

AMENDMENT NO. 2 TO SERVICES AGREEMENT

1. Background Data:
 - a. Effective Date of Services Agreement: April 11th, 2023
 - b. City: City of Noblesville, Indiana, a municipal corporation
 - c. Contractor: Acuity Environmental Solutions, LLC
 - d. Project: On-Call Agreement with Acuity Environmental Solutions, LLC

2. Nature of Amendment

Modifications to Compensation

3. Description of Modifications Attachment 1, "Modifications"

City and Contractor hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

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Attachment No. 1

Modifications

1. City shall pay Contractor the following additional or modified compensation.
Section IV. Compensation is modified to read as follows and outline in **Exhibit A**:

SECTION IV. COMPENSATION

- 4.1 Contractor proposes to furnish all labor, materials and supplies in accordance with the conditions of this Agreement necessary to complete the work as defined in Exhibit A. Compensation shall not exceed Six Hundred Fifty Thousand Dollars and Zero Cents (\$650,000.00).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

Acuity Environmental Solutions, LLC (“Contractor”)

By: 


Date: 20 June 2024

Printed: Steven R. Irvin

Title: Managing Member

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All of which is approved by the Board of Public Works and Safety of the City of Noblesville this
25th day of June 2024.



JACK MARTIN, PRESIDENT



JOHN DITSLEAR, MEMBER



LAURIE DYER, MEMBER



ROBERT J. ELMER, MEMBER



RICK L. TAYLOR, MEMBER

ATTEST:



EVELYN L. LEES, CLERK
CITY OF NOBLESVILLE, INDIANA

Funding Verification/Encumbrance Request Form

Date to be submitted to BoW / Park Board: 06/11/2024 (put N/A if not submitting to BoW/Park Board)

Vendor name: Acuity Environmental Solutions LLC

Vendor Address: 7965 E 106th Street (Suite 128) Fishers, IN 46038

Brief description of purchase: Further Site Investigation for Bolden's Cleaners

Source of Funding:

- Current Year Operational Budget
- Subsequent Year Operational Budget ¹
- Loan or debt proceeds
- Non-Appropriated Fund
- Funding not yet finalized (attach explanation) ²:

1) Note: This option may only be selected AFTER the adoption of the subsequent year budget. OFA will create a PD after the start of the next year. If contract details change in between form submission and the start of the year, contact OFA Staff.

2) This option may only be selected in unusual circumstances. An additional FVF will need to be submitted to OFA once funding source has been determined. OFA will not create a PD until this follow-up form has been submitted.

| | |
|--------------------------------|-----|
| Fund # | 101 |
| Department # | 016 |
| Project # (NA if no project #) | N/A |

| | Expense Object # | Amount |
|----|------------------|--------------|
| #1 | 310.100 | \$ 22,738.90 |
| #2 | | |
| #3 | | |
| #4 | | |
| #5 | | |

Are you requesting that a Purchase Order (PO) be created for this expenditure?

- Yes Select for all purchases/contracts that will not be paid immediately
- No Select ONLY if department plans to initiate payment immediately

The Department certifies that sufficient appropriation authority exists in the stated fund and expense series to obligate the expense for future payment.

Department Director

[Signature]
(Signature)

Andrew Murray

(Printed Name)

5/28/24

(Date)

Please email completed form to FAbud.et@noblesville.in.us.

FOR OFFICE OF FINANCE AND ACCOUNTING USE ONLY

OFA Action Taken

- Purchase Order Created PO # (if applicable): 240213
- Reviewed Availability of funds (Contract/Purchase of over \$50k or paid with debt proceeds only)
- OFA Signature Caitlin Moss
- No Action Taken (Department should still include this form in purchase/contract approval submission)

Comments: _____

Initials: HT

Date: 5/28/24



24 May 2024

City of Noblesville
Ms. Sarah Reed
16 S. 10th Street
Noblesville, Indiana 46060

**RE: Updated Further Site Investigation Proposal
Former Bolden's Cleaners
151 N. 8th Street
Noblesville, IN
AcuityES Proposal IN-0124-02B**

Dear Ms. Sarah Reed,

Acuity Environmental Solutions, LLC (AcuityES) presents the following Updated Further Site Investigation Proposal for the Former Bolden's Cleaners located at 151 N. 8th Street Noblesville, IN (Site).

