



EMPOWERING ALL STUDENTS

Learners Today - Leaders Tomorrow

December 14, 2020

Anastasia Sparks
IMS
945 Homblend Street, Suite G
San Diego, CA 92109

Re: Freedom of Information Request

Dear Ms. Sparks:

On December 9, 2020, Crystal Lake School District No. 47 received a Freedom of Information Act ("FOIA") Request from you via email in which you requested the following:

- The awarded contract information for RFQ Environmental Consulting Services issued September 2019

Please find the attached documents which provide the information you are requesting.

If you have any questions, please feel free to contact me 815-788-5000.

Sincerely,

Clare F. Bourne
Freedom of Information Officer
Crystal Lake School District 47

300 Commerce Dr. Crystal Lake, IL 60014 815.788.5000

www.d47.org D47schools [crystallakesd47](https://twitter.com/crystallakesd47)

REQUEST FOR ACCESS TO PUBLIC RECORDS
PURSUANT TO THE FREEDOM OF INFORMATION ACT (5ILCS 140)

Date of Request: December 9, 2020

FOIA Record # _____

Name: Anastasia Sparks

Organization: IMS

Address: 945 Hornblend Street, Suite G
San Diego, CA 92109

Phone Number: (858) 490-8820 / asparks@imsinfo.com

I HEREBY REQUEST ACCESS TO THE FOLLOWING RECORDS:

I am requesting the awarded contract information for RFQ: Environmental Consulting Services. This RFQ was issued August 2019 and was
due September 11, 2019.

Within 5 business days of the District receiving your request, you are entitled to a response, or notice that the district is in need of addition processing time (not to exceed an additional 5 business days).When our response is complete, we will contact you.

The District's response, including all supporting documents, and FOIA request with all submitted information, will be posted online under "Freedom of Information" on the District 47 website. District 47 provides this service as a public courtesy for no fee. Documents will be posted within 10 business days from our response to your request.

Fees will apply after the initial limited amount of black and white copies are provided. Actual cost of color or abnormal size copies will apply.

FOR OFFICE USE ONLY:

The District's response and records were accessed by : In House Inspection Pick-up Mail Fax Email

Date: _____ Time: _____

AMT REC'D: _____ Check# _____ Cash _____

FOIA Officer: _____

Witness: _____



Crystal Lake Community Consolidated School District 47
300 Commerce Drive, Crystal Lake, IL. 60014
Phone: 815-459-6070 Fax: 815-479-8566



OWNER CONTRACT

THIS AGREEMENT ("AGREEMENT") IS ENTERED INTO THIS ___ DAY OF _____ BY PEPPER ENVIRONMENTAL TECHNOLOGIES, INC. ("CONTRACTOR") AND THE BOARD OF EDUCATION OF CRYSTAL LAKE ELEMENTARY SCHOOL DISTRICT 47, ("OWNER").

THE WORK DESCRIBED BELOW SHALL BE PERFORMED AT THE LOCATION(S) SET FORTH ON THE ATTACHED WORK ORDER(S).

ARTICLE 1 **THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, written modifications to this Agreement and any Drawings or Specifications identified herein with any addenda issued thereto and any Change Orders executed by the parties.

ARTICLE 2 **SCOPE OF SERVICES**

The Scope of Services ("Work") to be performed by Contractor and its Subcontractor(s), if any, are described in the attached Work Order(s), Exhibit A. The Work Order designates the type of environmental Work to be performed by Contractor as "Remedial Construction Work". In addition to a description of the Work, the Work Order also incorporates the Drawings and Specifications governing the Work, Contractor's Proposal and identifies unit prices, if applicable. The Scope of Services described in the Work Order shall be governed by the terms of this Agreement except as otherwise provided in the Work Order. No Work Order will be effective unless signed by both Parties.

ARTICLE 3 **COMMENCEMENT AND COMPLETION DATES**

The Work shall begin on the date that the Owner provides written Notice to Commence Work or as soon as practical thereafter and when all necessary permits have been obtained. Contractor shall proceed diligently to complete the Work as soon as possible or no later than as identified on the relevant Work Order.

ARTICLE 4 **CONTRACT PRICE**

Owner shall pay Contractor for performing the Work, a Price as identified on the relevant Work Order. This price is subject to adjustment under the terms of this Agreement.

