

**TOWNSHIP OF BYRAM
RESOLUTION NO. 167- 2023**

**AUTHORIZING APPOINTMENT AND AWARD OF A PROFESSIONAL SERVICE CONTRACT TO
FRENCH & PARRELLO ASSOCIATES FOR THE BYRAM TOWNSHIP DOG PARK & CO JOHNSON
PARK IMPROVEMENTS**

WHEREAS, the Mayor and Council intend by this resolution to award to French & Parrello Associates a professional services contract for the Byram Township Dog Park & CO Johnson Park Improvements; and

WHEREAS, such award of contract shall be made as a non – fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the anticipated term of this contract is for one year; and

WHEREAS, French & Parello Associates, submitted a proposal dated June 8, 2023 for an amount not to exceed \$137,790.00; and

WHEREAS, French & Parello Associates has completed and submitted a Business Entity Disclosure Certification that he will not make any reportable contributions to any political candidate or candidate committee and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, funds are available through Highlands Grant Fund;

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contract for “Professional Services,” without competitive bids and the contract itself, must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the Township of Byram, County of Sussex and State of New Jersey that it hereby authorizes the Mayor, Township Manager and Clerk to enter into a contract with French & Parello Associates as described hereinabove; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification be placed on file with this resolution; and

BE IT FURTHER RESOLVED that this Contract is awarded without competitive bidding as a “Professional Service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because these services are rendered or performed by a person authorized by law to practice a recognized profession; and

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the official Township Newspaper.

BYRAM TOWNSHIP COUNCIL

	Councilman Bonker	Councilwoman Franco	Councilman Gallagher	Councilman Roseff	Mayor Rubenstein
Motion	✓				
2nd		✓			
Yes	✓	✓		✓	✓
No					
Abstain					
Absent			✓		

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on September 5, 2023.


 Cynthia Church, RMC
 Township Clerk



700 Grand Avenue, Unit 5A
Hackettstown, New Jersey 07840
T: 908.850.0977
F: 732.312.9801
fpaengineers.com

June 8, 2023

Mr. Joseph Sabatini
Township Manager
Township of Byram
10 Mansfield Drive
Stanhope, New Jersey 07874

Re: **Byram Township Dog Park & Co Johnson Park Improvements**
Township of Byram, Sussex County, New Jersey
FPA No. 16801.PR2

Dear Mr. Sabatini:

French & Parrello Associates, PA (FPA) is pleased to provide Engineering and Landscape Architecture services for development of a dog park and improvements to C.O. Johnson Park in Byram Township. After completing the master plan for C.O. Johnson Park with Byram Township, we understand how excited the Township is to bring the master plan to reality.

The dog park will be placed directly across from the C.O. Johnson Park existing auxiliary parking area, which is located on Roseville Road. The property is an existing wooded lot with hiking trails throughout. The dog park will be environmentally sensitive in its design and layout such that it fits in with the natural setting of the property. The fenced enclosure of the dog park will be nestled into the existing forest utilizing existing clearings, which will be enhanced by removing invasive ground cover and dead or dying trees and maintaining the existing established trees. The dogs and dog owners will enjoy the existing tree canopy that is preserved, which will provide them with shade from the sun. The project will incorporate context-sensitive materials within the park such that the improvements will fit in with the natural setting of the property. The dog park will be located off of the existing hiking trail network to seamlessly fit into the natural setting of the park.

The project will also include various improvements to the C.O. Johnson Park facility. The existing park was constructed in the 1970's with periodic improvement over the years. The project will include an updating of the facility to modernize the facility. This will include an expansion of the existing walking trail network within the park and the inclusion of additional parking to handle the popularity of the facility. It will also include improvements to the stormwater infrastructure of the park. The existing stormwater basin will be relocated and reconstructed to fit into the park and provide green



infrastructure elements to the park. We will incorporate items such as rain gardens, pervious pavement, and other stormwater best practice measures into the stormwater management plan for the park to the maximum extent feasible, depending in part on infiltration test results. Landscape plans will specify use of non-invasive, drought-resistant plantings selected based on the Highlands Council recommended planting list.

The proposed improvements to the detention basin will include a reconstruction of the existing natural grass fields, which are currently not functioning properly to serve the community. This will include the reconfiguration of small practice field (CO7) and large all-purpose field (CO8), and the redevelopment of softball field (CO4) as detailed in the Master Plan.