STATEMENT OF UNDERSTANDING

AcuityES conducted a Phase I Environmental Site Assessment (ESA) for the Site in September 2023. The property was identified as a recently vacated dry cleaner that operated from 1990 to June 2023. The property consists of a two story approximately 6,314 square foot building, with an approximately 1,050 square foot partial basement. The former dry cleaner previously had one dry cleaning machine, two washers, two dryers, and three types of clothing presses on the ground floor. Dry cleaning operations involved the use of tetrachloroethene (PCE) as a cleaning solvent until a building fire that occurred in 2015.

During the Phase I ESA site reconnaissance conducted on 28 August 2023, an unlabeled drum was observed to be stored in the basement of the building. According to the former property owner, the drum had previously contained mineral oil and he had later filled it with soil in an effort to solidify the residual oil. Without a waste profile, including laboratory analysis of the soil mixture, insufficient information was available to determine if it exhibits characteristics of hazardous waste, which was considered a significant data gap.

Additionally, routine dry cleaning operations at the Site involved the use of PCE and generation of waste streams containing PCE for over two decades. While it was recognized that the dry cleaning machines were situated on the ground floor over a basement, the generation of separator water at the point of discharge from the facility inevitably contained dissolved PCE which was likely to have reached the environment through common imperfections in plumbing such as at joints and offsets. Although there had not been a documented release incident reported to the Indiana Department of Environmental Management, it is likely that PCE (and its degradation products) is present at the property as a result of a release to the environment.

In summary the Phase I ESA revealed the following:

- A significant data gap was present as insufficient information about the contents of the drum of soil and oil mixture could be gathered to determine if it represents a material threat of a future release to the environment of a hazardous substance.

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ACUITY E nvironmental Solutions

7965 East 106th Street, Suite 128
Fishers, IN 46038

phone: 317 / 570-4919
fax: 317 / 570-4943

email: info@acuity_es.com
web: www.AcuityES.com



- A recognized environmental concern was identified as over 20 years of dry cleaning operation the cumulative incidental losses of PCE in free phase or the dissolved phase have likely reached the environment through various mechanisms, based on documented practices and housekeeping.

Based on the Phase I ESA findings, AcuityES presented to the City of Noblesville a Phase II Investigation Proposal, dated 22 September 2022, which included a scope of work designed to address the above-mentioned REC and data gap. Results of the Phase II Investigation, presented in the Phase II Site Investigation report, dated 08 January 2024, are summarized below:

- Soil vapor analytical results reported the detections of 24 volatile organic compounds (VOCs) with IDEM published levels in soil gas at concentrations less than their respective IDEM Risk-Based Closure Guide (R2) Deep Soil Gas Published Levels (DSGPLs).
- VOC constituents in soil vapor were generally representative of at least three different anthropogenic origins, including:
 - Dry cleaning operations: PCE and trichloroethene (TCE)
 - Petroleum: benzene, toluene, ethylbenzene, xylenes, 1,2,4-trimethylbenzene, and 1,3,5-trimethylbenzene
 - Typically, non-dry cleaning related solvents: 1,1,1-trichloroethane, methyl ethyl ketone (MEK), and acetone.

It is not known if the VOCs detected in soil gas are derived from the off-gassing of impacted soil or from the volatilization of contaminated groundwater. Additionally, it is not known whether historical operations in the building have resulted in the retention of VOCs by building materials at levels where possible off-gassing may result in an inhalation risk of VOCs. Therefore, to address these data gaps, AcuityES presents the following Further Site Investigation Scope of Work.

SCOPE OF WORK

Project Management, Access, and Communication

Prior to implementing the scope of work, AcuityES will conduct the required preparation (coordination with subcontractors) necessary for mobilization to the Site. As required by the Occupational Safety and Health Administration (OSHA), a short form Health and Safety Plan (HASP) will be developed prior to conducting field work. Investigation work is assumed to be conducted in Level D Personal Protection Equipment (PPE). Client and staff communication, as well as planning and access-related negotiations, will be included under this task.

Site Investigation Activities

Grab Groundwater Sampling

Grab groundwater samples will be collected to determine if groundwater has been negatively impacted by past dry cleaning operations and whether it is the source of VOCs detected in soil gas at the Site. A total of six grab groundwater locations are proposed and are depicted on **Attachment I**.