ARTICLE 5 **PROGRESS PAYMENTS**

- A. Following a pencil draw to Owner on the 20th day each month, Contractor will submit applications for payment submitted to the Owner not later than the last day of each month after Work has commenced. The Owner shall make payment to Contractor for the Work performed in that month in accordance with the Illinois Local Government Prompt Payment Act. With each application for payment, Contractor shall submit a schedule of values in accordance with the Contract Documents allocating the cost among the various portions of the Work. The application for payment shall also indicate the percentage of completion of each portion of the Work as of the end of the month for which the application is submitted. The Owner shall make each payment when due except in no event will any payment when added to all previous payments and converted to a percent of the Contract Price exceed the percentage of all the Work which has been actually completed as shown on the schedule of values.
- B. On the first application, Contractor will furnish its partial Waiver of Lien, as attached, for the net amount of the application. Assuming prior partial applications have been paid, Contractor will furnish with each succeeding partial application, a current Waiver of Lien and the applicable Waivers of Lien and Affidavits from Subcontractors for the previous partial application. On the final application, Contractor will furnish the applicable Waivers and Affidavits

from Subcontractors for the previously paid partial application. At the time the final application is approved and funds are available for payment, Contractor will furnish its final Waiver of Lien and the applicable final Waivers and Affidavits from our Subcontractors.

- C. Each monthly payment shall be made in full for all Work properly performed except for a retention of ten percent (10%) of each payment until the Work of each phase is complete. Retained monies shall be paid to Contractor as part of his final payment, less any amounts required to be withheld pursuant to 770 ILCS 60/23.
- D. The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled under the terms of the Subcontract. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
- E. Payment to material suppliers directly to Contractor shall be treated in a manner similar to that provided for Subcontractors.
- F. The Owner shall have no obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by Law.
- G. If the Owner does not pay the Contractor within 10 days after the date established in the Contract Documents the amount properly due and owing, then the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Price shall be increased by the amount of the Contractor's reasonable costs of shut down, delay and start up.
- H. Owner shall be entitled to withhold a reasonable amount from payments to protect its interest if any one or more of the following conditions exist:
 - (1) Contractor is in default of any of its obligations hereunder or otherwise is in default under any of the contract documents;
 - (2) Any part of such payment is attributable to Work which is defective or not performed in accordance with the Plans and Specifications; provided, however, such payment shall be made as to the part thereof attributable to Work which is performed in accordance with the Plans and Specifications and is not defective;
 - (3) Contractor has failed to make payments promptly to Contractor's Subcontractors for material or labor used in the Work for which Owner has made payment to Contractor;
 - (4) If Owner, in its good faith judgment, determines that the portion of the Contract Sum then remaining unpaid will not be sufficient to complete the Work in accordance with the Plans and Specifications, whereupon no additional payments will be due Contractor unless and until Contractor, at its sole cost, performs a sufficient portion of the Work so that such portion of the Contract Sum then remaining unpaid is determined by Owner to be sufficient to complete the Work; or
 - (5) Contractor or Subcontractor do not provide proper waivers of lien.
- I. No partial payment shall be or construed to be final acceptance or approval of that part of the Work to which such partial payment relates or relieve Contractor of any of its obligations with respect thereto.
- J. Payments due and unpaid under the Contract shall bear interest in accordance with the Illinois Local Government Prompt Payment Act.

K. Provided Owner has paid for Work properly performed, the Contractor will indemnify, defend and hold harmless the Owner from and against all claims by the Contractor's subcontractors and material and equipment suppliers for claims of non-payment, including lien claims pursuant to 770 ILCS 60/23.

ARTICLE 6
CHANGE ORDERS

Owner or Contractor may, from time to time, request modifications or changes in the scope of Work, including but not limited to, changes required by new or revised federal and state statutes or federal, state or local codes, orders, standards, regulations or ordinances (collectively, the "Law" or "Laws"). In the event changes affect the Scope of the Services to be performed, the Contract Price and Schedule (if necessary) shall be adjusted accordingly. All changes shall be set forth in a written Change Order executed by both parties.