Improvements will also include new and realigned walking paths throughout the park. Walking paths will be reconfigured to provide an alignment which will allow recreational walkers to have a continuous walking path throughout the park to enjoy.

These proposed improvements will include additional impervious cover on C.O. Johnson Park. It is our intention to use additional impervious cover permitted by Highlands on the dog park parcel, to accommodate the improvements to the C.O. Johnson parcel. The utilization of this impervious cover on a different parcel will need to be approved by NJDEP through a Highlands Preservations Area Approval. Through our preliminary conversation with NJDEP, we anticipate that this will be permitted.

To help the Township accomplish their goal, FPA has developed the following scope of services.

Scope of Work

I. Concept Plan

To commence the project, FPA will generate a concept for the overall improvements of the CO Johnson property as well as the dog park property. This updated concept will take into account the changes in design anticipated for the site. The plan will include the relocated basin, dog park, and improvements to a small practice field (CO7) and large all-purpose field (CO8), and the redevelopment of softball field (CO4).

The plan will be developed and submitted to the NJDEP for a preapplication meeting. The purpose of the meeting will be to get input from the NJDEP as to the direction of the project to confirm the scope and design as proposed.

II. Project Meetings

FPA will attend meetings with the Township, the project development team, and outside agencies on an as-needed basis to address questions related to the Site Plan. We will prepare presentation plans for the meetings.

It is impossible to determine the level of effort necessary to provide these services, therefore we are providing a budgetary estimate for your use. This work will be performed on a time & material



basis.

III. Dog Park Design

a. Preliminary Engineering Drawing

The topographic information previously prepared for the Dog Park will be used for the preparation of the base map. FPA will update the existing concept plan to comply with the new layout proposed for the site and incorporate the recommendations for the proposed Dog Park. The preliminary site plan will include the following elements: new prefabricated shed, two separately fenced-in enclosures for large and small dogs, potential parking area, sidewalk, entry signage, benches, leash hanger, agility course for both areas, driveway gates, trash receptacles, dog bag stations, and dog park rules. The existing concept plan has already been developed; therefore, it is anticipated that limited modifications to the plan are required.

b. Infiltration Testing

The proposed project will include a parking lot which will require the implementation of stormwater management control measures. These measures will incorporate water quality and groundwater recharge components, such as use of pervious pavement materials. FPA will perform test pits to verify the suitability of the soils to provide for recharge. It is anticipated that the Township will provide an excavator and operator suitable for performing test pits. FPA will perform geotechnical logs and permeability testing. It is anticipated that the test pits and permeability testing can be performed in a single day.

c. Contract Documents (90% Submission)

Upon the completion of the Preliminary Engineering Drawing and Documents, FPA will begin preparing the Contract Documents (90% Submission).

FPA Civil/Site will prepare for dog park the following:

- 1) Cover Sheet including the project name, zoning and location maps, plan sheet table of contents and appropriate signature blocks.
- 2) Demolition Plan – We will prepare a demolition plan to identify the existing items that will need to be removed or replaced at the time of construction. Provide notes regarding the removal of all debris and direct the contractor to contact the utility companies prior to excavation.
- 3) Site Plan of approved Concept – We will prepare a site plan which will locate the prefabricated shed, identify the location of the walking paths, potential parking area, perimeter fencing, location of benches, location of trash receptacles, two (2) dog agility courses and signage.
- 4) Grading and Drainage plan – A grading and drainage plan will be developed for the selected concept which complies with the local and County requirements for maximum slopes, retaining wall heights etc. In conjunction with the grading plan, we will prepare a



stormwater drainage system design as necessary to comply with the local and



NJDEP requirements for stormwater management. The determination as to the most appropriate type of stormwater management system cannot be determined until the final design concept is selected.

- 5) Soil Erosion and Sediment Control plan – We will prepare documents for the selected concept for submittal to the Soil Conservation District for certification. These documents will include plans showing the location of the various soil erosion measures, details of the soil erosion measures and district notes.
- 6) Construction Detail- we will prepare construction details of the various site improvement items including concrete curbing, decorative sidewalks, sidewalks, pavement, and fencing.
- 7) Outline specifications – We will prepare a technical specification based on the most current Masterspec format.
- 8) Revise cost estimate – We will revise our cost estimate from the schematic phase of this project to reflect any new changes to the site design.