Soil borings will be advanced using a track-mounted drill rig equipped with direct push technology (DPT) tooling. Upon retrieval of each macro core, the soil samples will be continuously logged to a depth of approximately 25 feet below grade, screened with a handheld photoionization detector (PID) for total organic vapors and lithologically evaluated in accordance with the Unified Soil Classification System (USCS).



Upon reaching the terminus of the soil boring, PVC casing equipped with 10 feet of 0.010-slotted screens will be installed in each soil boring. Each temporary well will be purged until reasonably clear using dedicated tubing equipped with a check-valve. Groundwater will be collected into laboratory-supplied 40-ml VOA vials and submitted under chain of custody to Pace Analytical Laboratories (Pace) of Indianapolis. Groundwater samples will be analyzed for VOCs using USEPA Method 8260. One duplicate and one trip blank will be submitted for quality assurance purposes.

After sample collection, the PVC well material will be removed and the soil boring will be backfilled with bentonite to grade surface where the boring will be finished with an asphalt cap.

Indoor Air Vapor Sampling

A total of four vapor samples will be collected to document whether the building is safe to occupy relative to possible indoor air contaminants. One sample will be collected from the basement, two samples will be collected from the main floor of the building, and one ambient sample will be collected from the exterior of the building. Vapor samples from each of the four locations will be collected over a period of 8-hrs into 6-liter laboratory supplied Summa® canisters and will be delivered under appropriate chain of custody to Pace for analysis of VOCs via US EPA Method TO-15.

Letter Report Preparation

Following receipt of the analytical data, a brief letter report will be developed to document field methodologies and procedures; summarize analytical data; and contextualize results pertinent to addressing the concerns identified in the Phase II investigation.

COST ESTIMATE

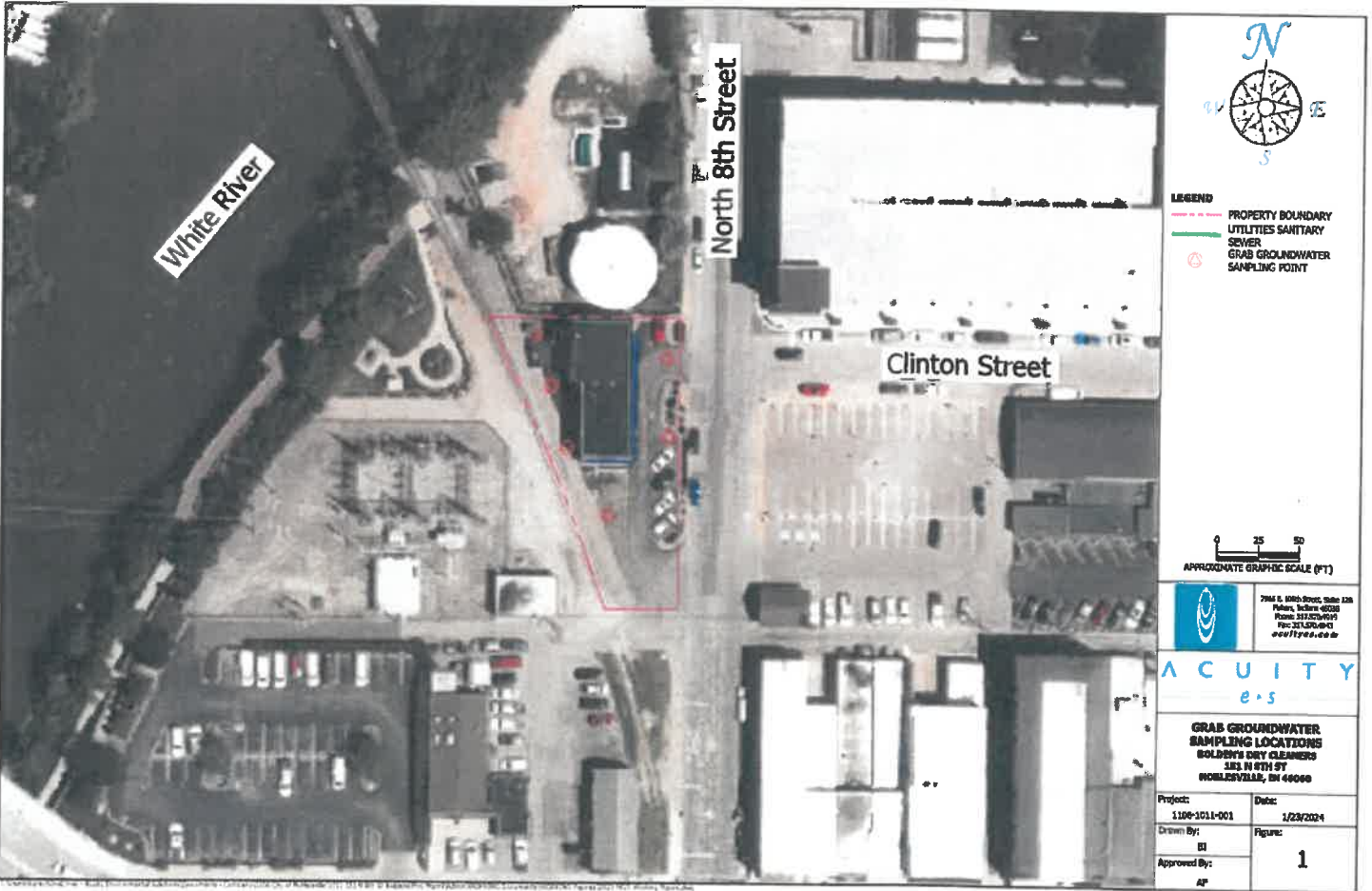
Attachment II provides an itemized estimate for the proposed Further Site Investigation Scope of Work. Work will be performed in accordance with the Professional Services Agreement provided as **Attachment III**. We believe this proposal provides a reasonable and accurate estimate of time and materials required to implement the work plan. The personnel classification usage/hours provided within the spreadsheet are for budgetary purposes, and AcuityES may utilize other personnel based upon company need. However, AcuityES will not exceed the total proposed budget without receipt of authorization prior to incurring additional costs.

