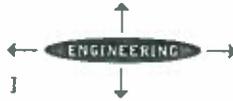


PP-3

Environmental Safety Health Geotechnical

O'Reilly, Talbot & Okun
[A S S O C I A T E S]



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Westborough, MA 01581
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www.oto-env.com

J22-19-01
January 23, 2009

The Town of Acton
Board of Health
472 Main Street
Acton, MA 01720

Attention: Mr. Doug Halley

Re: Maynard Request for Wellhead Protection Controls
Acton, MA

Dear Mr. Halley:

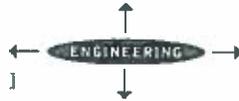
O'Reilly, Talbot & Okun Associates, Inc. (OTO) is pleased to submit this proposal to help the Town of Acton (Client) evaluate the request from Maynard for Wellhead Protection Controls in Acton. Based on the information you have provided us, we understand that a Zone II protecting three Maynard bedrock water supply wells has been delineated to extend into Acton, and that Maynard is requesting that Acton restrict land uses within the Zone II area to protect water flowing to these wells. We understand that you have the following specific questions which you would like OTO to help provide information on:

1. Since the well head protection controls will restrict property owners land use, how confident is Maynard or the preparer of Maynard's Zone II delineation that the Zone II boundaries are accurate and that the Zone II really extends as far as it is depicted to extend into Acton?; and
2. If the Zone II delineation is accepted to be accurate, are the proposed controls really needed to protect the bedrock aquifer, given that the controls would likely limit potential discharges to the overburden water table, not the bedrock aquifer?

We recommend the following tasks to initiate that evaluation:

Task 1 -- Background Review

Under this task we would review available geologic and hydrogeologic information. We expect that such information would likely include available United State Geologic Survey (USGS) mapping and hydrogeologic information and maps. Any information the towns of Acton or Maynard are aware of would be reviewed as part of this task.



Task 2 – Site Visit

Under this task we would visit the portion of Acton identified as within the Zone II. Our intent would be to view land use and subsurface conditions (to the extent road cuts, quarries or sand and gravel pits allow this). Ideally this visit would be performed when the ground surface is not snow covered.

Task 3 – Review of DEP Water Supply File information and the Zone II Delineation

Under this task we would review the Zone II delineation, the evidence supporting the extension of the Zone II into Acton and the proposed wellhead controls if available. It is anticipated that this information would be available at the DEP Central Region Bureau of Resource Protection Drinking Water Program's offices. As part of this task we would likely have discussions with the DEP personnel knowledgeable about the proposed land use restrictions.

Task 4 – Summary Report

Under this task we will summarize the pertinent information collected in Tasks 1, 2 and 3, and provide recommendations for further investigations if warranted. Our letter will address the question of the accuracy of the Zone II delineation and whether the controls are really needed to protect the bedrock aquifer. However, review of the background information alone (as summarized in Tasks 1, 2, and 3) may not provide enough information to provide definitive answers to these questions, and additional investigations may be needed. Such investigations could include review of additional information or hydrogeologic analysis (such as installation of wells and performance of pump tests).

Given the inherent limitations on understanding and predicting bedrock hydrogeology, you should be aware that the results of this work will likely be qualitative rather than quantitative.

BILLINGS

Project billings will be based on time and materials in accordance with the attached Schedule of Fees. The initial project budget is \$4,000.



CONDITIONS OF ENGAGEMENT AND ACCEPTANCE

We propose to complete the tasks outlined in this proposal consistent with the attached Statement of Terms and Conditions. This proposal may be accepted by signing in the appropriate spaces below and returning one copy to us. We appreciate the opportunity to be of continued service to the Town of Acton.

Sincerely yours,
O'Reilly, Talbot & Okun Associates, Inc.

Bruce H Nickelsen L.S.P.
Associate

This Proposal is 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 Client.