FPA Landscaping will prepare the following:

Landscaping plan – It is anticipated that landscaping will be limited to the dog park area and along the walkway. This plan will identify the location, type and size of the proposed vegetation. Details and notes regarding the installation of the vegetation will be provided. We will provide an outline of the technical specifications for landscaping. The landscape plan will specify use of non-invasive, drought-resistant plantings selected based on the Highlands Council recommended planting list.

IV. Co Johnson Park Improvements

a. Boundary Survey

FPA will contract with a local surveyor to prepare a Boundary Survey of the C.O. Johnson Park parcel known as Lot 1 Block 351.

b. Topographic Survey

FPA will prepare a Topographic Survey for Lot 1 Block 351. The limited topographic survey shall be approximately 50 acres. The topographic survey will be based on an aerial survey. The horizontal and vertical datum for this project will be NAD83 / NAVD88. The scale of the plans will be one (1) inch equals 30 feet, with a 1-foot contour interval. Utilities shown on the plan will be based on above ground field locations, existing mapping, and any mark out found in the field at the time of the survey.

Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies may be used as the basis for showing the location of certain features (excluding boundaries) where ground measurements are not otherwise, necessary to locate those features to an acceptable



accuracy. If requested, the surveyor shall (a) discuss the ramifications of such methodologies (e.g., the precision and completeness of the data gathered thereby) with the client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data.

Utilities shown on the plan will be based on above ground field locations, existing mapping, and any mark out found in the field at the time of the survey.

c. Preliminary Engineering Drawing

Upon completion of the appropriate data collection and preparation of the base map, FPA will prepare one (1) preliminary site layout plan along with design options and recommendations for the proposed parking lot at the south end of the property. The preliminary site plan will include the following elements:

- Parking layout for approximately 70 cars
- Vehicle circulation
- Perimeter drive aisle connecting proposed and existing parking lots.
- Reconfiguration of small practice field (CO7) and large all-purpose field (CO8).
- Redevelopment of softball/baseball field (CO4).
- Relocation of Existing Detention Basin
- Reconfiguration of walking paths throughout park
- Incorporation of Green Infrastructure Elements into the park

The preliminary site layout plan will be limited to one review with revisions by the Township representatives prior to the final presentation to Byram Township. FPA will make any minor revisions that are discussed at the presentation. FPA will prepare one final preliminary cost estimate for the final approved layout for the Township to display or have on record.

d. Infiltration Testing

The proposed project will include parking lot surfaces which will require the implementation of stormwater management control measures. The design will incorporate water quality and groundwater recharge components, such as use of pervious pavement materials. FPA will perform test pits to verify the suitability of the soils to provide for recharge. It is anticipated that the Township will provide an excavator and operator suitable for performing test pits. FPA will perform geotechnical logs and permeability testing. It is anticipated that the test pits and permeability testing can be performed in a single day.

e. Irrigation System Design

It is our understanding that the existing irrigation system on large all-purpose field (CO8) is not functioning properly. As part of this project, field CO8 will be reconstructed to provide proper drainage, therefore the existing irrigation system will be replaced. FPA will prepare a design specification and plan which



sets the parameters and specifications for irrigating 3 fields (small practice field (CO7), large



all-purpose field (C08), and the redevelopment of softball field (C04)). This final design will be prepared by the irrigation contractor as part of the submittal process.

f. Sport Field Lighting

This plan will illustrate the lighting project for three (3) proposed grass athletic fields. This plan will conform to accepted lighting standards. FPA will prepare an electrical design to support the proposed lights. The design will incorporate electrical wiring and control for the lights. It is understood that the township may not be incorporating the full lighting buildout into this phase, and this contract may include lighting conduit only.

g. Stormwater Management Design

It is anticipated that this project will disturb over 1 acre of land and generate over ¼ acre of new impervious, therefore the project will be subject to NJDEP stormwater management regulations. The cost to provide a design of stormwater improvements has been included in this proposal. The regulations require that the project incorporate stormwater management measures to address water quantity, quality, and groundwater recharge. It is noted that the proposed design will include relocating the existing detention basin. FPA will incorporate into the plans the design of a detention basin or other measures to meet the NJDEP stormwater management regulations. These calculations will be summarized in a report.

h. Contract Documents (90% Submission)

Upon the completion of the Preliminary Engineering Drawing and Documents, FPA will begin preparing the Contract Documents (90% Submission).