AcuityES would like to thank you for the opportunity to present this proposal. If you have any questions, please call the undersigned at 317-863-4686.

Sincerely,

Richard H. Christensen, Jr. PhD
Principal Geologist, rchristensen@acuityes.com

Attachments: I. Proposed Sampling Locations
 II. Cost Summary
 III. Professional Services Agreement



White River

North 8th Street

Clinton Street



LEGEND
 - - - - - PROPERTY BOUNDARY
 --- UTILITIES SANITARY SEWER
 (S) GRAB GROUNDWATER SAMPLING POINT

0 25 50
 APPROXIMATE GRAPHIC SCALE (FT)


 7904 S. 84th Street, Suite 128
 Morrisville, NC 27560
 Phone: 336.276.4100
 Fax: 336.276.4101
 www.acuity.com

ACUITY
e + s

GRAB GROUNDWATER SAMPLING LOCATIONS
BOLDEN'S DRY CLEANERS
 383 N 8TH ST
 MOORESVILLE, NC 28088

| | |
|---------------------------|--------------------|
| Project: 1100-1011-001 | Date: 1/23/2024 |
| Drawn By: BJ | Figure: 1 |
| Approved By: AP | |



**ATTACHMENT II
FSI Project Cost Estimate
151 North 8th Street, Noblesville, IN**

| Item | Rates | Unit | Project Management | Site Activities | Results Reporting | Est. Cost |
|-------------------------------------|--------------|-------------|---------------------------|------------------------|--------------------------|------------------|
| Labor | | | | | | |
| Principal Geologist | \$ 214.00 | hr | 4 | | 4 | \$ 1,712.00 |
| Sr Project Scientist | \$ 189.00 | hr | 4 | | 10 | \$ 2,646.00 |
| Project Scientist | \$ 158.00 | hr | | 3 | 10 | \$ 2,054.00 |
| Sr. Staff Geologist | \$ 122.00 | hr | 8 | 32 | 20 | \$ 7,320.00 |
| Admin/Clerical | \$ 74.00 | hr | 1 | | 1 | \$ 148.00 |
| Subtotal | | | \$ 2,662.00 | \$ 4,378.00 | \$ 6,840.00 | \$ 13,880.00 |
| Direct Costs | | | | | | |
| Health & Safety Compliance & Equip. | \$ 105.00 | day | | 2 | | \$ 210.00 |
| Truck | \$ 160.00 | day | | 2 | | \$ 320.00 |
| Travel | \$ 0.66 | mi | | 40 | | \$ 26.40 |
| Photoionization Detector | \$ 105.00 | day | | 1 | | \$ 105.00 |
| Ice | \$ 11.50 | ea | | 1 | | \$ 11.50 |
| Sample Gloves Nitrile Box | \$ 50.00 | ea | | 1 | | \$ 50.00 |
| Teflon Tubing | \$ 3.00 | ft | | 180 | | \$ 540.00 |
| Drum | \$ 103.00 | ea | | 2 | | \$ 206.00 |
| Subtotal | | | \$ - | \$ 1,468.90 | \$ - | \$ 1,468.90 |
| Subcontractors w/markup | | | | | | |
| Drilling Costs | \$ 3,450.00 | ea | | 1 | | \$ 3,450.00 |
| IDW | \$ 460.00 | est | | 2 | | \$ 920.00 |
| Utility Locate | \$ 920.00 | ea | | 1 | | \$ 920.00 |
| Analytical Costs | | | | | | |