For any Change Order or series of Change Orders which (1) increases or decreases the Contract Sum by \$10,000 or more or (2) changes the time for completion by a total of 30 days or more, the Owner or Owner's Representative, as authorized, must make written determinations that (a) the circumstances said to necessitate the change in performance were not reasonably foreseen at the time the original contract was signed, or (b) the change is germane to the original contract as signed, or (c) the Change Order is in the best interests of the Owner.

ARTICLE 7
PRE-EXISTING ENVIRONMENTAL CONDITIONS

The Owner acknowledges that the Contractor has played no part in the creation of any hazardous waste, pollution source, nuisance or chemical or industrial disposal problems which may exist as of the date of this Agreement; and, the Contractor has been retained for the sole purpose of assisting the Owner in site remediation and/or other tasks as described in the Contract Documents.

ARTICLE 8
OWNER'S RESPONSIBILITIES

- A. The Owner shall provide Drawings and Specifications of the requirements of the Work and shall immediately advise the Contractor of any new information which would constitute a modification to the Contract Documents, clarify an ambiguity or omission to such documents and/or have a material impact on the costs associated with the Work.
- B. Contractor may rely on the accuracy and completeness of information provided by the Owner and will have no obligation to verify such information, except when a reasonable contractor performing services of the type and nature under this Agreement would so inquire. The Owner makes no warranty or representation regarding the accuracy or completeness of any information provided to the Contractor. The Contractor shall be entitled to an equitable adjustment in the Contract Price and schedule to compensate for any material inaccuracy or incompleteness of information supplied by Owner, unless the Contractor knew of such inaccuracy or incompleteness.
- C. The Owner has provided to Contractor all information known to it and all records within its custody and control.
- D. The Owner represents to the extent of its actual knowledge that the Work to be performed under this Agreement does not violate any pending court order or any final ruling of any court, governmental body or agency related to the remediation required by the Contract Documents.
- E. The Owner represent to the extent of its actual knowledge that it holds clear title to all waste to be treated, stored and/or disposed of incidental to the performance of the Work and is under no legal restraint which would prohibit the treatment, storage and/or disposal of such waste to any transport or disposal facility.
- F. The Owner shall designate a representative who shall have authority to act in its behalf in approving change orders and performing the other obligations required of the Owner under this Agreement, except as to matters requiring the Owner's approval as a matter of law, or as otherwise reserved by the Owner.
- G. The Owner shall pay for all necessary approvals, easements and assessments, in order for the Work to be performed.

- H. The Owner is responsible for arranging legal access to the site in a manner reasonably sufficient for the performance of the Work.
- I. Contractor shall identify the location of all utility lines and subterranean structures within the property lines of the project site, and if requested by Contractor, adjacent properties. Contractor shall request responsible utility companies and/or appropriate public authorities to locate any utility lines existing within public rights of way.
- J. The Owner shall be responsible for the payment of any taxes for which the Owner claims that it is exempt together with any additional charges or assessments made by the taxing authority as a result of the disallowance or invalidity of such exemption status.
- K. If required by applicable law, the responsibility for making required disclosures or reports to any third party regarding the performance of this Work or corrective, remedial or mitigative actions incidental to the performance of the Work shall be given by the Contractor as agent of the Owner.
- L. The Owner shall be responsible for purchasing and maintaining its own liability insurance.

ARTICLE 9
CONTRACTOR'S OBLIGATIONS

The Contractor shall perform the Work in a diligent and workmanlike manner consistent with applicable Laws and Owner's standards and Specifications as set out in the Contract Documents provided the same comply with generally accepted environmental construction practices in effect on the date of this Agreement and in the locale of the Project.