FPA Civil/Site will prepare for the proposed parking lot the following:

- 1) Cover Sheet including the project name, zoning and location maps, plan sheet table of contents and appropriate signature blocks.
- 2) Demolition Plan – We will prepare a demolition plan to identify the existing items that will need to be removed or replaced at the time of construction. Provide notes regarding the removal of all debris and direct the contractor to contact the utility companies prior to excavation.
- 3) Site Plan of approved Concept – We will prepare a site plan which will locate the proposed improvements as defined above.
- 4) Grading and Drainage plan – A grading and drainage plan will be developed for the selected concept which complies with the local and County requirements for maximum slopes, retaining wall heights etc. In conjunction with the grading plan, we will prepare a stormwater drainage system design as necessary to comply with the local and NJDEP requirements for stormwater management. The determination as to the most appropriate type of stormwater management system cannot be determined until the final design



concept is selected.

- 5) Soil Erosion and Sediment Control plan – We will prepare documents for the selected concept for submittal to the Soil Conservation District for certification. These documents will include plans showing the location of the various soil erosion measures, details of the soil erosion measures and district notes.
- 6) Construction Detail- we will prepare construction details of the various site improvement items including concrete curbing, decorative sidewalks, sidewalks, pavement, drainage inlets, pipe trench, natural pool layout, tree wrap sketch, modular block walls (where necessary) ornamental fencing and handicap signs and curb ramp details.
- 7) Outline specifications – We will prepare a technical specification based on the most current Masterspec format.
- 8) Revise cost estimate – We will revise our cost estimate from the schematic phase of this project to reflect any new changes to the site design.

FPA Landscaping will prepare the following:

Landscaping plan – We anticipate that some landscaping will be provided for the entry drive, parking area and along the walkways. This plan will identify the location, type and size of the proposed vegetation. Details and notes regarding the installation of the vegetation will be provided. We will provide an outline of the technical specifications for landscaping. The landscape plan will specify use of non-invasive, drought-resistant plantings selected based on the Highlands Council recommended planting list.

V. Reimbursable Expenses

Client shall pay FPA for reimbursable expenses, printing and reproduction courier and express delivery service, bulk/special mailings, facsimile transmissions, specialized equipment and laboratory charges, GPS Survey Equipment usage, other costs of acquiring materials specifically for Client and related charges. The reimbursable expenses will be added to each monthly invoice. We have included a budgetary estimate for reimbursable expenses as follows:



Fee Amounts

Our fees for this project are summarized as follows:

I. Concept Plan	
a. Concept Plan	\$7,000
II. Meetings	
b. Project Meetings	\$6,000
III. Dog Park Design	
a. Preliminary Engineering Design	\$6,000
b. Infiltration Testing.....	\$1,800
c. Contract Documents	\$12,450
IV. Co Johnson Park Improvements	
a. Boundary Survey	\$17,600
b. Topographic Survey.....	\$11,400
c. Preliminary Engineering Design	\$15,300
d. Infiltration Testing.....	\$1,800
e. Irrigation System	\$10,700
f. Sport Field Lighting.....	\$10,400
g. Stormwater Management Design	\$9,900
h. Contract Documents	\$35,800
V. Reimbursable Expenses	Budget Amount \$1,000
<u>DESIGN TOTAL.....(Estimated Fee - \$ 137,790)</u>	

Specific Conditions

- A. The general terms and conditions which French & Parrello Associates, P.A. enters into agreements are attached to the rear of this proposal and are hereby made part of this agreement.
- B. The above proposal does not include within the quoted prices the following:
 - 1. Any work not specifically stated herein.
 - 2. Utility studies or design.
 - 3. Environmental and geotechnical Services.
 - 4. Well flow tests and modification.
 - 5. Backhoe for test pit excavation
 - 6. NJDEP Permitting



Closing

If the terms and conditions set forth in this proposal are satisfactory to you, please indicate your agreement by signing and returning this proposal to us. When we have received the acknowledgement copy of this proposal, we will consider that we have made a binding agreement with you on the terms set forth above.

On behalf of French & Parrello Associates, P.A., I want to thank you for this opportunity.