| VOCs - Groundwater | \$ 113.00 | ea | | 8 | | \$ 904.00 |
| TO-15 Vapor Samples | \$ 299.00 | ea | | 4 | | \$ 1,196.00 |
| Extra Cannister | \$ 69.58 | ea | | 1 | | \$ 69.58 |
| Subtotal | | | \$ - | \$ 7,459.58 | \$ - | \$ 7,390.00 |
| | | | \$ 2,662.00 | \$ 13,306.48 | \$ 6,840.00 | |

PROJECT COST ESTIMATE

\$ 22,738.90



ATTACHMENT III Professional Services Agreement

This AGREEMENT is made by and between Acuity Environmental Solutions, LLC (CONSULTANT) and City of Noblesville (CLIENT). This AGREEMENT is subject to the General Conditions, attached hereto as **Exhibit A**, along with any other attachments specifically referenced herein.

Proposal No: AcuityES Proposal IN-0124-02B

Client: City of Noblesville

Contact: Ms. Sarah Reed, sreed@noblesville.in.us,

Address: 16 S. 10th Street Noblesville, Indiana 46060

AcuityES Contact: Richard H. Christensen, Jr. PhD, rchristensen@acuityes.com Phone: 317-863-4686

Project: Further Site Investigation Proposal

Description: Refer to Proposal AcuityES Proposal IN-0124-02B

Scope of Services: As specified in the attached proposal


Time of Performance: Between one and two days onsite, approximately two weeks for laboratory analysis, and fifteen business days for results reporting

Compensation: AcuityES requests payment on a Time and Materials basis. Payment is due within 30 days of Invoice Issuance.

ACCEPTED in accordance with the terms and conditions contained in Exhibit A and the scope of work outlined in proposal number AcuityES Proposal IN-0124-02B dated 24 May 2024:

CLIENT: **City of Noblesville**

Acuity Environmental Solutions, LLC

| | |
|--------------|--|
| By: _____ | By:  |
| Name: _____ | Name: <u>Steven R. Irvin</u> |
| Title: _____ | Title: <u>Managing Principal</u> |
| Date: _____ | Date: <u>24 May 2024</u> |

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ACUITY Environmental Solutions

7965 East 106th Street, Suit- 128
Fishers, IN 46038

phone: 317 / 570-4919
fax: 317 / 570-4943

email: info@acuity_es.com
web: www.AcuityES.com

Exhibit A – General Conditions

1. ACCESS. City of Noblesville (the "Client") grants or shall obtain for Acuity Environmental Solutions (AcuityES) and its subcontractors authority to enter the property upon which AcuityES's Services are to be performed ("Site"), at Client's expense. Five days prior to accessing the Site, AcuityES will notify the Client of the date and approximate time that AcuityES and/or its subcontractors will require Site access.