ARTICLE 10
ADHERENCE TO PUBLIC LAWS

Contractor shall comply with all applicable Laws, ordinances, rules and regulations, whether enacted by local, state or federal governmental bodies or agencies thereof which govern the performance of the Work which were in effect on the date of Contractor's proposal. The Owner recognizes that under such public Laws and regulations that both the Owner and Contractor owe a duty of care to the public that requires them to comply with applicable Laws in order to protect public health and safety, among other objectives. The Owner further recognizes that the performance of the Work may disclose the presence of anticipated, unanticipated or suspect hazardous waste, as defined by 42 USC 6903(5), hazardous substances, as defined by 42 USC 9601(14), pollutants and contaminants, as defined by 42 USC 9601(33) and toxic substances, hazardous materials and other chemicals and substances now or hereafter regulated by Law (collectively, the "Waste Materials") on Owner's property or other property, and disclosure of same to governmental authorities may be required by Law. If Contractor determines that reporting is required, Contractor shall give the Owner at least ten (10) days notice before reporting any of the foregoing matters to any governmental authority. However, 10 days notice shall not be required if, in the Contractor's determination, a more prompt reporting is required. In such event, Contractor shall provide reasonable notice to Owner. Nothing contained in this paragraph shall be construed to impose on the Contractor, any obligation to report the foregoing matters to governmental authorities except where applicable Laws specifically requires reporting by the Contractor.

ARTICLE 11
ENVIRONMENTAL PERMITS AND REPORTS

- A. Contractor shall obtain the permits and licenses that are necessary to perform the Work. However, the Contractor in performing the Work, does not assume responsibility for reporting to any governmental body or agency any environmental information or on-site conditions. The Contractor shall provide the Owner with all information as to the manner and method in which the Work is performed, the nature of the Work and hazardous waste removed from the site, if any, the landfill or other approved depository of the waste and other actual conditions that were not previously known to the Owner.
- B. If requested, the Contractor shall provide assistance to the Owner in making reports pertaining to its Work to governmental agencies. Nothing in this paragraph shall excuse the Contractor from making any reports that it is independently obligated to make as explained in Article 10, above.

ARTICLE 12
INVESTIGATION OF SITE INCIDENTAL TO ENVIRONMENTAL AUDIT OR APPRAISAL

If the Work called for in this Agreement includes in whole or part an audit or appraisal of the environmental conditions located on the site, the Contractor shall not be responsible for the routine disturbance of soils and plantings necessary to perform such subsurface investigation. Similarly, Contractor shall not be responsible for the necessary disruption to any structure associated with the investigation of any enclosed areas thought to contain hazardous waste or products. However, the Contractor shall not alter or impair the structural integrity of any building in performing such investigation. The sum shown in Contractor's proposal to restore the site after such investigation is a sum reasonably anticipated to return the surface soils or visible portions of the improvements to an acceptable level resembling as close as reasonably can be expected the original condition and not to cosmetically and completely restore the site to its exact condition prior to such investigation. Contractor shall not be liable for the cost of any additional restoration unless such additional cost results from damage to the site due to Contractor's negligence.

ARTICLE 13
SUBSURFACE UTILITIES AND IMPROVEMENTS

Contractor will use all reasonable care in investigating subsurface improvements, utilities, and artifacts by contacting public agencies with information on such conditions and by consulting with the Owner as to plans, information or historical data in its possession regarding the use and improvements situated on the site. Contractor shall not be liable for any loss or damage resulting from the disturbance of any subsurface condition, improvement, utility or artifact of which the Contractor could not have reasonably been informed given diligent inquiry as outlined above.

ARTICLE 14
DISPOSAL OF WASTE MATERIALS

- A. Owner acknowledges that Contractor has had no role in generating, treating, storing or disposing of Waste Materials that may be present on property of Owner or other property included in the Project site, at the date of this Agreement and Contractor has not benefited from the processes that may have produced such Waste Materials.
- B. No Waste Materials encountered by Contractor in performing, or associated with, the Services shall at any time be or become the property of Contractor. Any arrangements made by Contractor for the treatment, storage, transport or disposal of any Waste Materials are made solely and exclusively for the benefit of Owner using Owner's EPA generator identification number(s) when required and shall not result in any liability of Contractor under this Agreement or with respect to the Waste Materials.
- C. If not retained by the testing laboratory, Contractor shall return samples of Waste Material to Owner for handling, storage, transport and disposal with other waste materials as provided for in this paragraph. Samples shall be the property solely of the Owner, and this Agreement shall not confer on Contractor any right, title or interest therein.
- D. Owner's Representative/Contractor shall handle all Waste Materials in compliance with applicable Law and standards. Owner's Representative/Contractor shall sign manifests and obtain generator identification numbers when required by Law.
- E. Contractor shall use a currently licensed facility to accept the Waste Materials. Nothing contained in this Agreement shall confer on Contractor the status of i) a generator, storer, disposer or treater of Waste Materials, ii) the party who arranged for the disposal of Waste Materials, or iii) a Waste Materials disposal facility, as provided in any Law.

