in your agreement(s) with the construction contractor provisions obligating the latter:
    - i) to defend, indemnify and hold harmless, to the fullest extent permitted by law, you and GZA and its officers, directors, members, partners, agents, employees, and subconsultants (the "GZA Indemnitees"), for or on account of any claims, liabilities, costs and expenses, including attorneys' fees, arising out of or relating to the design or implementation of construction means, methods, procedures, techniques, and sequences of construction, including safety precautions or programs, of the contractor, or any of its subcontractors or any engineer engaged by it;
    - ii) to name you and GZA as additional insureds under general liability and builder's risk insurance coverages maintained by the contractor, or any of its subcontractors, and to ensure that such policies are primary and noncontributory with regard to the above indemnity obligations; and
    - iii) to require that all of its subcontractors agree and be bound to the obligations set forth in (i) and (ii) above.
  - c) In the event that you are unable to secure such provisions in the agreement(s) with the construction contractor, you shall promptly (but in any event prior to the commencement of the Services) notify GZA and GZA shall have the opportunity to negotiate with you reasonable substitute risk allocation and insurance indemnities and protections.
- 5) **Right of Entry; Site Restoration.** You grant GZA and its subcontractor(s) permission to enter the Site to perform the Services. If you do not own the Site, you represent and warrant that the owner has granted permission for GZA to enter the Site and perform the Services; you will provide reasonable verification on request; and you will indemnify the GZA Indemnitees for any claims by the Site owner related to alleged trespass by GZA or its subcontractors. Although GZA will exercise reasonable care to limit damage to landscaping, paving, systems and structures at the Site, you acknowledge that some damage may occur even with the exercise of due care and you agree to compensate GZA for any restoration it is asked to perform, unless otherwise indicated in the Proposal.
- 6) **Underground Facilities.** GZA's only responsibility under this Agreement will be to provide proper notification to the applicable state utility "Call-Before-You-Dig" program. You further agree to assume responsibility for and to defend, indemnify and hold harmless GZA with respect to personal injury and property damages due to GZA's interference with subterranean structures including but not limited to utilities, conduits, pipes, and tanks:
  - a) that are not correctly shown on any plans and information you or governmental authorities provide to GZA; or
  - b) that are not correctly marked by the appropriate utility.



- 7) **Reliance.** The services, information, and other data furnished by you shall be at your expense, and GZA may rely upon all information and data that you furnish, including the accuracy and completeness thereof. You acknowledge that the quality of the Services provided by GZA is directly related to the accuracy and completeness of the information and data that you furnish to GZA. **GZA's REPORTS ARE PREPARED FOR AND MADE AVAILABLE FOR YOUR SOLE USE. YOU ACKNOWLEDGE AND AGREE THAT USE OF OR RELIANCE UPON THE REPORT OR THE FINDINGS IN THE REPORT BY ANY OTHER PARTY, OR FOR ANY OTHER PROJECT OR PURPOSE, SHALL BE AT YOUR OR SUCH OTHER PARTY'S SOLE RISK AND WITHOUT ANY LIABILITY TO GZA. YOU SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE GZA INDEMNITEES FROM ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM ANY USE, REUSE, OR MODIFICATION OF THE DOCUMENTS WITHOUT WRITTEN VERIFICATION, COMPLETION, OR ADAPTATION BY GZA AND SUCH LIMITED LICENSE TO YOU SHALL NOT CREATE ANY RIGHTS IN THIRD PARTIES.**
- 8) **Lab Tests and Samples.** GZA is entitled to rely on the results of laboratory tests using generally accepted methodologies. GZA may dispose of samples in accordance with applicable laws 30 days after submitting test results to you unless you request in writing for them to be returned to you or to be held longer, in which case you will compensate GZA for storage and/or shipping beyond 30 days.
- 9) **GZA Professionals.** GZA employees or consultants may act as licensed, certified or registered professionals (including but not limited to Professional Engineers, Licensed Site or Environmental Professionals, Certified Hazardous Materials Managers, or Certified Industrial Hygienists, collectively referred to in this section as "GZA Professionals"), whose duties may include the rendering of independent professional opinions. You acknowledge that a federal, state or local agency or other third party may audit the Services of GZA or other contractor/consultant(s), which audit may require additional Services, even though GZA and such GZA Professionals have each performed such Services in accordance with the standard of care set forth herein. You agree to compensate GZA for all Services performed in response to such an audit, or to meet additional requirements resulting from such an audit, at the rates set forth in the applicable Proposal, amendment or change order.