2. CLIENT INFORMATION. Client understands that AcuityES is relying upon the completeness and accuracy of information supplied to it by Client and others in connection with the Services without independent verification. Client agrees to advise AcuityES of the existence of any hazardous substances, wastes or conditions, known by the Client, affecting the Site or the Services to be performed hereunder.

3. STANDARD OF SERVICES AND WARRANTY. AcuityES agrees to perform its Services in accordance with generally accepted engineering and construction standards, and scientific practices in effect and utilized by environmental firms in the United States at the time the Services are rendered, including the standards and practices of ASTM International. The Services may involve the use of tests, calculations, analysis and procedures, which are in a state of change and refinement. Client recognizes that projects involving hazardous waste sites may not proceed as anticipated even though the Services are performed in accordance with the required level of care. Given the difficulty in predicting the environmental condition of a site based upon limited sampling and investigative activity, Client recognizes that any statements, opinions and conclusions contained in reports and other documents prepared or issued by AcuityES are only meant to give approximations of the environmental condition of the Site limited to the particular contaminant(s) or environmental issues actually targeted by AcuityES's investigation and the portions of the Site actually investigated, sampled, or tested by AcuityES. AcuityES shall, for the protection of Client, request from all vendors and subcontractors from which AcuityES procures equipment, materials, or services, guarantees which will be made available to Client to the full extent of the terms thereof. AcuityES's responsibility with respect to such equipment, services, and materials shall be limited to the assignment of such guarantees and rendering assistance to Client in enforcing the same. Subject to Section 14, AcuityES warrants that, if any of its completed Services fail to conform to the above standard, AcuityES will, at its expense and provided AcuityES is notified of such defective Services within one year of the completion of the Services, either perform corrective Services of the type originally performed as may be required to correct such defective Services or refund to Client the amount paid to AcuityES for the defective Services. Except as provided in this Section, AcuityES makes no other warranty, express or implied, and shall have no other liability to Client for defective Services, whether caused by error, omission, negligence or otherwise.

4. PAYMENT. Consultant's fee is based on projected time and materials involved in fulfilling the scope of services. Payment shall be in the form of a Time and Materials basis and the balance is due within thirty (30) days of invoice issuance (Net 30). Invoices/statements will be submitted to Client on a monthly basis. Past due amounts are subject to an interest charge on the outstanding balance of either one and one-half percent (1.5%) per month or the maximum rate permitted by law. Client agrees to pay AcuityES's attorney's fees, interest, and all other costs incurred in collecting past due amounts.

5. CONFIDENTIALITY. "Confidential Information" means all technical, economic, financial, pricing, marketing, or other information that has not been published and is not otherwise available to members of the public and includes, without limitation: trade secrets, proprietary information, customer lists, scientific and business studies, analyses, processes, methods, procedures, policies, and information. In the event that either party discloses Confidential Information to the other party in connection with this contract (excluding AcuityES's Work Product, except as provided below and in Section 6., that is delivered to Client or others hereunder), the party receiving such Confidential Information agrees to hold as confidential and to not disclose to others the Confidential Information for a period of ten (10) years from the date of disclosure. These restrictions shall not apply to information that (i) the parties had in their possession prior to disclosure; (ii) becomes public knowledge through no fault of the receiving party; (iii) the receiving party lawfully acquires from a third party not under an obligation of confidentiality to the disclosing party; (iv) is independently developed by the receiving party; or (v) is required to be disclosed by law or court order. Client agrees that AcuityES may use and publish Client's name and a general description of the Services provided to Client in describing AcuityES's experience and qualifications to other clients and potential clients.

6. WORK PRODUCT. "Work Product" consists of all reports, notes, laboratory test data, and other information prepared by AcuityES for delivery to Client. Client shall have the right to make and retain copies and use all Work Products; provided, however, such use shall be limited to the particular Site. Client may release the Work Product to third parties at its sole risk and discretion; provided, however, AcuityES shall not be liable for any claims or damages resulting from or connected with such release or any third party's use of the Work Product, and Client shall hold AcuityES harmless from any and all such claims or damages. For the absence of doubt, Client may use Work Product as necessary for future transactions, including financing, sale, or lease of the property, provided reliance on the Work Product by any other party is prohibited without the expressed written consent of AcuityES.