By: _____

Printed Name: _____ Date: _____

Attachments: Statement of Terms and Conditions, Schedule of Fees

TERMS & CONDITIONS OF ENGAGEMENT

THESE TERMS AND CONDITIONS AND THE "PROPOSAL" DATED JANUARY 23, 2009, SUBMITTED BY O'REILLY, TALBOT & OKUN ASSOCIATES, INC. ("COMPANY") TO TOWN OF ACTON ("CLIENT"), MAKE UP THE "AGREEMENT" BETWEEN CLIENT AND THE COMPANY.

1. SERVICES AND STANDARD OF CARE: THE SERVICES REFERENCED IN OUR PROPOSAL DATED JANUARY 23, 2009 WILL BE PERFORMED FOR THE EXCLUSIVE USE OF CLIENT. SERVICES PERFORMED BY COMPANY UNDER THIS AGREEMENT WILL BE CONDUCTED IN A MANNER CONSISTENT WITH THAT LEVEL OF CARE AND SKILL ORDINARILY EXERCISED BY MEMBERS OF THE PROFESSION CURRENTLY PRACTICING IN THE SAME LOCALITY UNDER SIMILAR CONDITIONS. NO OTHER REPRESENTATION, EXPRESSED, OR IMPLIED, AND NO WARRANTY OR GUARANTY IS INCLUDED OR INTENDED IN THIS AGREEMENT, OR IN ANY REPORT, OPINION, DOCUMENT, OR OTHERWISE.
2. GOVERNING LAW; SEVERABILITY: THIS AGREEMENT SHALL BE GOVERNED AND ENFORCEABLE IN ACCORDANCE WITH THE LAWS OF MASSACHUSETTS. ANY ELEMENT OF THIS AGREEMENT LATER HELD TO VIOLATE A LAW OR REGULATION SHALL BE DEEMED VOID, AND ALL REMAINING PROVISIONS SHALL CONTINUE IN FORCE.
3. ASSIGNMENT: NEITHER PARTY TO THIS AGREEMENT SHALL ASSIGN ITS DUTIES AND OBLIGATIONS HEREUNDER WITHOUT PRIOR WRITTEN CONSENT OF THE OTHER PARTY, EXCEPT THAT COMPANY MAY USE THE SERVICES OF PERSONS AND ENTITIES NOT IN ITS EMPLOY, WHEN IT IS NECESSARY OR COMPANY DEEMS APPROPRIATE. SUCH PERSONS AND ENTITIES MAY INCLUDE, BUT ARE NOT NECESSARILY LIMITED TO; SURVEYORS, SPECIALTY CONSULTANTS, DRILLING CONTRACTORS, AND TESTING LABORATORIES.
4. TERMINATION: CLIENT MAY TERMINATE THIS AGREEMENT WITHOUT PENALTY UPON SEVEN (7) CALENDAR DAYS WRITTEN NOTICE TO COMPANY, PROVIDED, THAT CLIENT SHALL BE OBLIGATED PURSUANT TO THE TERMS HEREOF FOR ALL SERVICES PERFORMED AND OBLIGATIONS INCURRED BY COMPANY ON CLIENT'S BEHALF AS OF THE EFFECTIVE DATE OF TERMINATION. SUCH SERVICES SHALL INCLUDE THOSE RENDERED UP TO THE DATE OF TERMINATION, AS WELL AS THOSE REASONABLE COSTS ASSOCIATED WITH THE TERMINATION ITSELF, SUCH AS DEMOBILIZATION. COMPANY MAY TERMINATE THIS AGREEMENT UPON SEVEN (7) CALENDAR DAYS WRITTEN NOTICE TO CLIENT OF NON-PAYMENT OF INVOICES WITHIN THE THIRTY (30) DAY PERIOD DESCRIBED IN ARTICLE 5 OF THIS AGREEMENT. IN THE EVENT OF TERMINATION FOR NON-PAYMENT OF INVOICES, CLIENT WILL BE RESPONSIBLE FOR ALL REASONABLE TERMINATION COSTS INCURRED BY COMPANY.
5. PAYMENT: PAYMENT IS DUE UPON INVOICE PRESENTATION AND NO LATER THAN THIRTY (30) DAYS FROM INVOICE DATE. THE UNPAID BALANCE AFTER 30 DAYS WILL BE SUBJECT TO A FINANCE CHARGE OF 1-1/2 PERCENT PER MONTH, OR THE MAXIMUM LAWFUL ANNUAL INTEREST RATE, WHICHEVER IS LESS. ANY OBJECTION TO AN INVOICE MUST BE MADE BY CLIENT, IN WRITING, WITHIN 10 DAYS OF THE MAILING DATE OF INVOICE OR THE OBJECTION WILL BE WAIVED. THE UNPAID BALANCE AFTER 90 DAYS WILL BE SUBJECT TO COLLECTION CHARGES WHICH WILL