ARTICLE 15
CONCEALED CONDITIONS

In performing the Work, the Contractor does not represent that it is completely familiar with subsurface or concealed conditions. Should the Contractor encounter concealed subsurface conditions or conditions that differ materially from those represented in the construction documents, the Contractor shall promptly advise the Owner of the discovered conditions. If the cost to perform the Work is materially affected by the concealed conditions, Contractor shall promptly advise the Owner in writing of the

estimated additional cost before proceeding with the Work. If the Contract Schedule or Price is to be adjusted, the Contractor shall prepare and receive a written change order prior to commencing the Work.

ARTICLE 16
EXCUSABLE DELAY

Neither the Owner nor the Contractor shall hold the other party responsible for damages or delays in the performance or inability to perform the Work caused by excusable delays. For this purpose, excusable delay shall include Owner or Architect delays to the critical path of the Schedule, unusually severe weather, war, national conflict or, acts of God. Should such acts or events occur, the parties to this Agreement shall mutually agree upon the terms and conditions upon which the performance of Work may continue. Failing to achieve such Agreement, either party may terminate this Agreement as provided for in Article 31(E).

ARTICLE 17
OWNER'S INDEMNITY TO CONTRACTOR

Owner shall, to the maximum extent permitted by Law, indemnify, defend and hold harmless Contractor and its subsidiaries and affiliates and their respective shareholders, directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all legal actions or governmental proceedings or Claims which may be asserted by any unit of government or agency thereof or person which arise out of or are in any way connected with (a) any condition existing at the Project prior to the commencement of Contractor's services; (b) any release or threat of release, discharge, dispersal or migration of Waste Materials, whether same occurs before or after the commencement of Contractor's services, except to the extent same results from the Contractor's Acts or Omissions or those of its subcontractors; (c) any generation, treatment, storage, transport or disposal of Waste Materials except to the extent same results from the Contractor's Acts or Omissions or those of its subcontractors; (d) an action for fine or penalty or other relief involving the Owner's interest in the property due to an environmental condition except to the extent same results from acts or omissions of the Contractor or any of its subcontractors to perform any of its obligations under this Agreement.

ARTICLE 18
CONTRACTOR'S INDEMNITY OF OWNER

Subject to the limitations provided in Articles 14 and 20 of this Agreement, Contractor shall, to the maximum extent permitted by Law, indemnify, defend and hold harmless Owner and its board members, officers, employees and agents from and against any and all claims, demands, losses, damages fines, costs and expenses of every nature, including reasonable attorneys' fees (collectively, "Claims"), incurred or suffered by Owner as a result of claims asserted by third parties unaffiliated with Owner which arise from the actions of Contractor in performing the Work.

The Contractor shall similarly, protect, indemnify, defend, and hold and save harmless, the Owner, its officers, officials, employee, volunteers and agents against and from any and all claims, costs, causes, actions and expenses, including, but not limited to, legal fees, arising from claims by Contractor's employees for personal injury, illness, or death and hereby waives any limitation of liability defense based on Workers' Compensation or Disability Benefit Acts or Employee Benefit Act.

Contractor shall ensure that the indemnification provisions of this Article in favor of the Owner are included in all subcontracts for the work to be performed under this Agreement.

ARTICLE 19
INSURANCE

Contractor shall furnish to Owner copies of insurance certificates and policy declaration pages naming the Owner and Owner's board members, officers, employees, and agents as additional insureds on a primary and non-contributory basis on all policies of insurance other than Professional Liability, Workers' Compensation and Employer Liability policies, and evidencing that it maintains the following coverage while performing Services, subject to the terms and conditions of the policies:

<u>TYPE</u>	<u>LIMITS</u>
-------------	---------------

Workers Compensation Employers' Liability	Statutory \$1,000,000 per accident \$1,000,000 Disease Policy Limit \$1,000,000 Disease, Each Employee
Commercial General Liability (including Property Damage Coverages U, C, and X)	\$1,000,000 each occurrence \$2,000,000 annual aggregate
Automobile Liability (including owned, non-owned , and leased vehicles)	\$1,000,000 each occurrence
Excess Liability (providing follow form coverage to underlying policies)	\$10,000,000 each occurrence \$10,000,000 annual aggregate
Professional Liability (Aggregate should be per project)	\$2,000,000 Each Claim \$2,000,000 Aggregate
Pollution Liability, including Contractual Liability	\$1,000,000 per occurrence \$2,000,000 aggregate

Contractual liability covering Contractor's indemnification obligations under this Agreement.