7. INSURANCE. AcuityES shall maintain Workers' Compensation and Employer's Liability insurance in accordance with requirements of the state in which the Services are being performed, Commercial General Liability insurance with a limit of \$1,000,000 per occurrence and in the aggregate for bodily injury and property damage, Automobile Liability insurance including owned and hired vehicles with a limit of \$1,000,000 per occurrence and in the aggregate for bodily injury and property damage, and Professional Liability (errors and omissions) insurance with a limit of \$1,000,000 per occurrence and in the aggregate. Client shall be added as an additional insured prior to AcuityES conducting the site visit and provide a Certificate of Insurance upon request.

8. INDEMNITY BY AcuityES. AcuityES shall indemnify and hold harmless Client, its officers, directors, agents, employees, and affiliated or parent companies against claims, demands, and causes of action of third parties (including reasonable attorney's fees and costs of defense) for personal injury, disease or death, and damage of property arising during the performance of Services to the extent caused by the negligence or willful misconduct of AcuityES. AcuityES's aggregate liability under the above indemnity shall not exceed the recoveries under the types and limits of insurance set forth in Section 7 of this contract or \$1,000,000, whichever is greater.

Exhibit A – General Conditions

9. CHANGES. Notwithstanding any other provisions of the Agreement to the contrary, AcuityES shall be entitled to additional compensation for work in the event that AcuityES experiences any increases in costs due to changes in AcuityES's scope of work from that included in AcuityES's original proposal or for additional work requested by client or changes in the manner or method of performance of work or due to changes in schedule or circumstances not solely caused by AcuityES. AcuityES shall be compensated for all such additional work either (1) as previously agreed in writing by the parties; or (2) on a time and materials basis in accordance with AcuityES's then current standard commercial rates.

10. REMEDIES. Neither party, nor their parent, affiliated or subsidiary companies, nor the officers, directors, agents, employees, or contractors of any of the foregoing, shall be liable to the other in any action or claim for incidental, indirect, special, collateral, consequential, exemplary, or punitive damages arising out of or related to the Services, including, without limitation: loss of profits, loss of opportunity, loss of production, or loss of use. Any protection or limitation against liability for any losses or damages afforded any individual or entity by these General Conditions shall apply whether the action in which recovery of damages is sought is based upon contract, tort (including, to the greatest extent permitted by law, the sole, concurrent, or other negligence, whether active or passive, and strict liability of any protected individual or entity), statute, or otherwise. To the extent permitted by law, any statutory remedies inconsistent with these terms are waived.

11. ENVIRONMENTAL CONDITIONS. Client shall provide (or cause the Site owner to provide) AcuityES with the identity and location of all subsurface facilities and obstructions on the Site. Client agrees to waive any claims against AcuityES and to indemnify, defend, and hold AcuityES harmless from any claims, demands, or causes of action for damages to subsurface facilities or obstructions that are not accurately identified or located by Client or others. AcuityES shall not have any responsibility for air, subsurface, or ground pollution and environmental impairment from toxic substances or hazardous materials pre-existing at the Site, except which is caused by the sole negligence or willful misconduct of AcuityES.

12. INDEPENDENT CONTRACTOR. AcuityES's Services are performed as an independent contractor.

13. FORCE MAJEURE. AcuityES shall have no liability for any failure to perform or delay in performance of the Services caused by circumstances beyond its reasonable control, including, but not limited to, strikes, riots, wars, floods, fires, explosion, acts of nature, acts of government, labor disturbances, delays in transportation, or inability to obtain material or equipment.

14. LIMITATIONS OF LIABILITY. Except as provided in Section 8 of this contract and to the greatest extent allowed by law, Client agrees that AcuityES's aggregate liability to Client and others for any and all injuries, claims, demands, losses, expenses or damages, of whatever kind or character, arising out of or in any way related to this Agreement, the Services or the Site, shall be limited by Section 8 of this agreement. The parties agree that in any dispute over the terms of this Agreement or any issue arising under this Agreement, they will make a good faith effort to resolve the matter prior to litigation. Such efforts shall include, but not be limited to; a meeting attended by each party's representative(s) empowered to resolve the dispute. The parties agree that before either party commences an action against the other party; they will consider the use of alternate forms of dispute resolution, including mediation (or arbitration if both parties agree to arbitrate the dispute). Pending the outcome of such dispute resolution, both parties shall take immediate steps to mitigate any damages. Until such time as the dispute is resolved, AcuityES reserves the right to suspend its Services hereunder and shall so timely notify the Client.