INCLUDE REASONABLE ATTORNEY'S FEES, COURT COSTS, COMPANY EXPENSES AND PROFESSIONAL TIME AT STANDARD RATES SPENT IN CONNECTION WITH A COLLECTION ACTION.

6. ESCALATION: IF THE SERVICES DESCRIBED IN THE PROPOSAL REQUIRE LONGER THAN 12 MONTHS TO COMPLETE, THEN THE COMPANY SHALL HAVE THE OPTION TO INCREASE THE PROJECT FEE SO AS TO COMPENSATE FOR ITS INCREASED COSTS DURING THE TERM OF THE PROJECT ON OR AFTER THE PROPOSAL'S ANNIVERSARY DATE. THE INCREASE IN FEE WILL BE AFFECTED BY THE SUBSTITUTION OF THE COMPANY'S THEN CURRENT STANDARD FEE SCHEDULE IN PLACE OF THE FEE SCHEDULE ORIGINALLY INCLUDED WITH THE PROPOSAL. ONLY THE PREVIOUSLY UNBILLED PORTION OF THE FEE WILL BE MODIFIED BY THE ESCALATION. THE COMPANY'S OPTION UNDER THIS SECTION MAY BE EXERCISED ON EACH SUBSEQUENT ANNIVERSARY OF THE PROPOSAL DATE UNTIL THE APPLICABLE SERVICES ARE COMPLETED.
7. RIGHT OF ENTRY: CLIENT SHALL PROVIDE TO COMPANY, AND ITS SUBCONTRACTORS, ACCESS TO ANY SITE NECESSARY TO PERFORM THE SCOPE OF SERVICES INCLUDED HEREUNDER. CLIENT UNDERSTANDS THAT CERTAIN TASKS, SUCH AS FIELD EXPLORATIONS, MAY CAUSE DAMAGE. THE COMPANY SHALL BE RESPONSIBLE FOR SUCH DAMAGE TO THE EXTENT CAUSED BY OUR NEGLIGENT ACTS.
8. UNDERGROUND STRUCTURES: IF SUBSURFACE EXPLORATIONS ARE PERFORMED, COMPANY WILL CONTACT THE APPROPRIATE GOVERNMENT OR PRIVATE AGENCY WHICH LOCATES SUBSURFACE UTILITIES. CLIENT WILL PROVIDE COMPANY WITH ALL PLANS AND OTHER INFORMATION IN CLIENT'S POSSESSION OR CONTROL CONCERNING SITE UNDERGROUND STRUCTURES. ON SITES NOT OWNED BY CLIENT, WE WILL REQUEST UTILITY LOCATIONS AND OTHER PLANS FROM THE SITE OWNER OR OTHER PERSON(S) DESIGNATED BY CLIENT. CLIENT AGREES TO ACCEPT THE RISKS OF DAMAGE AND LOSS ASSOCIATED WITH REPAIR OR RESTORATION OF ANY IMPROVEMENTS NOT LOCATED ON PLANS AND OR IDENTIFIED IN INFORMATION PROVIDED TO COMPANY.
9. SAMPLES/MANIFEST: UNLESS OTHERWISE REQUESTED IN WRITING, COMPANY MAY DISPOSE OF ALL SOIL, ROCK, WATER AND ALL OTHER SAMPLES THIRTY (30) DAYS AFTER COMPANY SUBMITS ITS FINAL REPORT FOR THE SERVICES DESCRIBED IN THIS AGREEMENT. UNLESS OTHERWISE INDICATED, COSTS ASSOCIATED WITH TESTING, STORAGE AND DISPOSAL OF ANY SAMPLES WHICH COULD BE CONSIDERED HAZARDOUS UNDER STATE OR FEDERAL LAW OR REGULATIONS HAVE NOT BEEN INCLUDED IN COST ESTIMATES PROVIDED TO CLIENT. ARRANGEMENTS FOR TRANSPORT, TREATMENT, STORAGE, AND DISPOSAL (INCLUDING SAMPLES NOT SO REMOVED), WILL BE MADE BY CLIENT, AT CLIENT'S EXPENSE.
10. FIELD OBSERVATION SERVICES: COMPANY'S SERVICES WILL NOT INCLUDE THE DIRECTION OR SUPERVISION OF A CONTRACTOR OR SUBCONTRACTOR OTHER THAN THOSE CONTRACTED DIRECTLY BY COMPANY. OUR SERVICES DO NOT INCLUDE RESPONSIBILITY FOR HEALTH AND SAFETY PRACTICES PERFORMED BY OTHERS ON THE SITE.