Respectfully submitted,
FRENCH & PARRELLO ASSOCIATES

Michael J. Piga LLA
Landscape Architect Services
Vice President
Michael.Piga@fpaengineers.com

Denis Keenan, PE CMECFM
Regional Manager
Vice President
Denis.Keenan@fpaengineers.com

Proposal Accepted By:

Name (Printed): _____

Title and Company: _____

Signature: _____ Date: _____

Telephone: _____ Fax: _____

Accounts Receivable Representative:

Contact Name: _____

Email: _____

Address: _____

Telephone: _____ Fax: _____



2023 Schedule of Fees

Senior Project Consultant.....	\$240.00/hr.
Project Consultant.....	\$215.00/hr.
Senior Project Manager.....	\$200.00/hr.
Project Manager.....	\$185.00/hr.
Senior Engineer.....	\$175.00/hr.
Project Engineer.....	\$150.00/hr.
Senior Staff Engineer.....	\$125.00/hr.
Staff Engineer.....	\$110.00/hr.
Licensed Site Remediation Professional (LSRP).....	\$200.00/hr.
Professional Geologist.....	\$150.00/hr.
Senior Environmental Specialist.....	\$150.00/hr.
Senior Environmental Scientist.....	\$145.00/hr.
Environmental Project Coordinator.....	\$140.00/hr.
Environmental Engineer.....	\$120.00/hr.
Environmental Scientist.....	\$115.00/hr.
Environmental Permitting Assistant.....	\$105.00/hr.
Environmental Technician.....	\$100.00/hr.
Licensed Landscape Architect.....	\$170.00/hr.
Landscape Designer.....	\$115.00/hr.
Professional Planner.....	\$150.00/hr.
Professional Land Surveyor.....	\$200.00/hr.
Senior Designer.....	\$145.00/hr.
Designer.....	\$130.00/hr.
Senior Drafter.....	\$115.00/hr.
Drafter.....	\$105.00/hr.
Technical Coordinator.....	\$95.00/hr.
Survey Party Chief.....	\$140.00/hr.
Senior Survey Technician.....	\$125.00/hr.
Survey Technician.....	\$105.00/hr.
Survey Field Crew (two person).....	\$245.00/hr.
Survey Field Crew Robotic (1 person).....	\$205.00/hr.
Lab Supervisor.....	\$120.00/hr.
Resident Engineer.....	\$135.00/hr.
Senior Field Representative.....	\$100.00/hr.
Field Representative.....	\$95.00/hr.
Field Technician.....	\$85.00/hr.
Staff Professional.....	\$70.00/hr.
Technical Assistant.....	\$85.00/hr.
Administrative Services.....	\$70.00/hr.



2023 Miscellaneous Reimbursable Expenses

Miscellaneous Office Services

Mileage (Employee Travel Time will be Invoiced at the Individuals Hourly Rate, Door-To-Door)	\$0.655 / mile
Certified Mailing/Return Receipt	\$6.80 + postage / piece
Express Delivery Service (Federal Express, etc.)	Calculations per weight / piece
USPS Package Mailing (Plans/Reports)	Postage + 15% / piece

Plotting and Graphic Services

Bond	\$0.20 / sf
Vellum	\$0.35 / sf
Color	\$0.75 / sf
Mylar	\$0.70 / sf
Presentation Board -24" x 36"	\$10.00 / board
Presentation Board -30" x 42"	\$20.00 / board
CD or DVD	\$1.00 / Disk



GENERAL CONDITIONS OF SERVICES

Client: Township of Byram

Project Name: Byram Township Dog Park

Project Number: 16801.PR2

Date: May 11, 2023

A. SCOPE OF SERVICES

Theservices to be provided by French & Parrello Associates, PA (FPA) have been set forth in the Proposal/Scope of Services and shall remain valid for a period of 90 days from the date of the Proposal, after which FPA may elect to withdraw or renegotiate this Proposal. All services not specifically identified are excluded from FPA's scope and will only be performed in accordance with a written amendment to the agreement outlining the exact services and the associated fees.

B. FEE

The total fee, except stated lump sum shall be understood to be an estimate, based upon Scope of Services, and shall not be exceeded by more than ten percent, without written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time services are rendered.