15. OWNERSHIP OF WASTE. "Pre-Existing Waste" is any hazardous or non-hazardous wastes, substances, or materials existing on the Site prior to the date that the Services are initiated. In no event, under this agreement, shall AcuityES take title to or be liable for disposal or remediation costs associated with Pre-Existing Wastes.

16. ENTIRE AGREEMENT. The terms of this Agreement shall be deemed accepted by Client at the earlier of (1) AcuityES's initiation of Services at the verbal or written direction of Client or (2) Client's written agreement to be bound by these terms. This Agreement constitutes the entire understanding between the parties. Any waiver, modification or amendment of this contract shall be effective only if in writing and signed by an authorized representative of AcuityES. AcuityES hereby objects to any terms contained in any prior or subsequent purchase orders, work orders, invoices, acknowledgement forms, manifests, requests for proposals or other documents received from the Client that would otherwise have the effect of modifying or abrogating these General Conditions in whole or in part. If any portion of this contract is held invalid or unenforceable, any remaining portion shall continue in full force and effect. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Client or AcuityES. There shall be no assignment of the rights or obligations contained in this contract by either party and any such assignment shall be null and void. Either party may terminate this Agreement by giving the other party thirty (30) days written notice. Termination of this Agreement or the Services for any reason shall not affect or minimize the respective rights, obligations and limitations of liability contained herein. The laws of the state in which the AcuityES office that issued the proposal is located shall govern the construction, interpretation, and performance of this Agreement and all transactions relating thereto.

**PURCHASE ORDER
CITY OF NOBLESVILLE
16 SOUTH 10TH STREET STE 270**

INDIANA RETAIL TAX EXEMPT
CERTIFICATE NO. 0031216070010

FEDERAL EXCISE TAX EXEMPT
356001141

**NOBLESVILLE IN 46060
PHONE: 317-776-6328
FAX: 317-776-6369**

PURCHASE ORDER NO. 240213

THIS NUMBER MUST APPEAR ON INVOICES, A/P VOUCHER, DELIVERY MEMO, PACKING SLIPS, SHIPPING LABELS AND ANY CORRESPONDENCE.

SHIP TO:

TO

**VENDOR # 1939
ACUITY ENVIRONMENTAL SOLUTIONS LLC
7965 E 106TH ST
SUITE 128
FISHERS IN 46038**

ATTN:

| | | | | | | |
|-----------------------------|-----------------|-------------------------|--|--------------------------|-------------------|---------------|
| DATE 05/28/2024 | | DEPARTMENT ED | | SHIP TO ARRIVE BY | | |
| APPROPRIATION NUMBER | QUANTITY | UNIT | DESCRIPTION | PROJECT # | UNIT PRICE | AMOUNT |
| 101016310.100 | 1.0 | | FURTHER SITE INVESTIGATION FOR BOLDENS | | 22738.90 | 22738.90 |


| | |
|-----------------|--------------------------|
| SHIP VIA | TOTAL 22738.90 |
|-----------------|--------------------------|

SHIPPING INSTRUCTIONS

- * SHIP PREPAID
- * C.O.D. SHIPMENTS CANNOT BE ACCEPTED
- * PURCHASE ORDER NUMBER MUST APPEAR ON ALL SHIPPING LABELS.
- * THIS ORDER ISSUED IN COMPLIANCE WITH CHAPTER 99, ACTS 1945 AND ACTS AMENDATORY THEREOF AND SUPPLEMENTAL THERETO.

PAYMENT

- * A/P VOUCHER CANNOT BE APPROVED FOR PAYMENT UNLESS THE P.O. NUMBER IS MADE A PART OF THE VOUCHER AND EVERY INVOICE AND VOUCHER HAS THE PROPER SWORN AFFIDAVIT ATTACHED.
- * I HEREBY CERTIFY THAT THERE IS AN UNOBLIGATED BALANCE IN THIS APPROPRIATION SUFFICIENT TO PAY FOR THE ABOVE ORDER.

ORDERED BY 
TITLE _____ CONTROLLER _____

ORIGINAL - VENDOR'S COPY