- 10) **Hazardous Materials; GZA "Not a Generator".** Before any hazardous or contaminated materials, including, if applicable, ACMs (the "Wastes") are removed from the Site, you will sign manifests naming you as the generator of the Wastes (or, if you are not the generator, you will arrange for the generator to sign). You will select the treatment or disposal facility to which any Wastes are taken. GZA will not be the generator or owner of, nor will it possess, take title to, or assume legal liability for any Wastes at or removed from the Site. GZA will not have responsibility for or control of the Site or of operations or activities at the Site other than its own. GZA will not undertake, arrange for or control the handling, treatment, storage, removal, shipment, transportation or disposal of any Wastes at or removed from the Site, other than any laboratory samples it collects or tests. You agree to defend, indemnify and hold the GZA Indemnitees harmless for any costs or liability incurred by GZA in defense of or in payment for any legal actions in which it is alleged that GZA is the owner, generator, treater, storer or disposer of any Wastes.
- 11) **Limits on GZA's Responsibility.** GZA will not be responsible for the acts or omissions of contractors or others at the Site, except for its own subcontractors and employees. GZA will not supervise, direct or assume control over or the authority to stop any contractor's work, nor shall GZA's professional activities nor the presence of GZA or its employees and subcontractors be construed to imply that GZA has authority over or responsibility for the means, methods, techniques, sequences or procedures of construction, for work site health or safety precautions or programs, or for any failure of contractors to comply with contracts, plans, specifications or laws. Any opinions by GZA of probable costs of labor, materials, equipment or services to be furnished by others are strictly estimates and are not a guarantee that actual costs will be consistent with the estimates.
- 12) **Changed Conditions.**
- You recognize the uncertainties related to the Services (including, without limitation, environmental and geotechnical Services), which often require a phased or exploratory approach, with the need for additional Services becoming apparent during the Services. You also recognize that actual conditions encountered may vary significantly from those anticipated, that laws and regulations are subject to change, and that the requirements of regulatory authorities are often unpredictable.
  - If changed or unanticipated conditions or delays make additional Services necessary or result in additional costs or time for performance, GZA will notify you and the parties will negotiate appropriate changes to the scope of Services, compensation and schedule.
  - If no agreement can be reached, GZA will be entitled to terminate the Services and to be equitably compensated for the Services already performed. GZA will not be responsible for delays or failures to perform due to weather, labor disputes, intervention by or inability to get approvals from public authorities, acts or omissions on your part, or any other causes beyond GZA's reasonable control, and you will compensate GZA for any resulting increase in its costs.
- 13) **Documents and Information.** All documents, data, calculations and work papers prepared or furnished by GZA are instruments of service and will remain GZA's property. Designs, reports, data and other work product delivered to you are for your use only, for the limited purposes disclosed to GZA. Any delayed use, use at another site, use on another project, or use by a third party will be at the user's sole risk, and without any liability to GZA. Any technology, methodology or technical information learned or developed by GZA will remain its property. Provided GZA is not in default under this Agreement, GZA's designs will not be used to complete this project by others, except by written agreement relating to use, liability and compensation.
- 14) **Electronic Media.** In accepting and utilizing any drawings, reports and data on any form of electronic media generated by GZA, you covenant and agree that all such electronic files are instruments of service of GZA, who shall be deemed the author and shall retain all common law, statutory law and other rights, including copyrights. In the event of a conflict between the signed documents prepared by GZA and electronic files, the signed documents shall govern. You agree not to reuse these electronic files, in whole or in part, for any purpose or project other than the project that is the subject of this Agreement. Any transfer of these electronic files to others or reuse or modifications to such files by you without the prior written consent of GZA will be at the user's sole risk and without any liability to GZA.
- 15) **Confidentiality; Subpoenas.** Information about this Agreement and GZA's Services and information you provide to GZA regarding your business and the Site, other than information available to the public and information acquired from third parties, will be maintained in confidence and will not be disclosed to others without your consent, except as GZA reasonably believes is necessary: (a) to perform the Services; (b) to comply with professional standards to protect public health, safety and the environment; and (c) to comply with laws, regulations, court orders and professional obligations. GZA will make reasonable efforts to give you prior notice of any disclosure under (b) or (c) above. Information available to the public and information acquired from third parties will not be considered confidential. You will reimburse GZA for responding to any subpoena or governmental inquiry or audit related to the Services, at the rates set forth in the applicable Proposal, amendment or change order.