C. BILLINGS/PAYMENTS

Invoices will be submitted monthly for services and are due when rendered. Invoice shall be considered PAST DUE if not paid within 30 days after the invoice date and FPA may without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of service. Retainers shall be credited on the final invoice. A monthly service charge of 1.5% of the unpaid balance will be added to PAST DUE accounts. In the event any portion or all of an account remains unpaid 75 days after billing, the Client shall pay cost of collection, including reasonable attorney fees. FPA reserves the right to stop work until invoices that are more than 75 days in arrears are paid in full. You agree that any delays, claims or losses associated with stopping of work under these circumstances will not be the responsibility of FPA.

D. STANDARD OF CARE

Services performed by FPA under this agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty, guarantee, or fiduciary responsibility is included or intended in this agreement, or in any report, opinion, document or otherwise. Unless otherwise specified in this proposal, the services performed by FPA will not include an independent analysis of work conducted, or information provided, by independent laboratories or other independent contractors retained by FPA.

E. HIDDEN CONDITIONS

When advised by FPA, investigation of structural conditions concealed by existing finishes shall be authorized and paid for by the client. Where investigation is NOT authorized, FPA shall not be responsible for the condition of the existing structure (except where verification can be made by simple visual observation).

F. INFERRED CONDITIONS

The Client understands that actual subsurface conditions may vary from those which are encountered at the locations of borings, test pits or other such subsurface explorations. FPA will base interpretations and recommendations upon conditions inferred from the conditions encountered. Client recognizes that any future determination of conditions different than those which were encountered at the sampling locations may significantly impact the interpretation and recommendations provided by FPA. Any such variation of conditions should be brought to the prompt attention of FPA to assess the impact of the variations on the previously provided interpretations and recommendations. FPA will take no responsibility for any interpretation or recommendation others may make based upon subsurface data provided by FPA.

G. STANDARDS AND CODES

If the work under the contract is to be performed in accordance with, or where the deliverables and instruments of service resulting from our work will be reviewed against codes, standards and regulations, the edition or revision of said codes, standards and regulations in effect as of the date of this agreement will apply. Any revisions to documents or other additional work caused by the application of a more recent code, standard or regulation shall be considered a Changed Condition under this agreement. In addition, any revisions or additional work required by regulatory agencies which are not explicitly outlined in applicable codes, standards or regulations will also be considered a changed condition under this agreement.

H. RIGHT OF ENTRY

The client shall provide for right of entry for all FPA personnel and equipment necessary to perform the intended scope of services. The client understands that while FPA will take reasonable precaution to minimize any damage to the property, some damage may occur in the normal course of work, the correction of which is not part of this agreement.

I. UTILITIES

FPA will take reasonable precautions to avoid damage or injury to any visible subsurface utilities or structures. FPA shall not be held responsible for damage to any underground utility or structure which has not been properly marked out by the respective owner of said utility or structure prior to the commencement of our work. If location of underground utilities is included under the Scope of Services, those locations will be based upon visible identification marks left by the respective utility companies or upon locations that can be visually identified from the ground surface. Unless other contractual agreements are made, this proposal does not include opening or entering manholes, inlets, trenches, or other utility access ways for the purpose of measuring, identifying, or locating said utilities.

J. CHANGED CONDITIONS

If FPA discovers conditions or circumstances that it had not contemplated at the commencement of this Agreement ("Changed Conditions"), FPA will notify Client in writing of the Changed Conditions. Client and FPA agree that they will then renegotiate in good faith the terms and conditions of this Agreement. If FPA and Client cannot agree upon amended terms and conditions within 30 days after notice, FPA may terminate this Agreement and be compensated as set forth in Section Q, "Termination."



K. DISCOVERY OF UNANTICIPATED POLLUTANT RISKS

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. Unless FPA's Scope of Services specifically includes Environmental Services, FPA will not be responsible for the identification, delineation, evaluation, treatment or removal of any hazardous substance. Should such substance be encountered FPA will take action to protect the health and welfare of their personnel, and will notify the client for direction. The conditions of this section are superseded to the extent that the Scope of Services specifically includes the identification, delineation, evaluation and treatment of hazardous materials.

L. CERTIFICATIONS

Client agrees not to require that FPA execute any certification with regard to Services performed or Work tested and/or observed under this Agreement unless: 1) FPA believes that it has performed sufficient Services to provide a sufficient basis to issue the certification; 2) FPA believes that the Services performed or Work tested and/or observed meet the criteria of the certification; and 3) FPA has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by FPA is limited to an expression of professional opinion based upon the Services performed by FPA, and does not constitute a warranty or guaranty, either expressed or implied.

