

**CONTRACT
ENVIRONMENTAL TESTING CONSULTANTS, LLC
AND THE
COUNTY OF GLOUCESTER**

THIS CONTRACT is made effective this 1st day of September, 2018, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices at 2 South Broad Street Woodbury, New Jersey 08096 hereinafter referred to as "**County**", and **ENVIRONMENTAL TESTING CONSULTANTS, LLC** located at 413 N. Black Horse Pike, Runnemede, New Jersey, 08078 hereinafter referred to as "**Contractor**".

RECITALS

WHEREAS, the Gloucester County Planning Department, Division of Housing and Community Development, hereinafter referred to as the "Division", has a need for the services of a Certified Lead Based Paint Risk Assessor for its Owner-Occupied Home Rehabilitation Program, and published a Request for Quotes, hereinafter referred to as "RFQ", on June 14, 2018 with all proposals due on or before June 28, 2018; and

WHEREAS, Contractor submitted the only proposal and acceptance of the proposal was recommended by the Division and the County Purchasing Director.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Contractor do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** The term of the contract shall be for the period from September 1, 2018 to August 31, 2019.
2. **COMPENSATION.** Contractor shall be compensated in an amount not to exceed \$10,000.00 pursuant to and subject to the terms and provisions of the RFQ and the Contractor's fee analysis which is attached hereto as Schedule A and incorporated into and made part of this Contract.

It is agreed and understood that this is an open-ended contract, thereby requiring the County to use Contractor's services on an as-needed basis. There is no obligation on the part of the County to make any purchase whatsoever.

Contractor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Contractor

shall be considered a release in full of all claims against the County arising out of, or by reason of, the work done and materials furnished under this Contract.

3. **DUTIES OF CONTRACTOR.** The specific duties of the Contractor shall be as set forth in Contractor's Qualifications Statement and/or Scope of Services attached hereto as Schedule B, and in accordance with the specifications of the County as per the RFQ which is incorporated in its entirety by reference and made a part of this Contract.

Contractor agrees that it has or will comply with, and where applicable shall continue throughout the period of this Contract to comply with, all of the requirements of the RFQ.

4. **FURTHER OBLIGATIONS OF THE PARTIES.** During the performance of this Contract, the Contractor agrees as follows:

The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The Contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

5. **LICENSING AND PERMITTING.** If the Contractor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Contractor shall provide to the County a copy of all current licenses and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Contractor shall notify the County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Contractor or its agents and/or subcontractors.

6. **TERMINATION.** This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the quote, bid specifications or proposal documents, whichever the case may be, specifically referred to and incorporated herein by reference.

B. If Contractor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Contractor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, the Contractor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, the Contractor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor, and the County may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the County from the Contractor is determined.

F. Termination shall not operate to affect the validity of the indemnification provisions of this Contract.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Contractor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION.** The Contractor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Contractor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent Contractors, or from the Contractor's failure to provide for the safety and protection of its employees, or from Contractor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Contractor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **INSURANCE.** Contractor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance and Workers' Compensation insurance in amounts and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If Contractor is a member of a profession which is subject to suit for professional malpractice, then Contractor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Contractor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Contractor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **SET-OFF.** Should Contractor either refuse or neglect to perform the service which Contractor is required to perform in accordance with the terms of this Contract, and if expense is incurred by County by reason of Contractor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Contractor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Contractor shall be suspended without liability for the period during which the County is so prevented.

12. **METHODS OF WORK.** Contractor agrees that in performing its work, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

13. **NON-WAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Contractor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **CHANGES.** This Contract may be modified by approved change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

16. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice or substituted service permissible by the Rules of Court of the State of New Jersey.

17. **GOVERNING LAW, JURISDICTION AND VENUE.** This agreement and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

18. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent Contractor and is not an agent of the County.

19. **CONFIDENTIALITY.** Contractor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

20. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

21. **CONTRACT PARTS.** This Contract consists of this document, Schedules A & B, the RFQ, and the Contractor's proposal documents submitted in accordance with RFQ dated June

14, 2018, which is attached hereto and made a part hereof. If there should occur a conflict between this Contract and the Contractor's proposal, then this Contract shall prevail.

THIS CONTRACT is dated this 16 day of July, 2018.

IN WITNESS WHEREOF, the Gloucester County Purchasing Agent pursuant to authority granted to him and set forth in the County Administrative Code has executed this Agreement and Contractor's authorized representative has executed this Agreement on the date indicated herein.

ATTEST:


ANDREA LOMBARDI,
PURCHASING CLERK TYPIST

COUNTY OF GLOUCESTER


PETER M. MERCANTI,
PURCHASING DIRECTOR

ATTEST:


DEBORAH A. FULGINITI

ENVIRONMENTAL TESTING
CONSULTANTS, LLC


HOWARD ZENOBI, PRESIDENT

SCHEDULE A

FEE ANALYSIS

A. Lead Inspection and Risk Assessment includes all sample costs

<u>Units</u>	<u>Unit Costs</u>
2 Bedrooms	\$355.00
3 Bedrooms	\$385.00
4 Bedrooms	\$430.00
5 Bedrooms	\$475.00
6 Bedrooms	\$550.00

B. Clearance Testing Fees

Labor Fee	\$220.00
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Sampling Fees

4 hour sample turn-around-time	\$20.00
1 day sample turn-around-time	\$11.00
2 day sample turn-around-time	\$9.00

Schedule B

Scope of Services

ENVIRONMENTAL TESTING CONSULTANTS, LLC shall perform the initial inspections and post inspections relative to lead-based paint risk assessments. Inspection services shall include:

- (a) assign a task leader;
- (b) be available on a 24 hour a day basis for response to lead related issues;
- (c) be able to respond to any task order within 48 hours of the initial request for services;
- (d) conduct dust wipe sampling on floors, window sills and troughs to determine current conditions;
- (e) dust wipe and soil and clearance sampling at designated home owner rehabilitation properties;
- (f) complete visual inspection and wipe test clearance, using AAS protocol, and compile a report documenting that the unit is abated to satisfactory levels;
- (g) the provision of a report of services; all reports will be completed within 24-72 hours after completion of sample analysis. It is estimated that the response time for the completion of any project will not exceed ten (10) working days from the initial task order to the submission of completed reports to the project manager;
- (h) Environmental Testing Consultants, LLC have the capability to send reports via high speed internet connection, mail, courier service, or facsimile machine. Environmental Testing Consultants can also provide copies of the report on CD or floppy disk for the clients use;
- (i) will ensure that standards contained in 24 CFR Part 35, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally-Owned Residential Property and Housing Receiving Federal Assistance" are enforced.