11. OWNERSHIP OF DOCUMENTS: ALL REPORTS, BORING LOGS, FIELD DATA, FIELD NOTES, LABORATORY TEST DATA, CALCULATIONS, ESTIMATES, AND OTHER DOCUMENTS PREPARED BY COMPANY AS INSTRUMENTS OF SERVICE SHALL REMAIN THE SOLE PROPERTY OF COMPANY. COMPANY SHALL RETAIN RECORDS FOR A PERIOD OF THREE YEARS. AT CLIENT'S REQUEST, COMPANY WILL PROVIDE REASONABLE ACCESS OR COPIES OF SUCH DOCUMENTS. REPRODUCTION COSTS WILL BE AT CLIENT'S EXPENSE.
12. DISCLOSURE OF INFORMATION: CLIENT WILL INFORM COMPANY OF ALL INFORMATION IN CLIENT'S POSSESSION OR CONTROL RELEVANT TO THE PERFORMANCE OF COMPANY'S SERVICES. THIS INFORMATION INCLUDES, BUT IS NOT LIMITED TO ALL PRIOR SITE REPORTS, WASTE DISPOSAL MANIFESTS, PERMITS, AND ANALYTICAL DATA. CLIENT WILL INDEMNIFY, DEFEND, AND HOLD COMPANY HARMLESS OF AND FROM ALL LOSS OR DAMAGE RESULTING FROM ANY CLAIM THAT ARISES, IN WHOLE OR IN PART, AS A RESULT OF INFORMATION CLIENT FAILS TO DISCLOSE TO COMPANY.
13. THIRD PARTY RIGHTS: UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT, THE AGREEMENT SHALL NOT CREATE ANY RIGHTS OR BENEFITS TO PARTIES OTHER THAN CLIENT AND COMPANY.
14. LIMITATION OF PROFESSIONAL LIABILITY: CLIENT AGREES TO LIMIT COMPANY'S LIABILITY TO CLIENT AND ALL THIRD PARTIES ARISING FROM COMPANY'S PROFESSIONAL ACTS, ERRORS, AND OMISSIONS, SUCH THAT THE AGGREGATE LIABILITY OF COMPANY AND ITS EMPLOYEES, AND PERSONS OR ENTITIES ACTING ON COMPANY'S BEHALF SHALL NOT EXCEED \$ 50,000 OR COMPANY'S TOTAL FEE FOR SERVICES UNDER THIS AGREEMENT, WHICHEVER IS GREATER. COMPANY MAY, UPON CLIENT'S WRITTEN REQUEST, AGREE TO INCREASE THE ABOVE LIMIT OF COMPANY'S PROFESSIONAL LIABILITY IN CONSIDERATION OF PAYMENT BY CLIENT OF ADDITIONAL MONETARY AND OTHER CONSIDERATION.
15. LICENSED SITE PROFESSIONAL SERVICES: IN CONDUCTING CERTAIN ENVIRONMENTAL SERVICES, COMPANY EMPLOYEES MAY ACT IN THEIR CAPACITY AS REGISTERED LICENSED SITE PROFESSIONALS (LSPs), IN ACCORDANCE WITH THE MASSACHUSETTS CONTINGENCY PLAN (MCP). CLIENT ACKNOWLEDGES THAT IN PERFORMING THESE SERVICES THE COMPANY, THROUGH ITS LSPs, IS BOUND BY STATE LAW TO MEET THE REQUIREMENTS OF THE MCP. CLIENT FURTHER ACKNOWLEDGES THAT THE COMPANY'S DUTY TO COMPLY WITH STATE LAW MAY IN SOME INSTANCES CONFLICT WITH CLIENT INTERESTS; IN THESE CASES THE COMPANY WILL SEEK TO COMPLY WITH THE LAW.

THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) CONDUCTS RANDOM AND TARGETED COMPLIANCE AUDITS OF RESPONSE ACTIONS UNDER THE MCP, AND IN ADDITION INTENDS TO AUDIT ALL RESPONSE ACTIONS WHICH INCLUDE ACTIVITY AND USE LIMITATIONS (AULS). CLIENT ACKNOWLEDGES THAT CLIENT IS RESPONSIBLE FOR ALL COSTS ARISING OUT OF COMPANY'S ACTIONS TO COMPLY WITH DEP REQUESTS DURING AN AUDIT, INCLUDING COMPANY'S FEES FOR TIME AND MATERIALS USED IN PREPARING RESPONSES. THESE COSTS ARE NOT INCLUDED IN COMPANY'S CURRENT BUDGET FOR THIS PROPOSAL, UNLESS THE PROPOSAL SPECIFICALLY STATES OTHERWISE.

O'REILLY, TALBOT & OKUN ASSOCIATES, INC.
Schedule of Fees
Effective January 1, 2008

<u>BILLING RATES FOR PROFESSIONAL SERVICES</u>	<u>RATES</u>
Principals (includes LSPs and PEs)	\$150/Hour
Associates	\$125/Hour
Sr. Project Manager/Sr. Technical Specialist	\$115/Hour
Project Manager/ Technical Specialist	\$100/Hour
Engineer/Scientist, Level 2	\$85/Hour
Engineer/Scientist, Level 1	\$65/Hour
CADD Operator	\$65/Hour
Administrative	\$45/Hour

DAILY EQUIPMENT RENTAL/USE RATES

Truck Rental	\$100/Day
AirOCell Cassettes	\$55/Cassette
DO Meter	\$30/Day
Hammer Drill	\$25/Day
Hand Auger	\$25/Day
IAQ Monitoring Instruments	\$75/Day
Interface Probe	\$50/Day
LEL Meter	\$30/Day
Low Flow – Inc all equip	\$200/Day
Metal Detector	\$45/Day
ORP Meter	\$25/Day
P-Trak Particulate Meter	\$150/Day
pH & Conductivity Meter	\$30/Day
Photoionization Detector	\$75/Day
Pump and Tubing	\$35/Day
Soil Gas Sampling inc PID	\$125/Day
Specific Conductivity Meter	\$35/Day
Survey Equipment	\$30/Day
Water Level Indicator	\$30/Day
Bailers	\$25/Each
Groundwater Filters	\$25/Each
PIG Brand Skimmers	\$5/Each
Tedlar Sample Bags	\$25/Each
Well Point – Coupling	\$20/Each
Well Point – Pipe Segments	\$35/Each
Well Point – Screen	\$145/Each

OTHER EXPENSES

OTO Cost plus 15%	
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