M. RISK ALLOCATION

Client agrees that, to the fullest extent permitted by law, FPA's total liability to the Client, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement, from any cause or causes, shall not exceed the total amount of \$50,000 or the amount of FPA's fee (whichever is greater).

N. INDEMNIFICATION

The Client shall indemnify and hold harmless FPA and all of its personnel from and against any and all claims, damages, losses and expenses (including reasonable attorney fees), to the extent that any such claims, damage, loss or expense is caused in whole or in part by the negligent act or omission, and/or strict liability of the Client, anyone directly or indirectly employed by the Client (except FPA, or anyone for whose acts any of them may be liable).

O. NO SPECIAL OR CONSEQUENTIAL DAMAGES

Client and FPA agree that to the fullest extent permitted by law FPA shall not be liable to Client for any special, indirect or consequential damages whatsoever, whether caused by FPA's negligence, errors, omissions, strict liability, breach of contract, breach of warranty or other cause or causes whatsoever.

P. OWNERSHIP OF DOCUMENTS

Client may use the documents for the project or purposes contemplated by this agreement. Client may not reuse the documents, nor any of FPA's concepts or approaches in the Proposal to client, for any extension of the project or other project without FPA's prior written consent. Any unauthorized reuse or extension of FPA's work is at Client's sole risk and without liability to FPA, and Client will indemnify, defend, and hold FPA harmless from all claims or damages arising from any unauthorized reuse or extension of FPA's work. All documents related to a project will be destroyed in accordance with FPA Document Retention Guidelines in effect at that time.

Q. TERMINATION

This Agreement may be terminated for convenience by either party by thirty (30) days written notice or in the event of substantial failure to perform in accordance with the terms of the Agreement by the other party through no fault of the terminating party by ten (10) days written notice. If this Agreement is terminated, it is agreed that FPA shall be paid the total charges for labor performed to the termination notice date, plus reimbursable charges.

R. DISPUTES RESOLUTION

All claims, disputes, and other matters in controversy between FPA and Client arising out of or in any way related to this Agreement, except for those related to Billing/Payments, will be submitted to "alternative dispute resolution" (ADR) such as mediation and/or arbitration, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to the services provided under this Agreement and that dispute requires litigation instead of ADR as provided above, then: (a) Client assents to personal jurisdiction in the state of FPA's principal place of business; (b) The claim will be brought and tried in judicial jurisdiction of the court of the county where FPA's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction; and (c) The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, and other claim related expenses.

S. SAFETY

FPA is not responsible for the implementation, discharge, or monitoring of any construction safety standards or practices, including demolition. These items are explicitly excluded from our scope.

T. SAMPLES AND WELLS

If FPA provides laboratory testing or analytic Services, FPA will preserve such soil, rock, water, or other samples as it deems necessary for the Project, but no longer than 45 days after issuance of any Documents that include the data obtained from these samples. Client will promptly pay and be responsible for the removal and lawful disposal of all contaminated samples, cuttings, Hazardous Materials, and other hazardous substances. Client will take custody of all monitoring wells and probes installed during any investigation by FPA, and will take any and all necessary steps for the proper maintenance, repair or closure of such wells or probes at Client's expense.

U. BIOLOGICAL POLLUTANTS

FPA's scope of work does not include the investigation or detection of the presence of any Biological Pollutants in or around any structure. Client agrees that FPA will have no liability for any claim regarding bodily injury or property damage alleged to arise from or be caused by the presence of or exposure to any Biological Pollutants in or around any structure. In addition, Client will defend, indemnify, and hold harmless FPA from any third-party claim for damages alleged to arise from or be caused by the presence of or exposure to any Biological Pollutants in or around any structure, except for damages arising from or caused by FPA's sole negligence. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and the byproducts of any such biological organisms.

V. ENTIRE AGREEMENT

The Proposal/Scope of Services and these General Conditions constitute the entire agreement between Client and FPA. If a Purchase Order (PO) or similar document is used in conjunction with this Agreement, it shall be for the sole purpose of defining quantities and fees to be provided hereunder, and to this extent only are incorporated as a part of this Agreement. Any preprinted terms and conditions included in such PO or similar documents shall not be incorporated and such PO or similar documents shall not be otherwise construed to modify, amend, or alter the terms of this Agreement.