- 16) **Insurance.** During performance of the Services, GZA will maintain workers' compensation, commercial general liability, automobile liability, and professional liability/contractor's pollution liability insurance. GZA will furnish you certificates of such insurance on request.
- 17) **Indemnification.** You agree to hold harmless, indemnify, and defend the GZA Indemnitees against all claims, suits, fines and penalties, including mandated cleanup costs and attorneys' fees and other costs of settlement and defense, which claims, suits, fines, penalties or costs arise out of or are related to this Agreement or the Services, except to the extent they are caused by GZA's negligence or willful misconduct.
- 18) **Limitation of Remedies.**
- a) To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the aggregate liability of GZA and its affiliates and subcontractors and their employees, principals, officers, directors and agents (collectively referred to in this paragraph as "GZA") for all claims arising out of this Agreement or the Services is limited to \$50,000 or, if greater, 10% of the compensation received by GZA under this Agreement.
  - b) You may elect to increase the limit of liability by paying an additional fee, such fee to be negotiated prior to the execution of this Agreement.
  - c) Any claim against GZA related in any way to the services provided pursuant to this Proposal, or the terms herein, is waived unless suit is commenced in a proper jurisdiction within one year of substantial completion of GZA's services. This waiver may not be construed to extend any applicable statute of limitations.
  - d) GZA will not be liable for lost profits, loss of use of property, delays, contractual penalties or other special, indirect, incidental, consequential, punitive, exemplary, liquidated, or multiple damages.
  - e) GZA will not be liable to you or the Site owner for injuries or deaths suffered by GZA's or its subcontractors' employees.
  - f) You will look solely to GZA for your remedy for any claim arising out of or relating to this Agreement, including any claim arising out of or relating to alleged negligence or errors or omissions of any GZA principal, officer, employee or agent. To the extent damages are covered by property insurance or any other insurance, both you and GZA waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in this Agreement. You or GZA, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.
- 19) **Disputes.**
- a) All disputes between you and GZA shall be subject to non-binding mediation.
  - b) Either party may demand mediation by serving a written notice stating the essential nature of the dispute, the amount of time or money claimed, and requiring that the matter be mediated within forty-five (45) days of service of notice.
  - c) The mediation shall be administered by the American Arbitration Association in accordance with its most recent Construction Mediation Rules, or by such other person or organization as the parties may agree upon.
  - d) No action or suit may be commenced unless mediation has occurred but did not resolve the dispute, or unless a statute of limitations period or the one year waiver period described in 18(c) above would expire if suit were not filed prior to such forty-five (45) days after service of notice. However, where non-payment of an invoice has occurred and GZA sends you a final demand letter for payment, your failure to respond within ten (10) days of receipt (or, for certified mail, the date of the first attempt to deliver the letter to your address of record if you ultimately do not accept receipt of the letter) of such letter will be deemed to be a waiver of your right to enforce this mediation clause and GZA may immediately file suit to enforce the terms of this Agreement.
  - e) You agree to pay reasonable attorneys' fees and all other costs and expenses (including, but not limited to reasonable investigative expenses and expert and consultant expenses) which may be incurred by GZA in the enforcement of this Agreement in the event that (a) it is decided or adjudicated via the binding dispute resolution procedures contained in this Agreement that you have breached this Agreement; or (b) where you allege that GZA has breached this Agreement or otherwise acted negligently and it is decided or adjudicated that GZA did not in fact breach this Agreement or act negligently. If for any reason it is adjudicated that the foregoing provision is in violation of applicable law, is subject to a state statute automatically converting this clause to be reciprocal between the parties, is contrary to public policy or is unconscionable or a contract of adhesion, then the foregoing clause will be null and void and of no effect. Under no circumstances shall the foregoing clause be replaced with a reciprocal clause.
- 20) **Miscellaneous.**
- a) This Agreement and all claims relating thereto shall be governed by the substantive and procedural laws of the Commonwealth of Massachusetts, as they presently exist or may hereafter be amended, without regard to principles of conflict of laws.