All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or comparable rating service. The failure to provide acceptable insurance shall be deemed a breach of this Agreement entitling Owner to terminate this Agreement immediately.

ARTICLE 20

LIMITATION OF LIABILITY

A. Contractor's liability under the provisions of this Agreement or in connection with its performance of the Work, whether based upon contract, tort, breach of warranty, or otherwise, including but not limited to, the liability of Contractor's shareholders, officers, directors, employees, agents, affiliates, professional associates, consultants and subcontractors and any others acting on its behalf, shall be limited to the policy limits identified in Article 19 or Contractor's fee, whichever may be greater. If Owner requires additional insurance coverage, Contractor will endeavor to obtain said coverage, if it is available, at Owner's expense, payable in advance.

B. Except to the extent such claims arise from the willful misconduct of the Contractor, in no event shall Contractor be responsible for any incidental, indirect, special, punitive, economic or consequential damages (including but not limited to loss of profits) suffered or incurred by Owner arising out of Contractor's breach of this Agreement or performance or non-performance of any Work.

ARTICLE 21
OTHER SERVICES

The Owner recognizes that, even though Contractor properly performs its obligations under this Agreement, the Contractor, at a later date, may be drawn directly or indirectly into some form of legal process regarding environmental conditions at or near the site. In such event, the Owner may require Contractor's consultation and assistance such as the production of Contractor's personnel, records, depositions, interrogatories and participation in hearings. The Owner agrees that if the Contractor participates in such legal proceedings at the Owner's request or requirement to which the Contractor is not a party or is a party and entitled to indemnification under Paragraph 17, above, the Owner shall reimburse the Contractor for reasonable costs arising due to such participation. Contractor's cost shall include reimbursement for labor, reproduction costs, travel expenses, legal fees and such other expenses as are reasonable and necessary in connection with the legal proceeding. The Contractor's project management and labor rates shall be those rates that are in accordance with the schedule and effect at the time the services are rendered for the Contractor's employees' participation.

ARTICLE 22
CONFIDENTIALITY

Confidential Information: All non-public information regarding the project shall not be divulged by Contractor unless required by Law or under written approval of Owner.

ARTICLE 23
EQUAL EMPLOYMENT OBLIGATIONS

In performing Services under this Agreement, Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, sexual preference, handicap, national origin or ancestry. If this Agreement has a price exceeding \$10,000.00, the Contractor will comply with all applicable equal employment opportunity requirements including those set forth in Section 202 of Executive Order 11246 as amended.

ARTICLE 24
MODIFICATIONS

The Work called for under the terms of this Agreement shall not be modified except by written change order duly executed by the parties hereto.

ARTICLE 25
NOTICES

Notices required under the contract documents when sent to the Contractor shall be directed to:

Mr. Michael J. Grant
PEPPER ENVIRONMENTAL TECHNOLOGIES, INC.
411 Lake Zurich Road
Barrington, IL 60010

With copy to:

Mr. Jim Nissen and Mr. Tim Sullivan
Pepper Environmental Technologies, INC.
411 Lake Zurich Road
Barrington, IL 60010

and when sent to the Owner shall be directed to:

Notices required under this Agreement shall be deemed to have been given when made in writing and delivered to the other party at the addresses set forth above by personal delivery, priority or express mail, or facsimile. Notices shall be effective upon receipt and not when sent.

ARTICLE 26
GOVERNING LAWS

This Agreement shall be governed and construed in accordance with the Laws of the State of Illinois.

ARTICLE 27
SUCCESSORS AND NON-ASSIGNMENT

This Agreement shall bind the respective parties and their heirs, executors, administrators, successors and not subject to assignment by either party without the prior, written approval of the other.