  - b) The above terms and conditions regarding Limitation of Remedies and Indemnification shall survive the completion of the Services under this Agreement and the termination of the contract for any cause.
  - c) Any amendment to these Terms and Conditions must be in writing and signed by both parties. No modification of these Terms and Conditions will be binding against GZA unless specifically approved in writing by a principal of GZA.
  - d) Having received these Terms and Conditions, your oral authorization to commence Services, your acceptance of performance of the Services, your actions, or your use of the Report or Work Product constitutes your acceptance of them.
  - e) This Agreement supersedes any contract terms, purchase orders or other documents issued by you, even if signed by an authorized representative of GZA.
  - f) Neither party may assign or transfer this Agreement or any rights or duties hereunder without the written consent of the other party.
  - g) Your failure or the failure of your successors or assigns to receive payment, reimbursement, insurance proceeds or grant funds from any other party for any reason whatsoever shall not absolve you, your successors or assigns of any obligation to pay any sum to GZA under this agreement.
  - h) These Terms and Conditions shall govern over any inconsistent terms in GZA's Proposal.

- i) Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect on the parties, who agree that the Agreement shall be reformed to replace such voided provision with a valid and enforceable provision that comes as close as possible to expressing the intention of the voided provision.
  - j) The covenants and agreements contained in this Agreement shall apply to, inure to the benefit of and be binding upon the parties hereto and upon their respective successors and assigns.
  - k) Any reports generated by GZA will be subject to GZA's standard report limitations for that particular type of report.
  - l) To the extent applicable to GZA's Services, you acknowledge and agree that GZA cannot anticipate the effects of climate change/extreme weather on any report, design or other document produced by GZA, unless such analysis is specifically within the scope of GZA's Services.
- 21) Asbestos Abatement Services (If Applicable).** If the Services include asbestos abatement services, then the following terms and conditions will apply and will supersede any conflicting terms contained elsewhere in this Agreement.
- a) You acknowledge that conditions can vary from those encountered at the times and locations of explorations and data collection, and that the limitation on available data may result in some level of uncertainty with respect to the interpretation of those conditions, despite due professional care. GZA therefore cannot guarantee specific results such as the identification or removal of all asbestos or other contamination.
- 22) Microbial Services (If Applicable).** If the Services include Microbial services, then the following terms and conditions will apply and will supersede any conflicting terms contained elsewhere in this Agreement. For purposes of this Agreement, Microbial is defined as any and all fungal and/or bacterial growth including but not limited to mold, mildew, yeast, fungus, fungi, bacteria, spores, odors, particulates, vapors, gas, or other emissions produced by or arising out of or toxins emanating therefrom.
- a) You recognize that meeting the standard of care does not establish an assurance that corrective procedures will be permanent. Because Microbial infestations are created by near-omnipresent living microscopic spores which grow very quickly and are influenced by nanoclimatological conditions that are very difficult to detect and sources of water intrusion, elevated moisture or relative humidity over which GZA has neither control or responsibility, GZA cannot and does not claim that its Services will eliminate the risk of a Microbial infestation recurring.
  - b) You acknowledge that the Services entail risk of personal injury and property damage (including cross-contamination) that cannot be avoided, even with the exercise of due care. You also acknowledge that environmental conditions can vary from those encountered at the times and locations of explorations and data collection, and that the limitation on available data may result in some level of uncertainty with respect to the interpretation of these conditions, despite due care. GZA therefore cannot guarantee specific results such as the identification of all contamination or other environmental conditions or problems nor their resolution.
  - c) You acknowledge that Microbial infestations may be hidden from view and concealed in locations that are difficult to discover. Accordingly, you agree that despite GZA's efforts, some Microbial locations may remain undetected. In such situations, you agree that you will have no claim against GZA provided GZA followed the applicable standard of care and all applicable laws and regulations pertaining to the Work.
  - d) You further agree that when GZA performs Services intended to minimize the risk of Microbial infestations, GZA shall not be liable for damages resulting from Microbial contamination including but not limited to fungal or bacterial infestations and water damage or dry or wet rot. You agree to waive any Microbial infestation claim(s) against GZA and you agree to indemnify, defend and hold the GZA Indemnitees harmless from any claim alleging that GZA's Services caused or aggravated a Microbial infestation or did not prevent a Microbial infestation from recurring.