ARTICLE 28
SEVERABILITY

Every part, term or provision of this Agreement is severable from the others. Notwithstanding any possible future finding that a particular term or provision is invalid, void or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts and terms and provisions shall not be affected thereby.

ARTICLE 29
SURVIVAL OF CERTAIN PROVISIONS

The provisions of this Agreement that by its own text, are intended to require the Contractor or the Owner to fulfill obligations after the completion of the Work and payment to Contractor shall survive the termination of this Agreement.

ARTICLE 30
CONTRACTOR'S RIGHT TO TERMINATE

- A. The Contractor may terminate the Contract if the Work is stopped for a period of sixty (60) days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:
1. Issuance of an order of a court or other public authority having jurisdiction;
 2. An act of government, such as a declaration of national emergency, making material unavailable;
 3. Because the Owner has not made payment of undisputed sums within the time stated in the contract documents.

If one of the above reasons exist, the Contractor may, upon seven (7) additional days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead and profit.

- B. If the Work is stopped for a period of forty-five (45) days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor

because the Owner has failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Article 31 (E), below.

ARTICLE 31
OWNER'S RIGHT TO TERMINATE THE WORK

- A. Owner may terminate the Contract if the Contractor:
1. refuses or fails to supply enough properly skilled workers or proper materials;
 2. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 3. disregards Laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
 4. otherwise is guilty of substantial breach of a provision of the Contract Documents.
- B. When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 2. Complete the balance of the Work under existing subcontracts or
 3. Elect to finish the Work by whatever other reasonable method the Owner may deem expedient.
- C. When the Owner terminates the Contract for one of the reasons stated in Subparagraph A, the Contractor shall not be entitled to receive further payment until the Work is finished.
- D. If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs do not exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall survive termination of the Contract.
- E. Provided the Owner is not in default under any provision of this Agreement, the Owner may terminate the Agreement upon thirty (30) days' written notice to the Contractor. Upon such termination, the Owner shall pay the Contractor for all services performed hereunder up to the date of such termination. Additionally, the Owner shall pay the Contractor all reasonable costs and expenses incurred by the Contractor in effecting the termination including, but not limited to, non-cancelable commitments and demobilization costs and other costs incurred to protect and secure the Work in a manner consistent with all applicable Laws, codes and regulations.

ARTICLE 32
OTHER TERMS

- A. Any work other than professional services, will be procured in accordance with 105 ILCS 5/10-20.21, as applicable.
- B. To the extent any Work is performed by Contractor's employees, or those of a subcontractor, the Contractor or subcontractor will comply in all respects with the Illinois Prevailing Wage Act, including the payment of prevailing wages as determined by the Department of Labor, and the maintenance and submission of all documentation including certified payrolls.
- C. Contractor does hereby certify pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105) that it has a written sexual harassment policy that includes, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) an internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department of Human Rights and Human Rights Commission; (vi) directions on how to contact the Department of Human Rights and Human Rights Commission; and (vii) protection against retaliation.

D. Contractor does hereby certify pursuant to Section 3 of the Illinois Drug-Free Workplace Act (30 ILCS 580/3) that it shall provide a drug-free workplace for all employees engaged in performance of the work under the contract by complying with the requirements of the Illinois Drug-Free Workplace Act and, further certifies, that [he, she, it] is not ineligible for award of this contract by reason of debarment for a violation of the Illinois Drug-Free Workplace Act.

E. The Contractor certifies that it shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, marital status, or physical or mental handicap. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, marital status, or physical or mental handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment of recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor further certifies that it will post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

The Contractor further certifies that it shall, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

F. Contract agrees to comply with all laws applicable to the work to be performed under this Agreement, including all employment and labor laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duty-authorized agents on the date first written above.

OWNER:

PEPPER ENVIRONMENTAL TECHNOLOGIES, INC.

By: _____

By: _____

Michael J. Grant

Its:

Its: Vice President

Date: _____

Date: _____



EXHIBIT A

PEPPER ENVIRONMENTAL TECHNOLOGIES, INC. WORK ORDER

Project:
Address:

Date:
Job Number:

Scope of Work:

Time for Completion:

Price and Payment:

Other Terms: