

June 23, 2011

Mr. David Buck  
City of Lafayette  
609 West Navajo Street  
West Lafayette, Indiana

**Re: Proposal for Environmental Services  
Pre-Demolition Asbestos Survey  
Two Residential Homes  
West Lafayette, Indiana  
August Mack Proposal Number PL0540.330**

Dear Mr. Buck:

In accordance with your request, August Mack Environmental, Inc. (August Mack) is pleased to provide you with the following cost proposal to perform a pre-demolition asbestos inspection at the above-referenced site. August Mack was requested to perform a pre-demolition asbestos survey of two (2) residential homes prior to scheduled demolition activities. The work activities required to complete this project are described below, followed by associated cost and scheduling information.

#### **SCOPE OF WORK**

Prior to sampling, an inspection of the structures will be conducted to identify the number and locations of bulk material samples necessary to sufficiently characterize areas that contain suspect asbestos-containing materials (ACMs). An August Mack State of Indiana-licensed asbestos building inspector will collect bulk samples of the suspect-ACMs in accordance with National Emission Standard for Hazardous Air Pollutants (NESHAP) guidelines.

The bulk material samples collected during the inspection will be transported by August Mack personnel using strict chain-of-custody documentation. The samples will be submitted to EMSL Analytical Laboratories, Inc., a National Voluntary Laboratory Accreditation Program (NVLAP) accredited laboratory. All samples will be analyzed utilizing polarized light microscopy (PLM) augmented with dispersion staining as specified in U.S. EPA Method 600/M4-82-020 on a 5-day turn-around-time (TAT).

It should be noted that this survey is for the purpose of pre-demolition requirements, and all targeted spaces will be visually inspected for potential ACMs, including the roof. Some damage may be incurred to building materials in an attempt to uncover all potential ACMs. If there are spaces that are not reasonably accessible due to safety hazards or construction of the space, the client will be notified immediately and these areas will be noted in the report. It should also be noted that all non-friable materials will be documented and assumed positive. These materials can remain in place during demolition activities and disposed of as general construction waste at a sanitary landfill.

### ASBESTOS SAMPLING REPORT

Upon completion of the asbestos inspection and receipt of all sampling results, a final letter report will be prepared. The report will include a summary of the asbestos sampling results and a description of the assessment activities. Any areas that were not accessible or any unforeseen obstacles encountered during the inspection will be noted.

### COST INFORMATION AND SCHEDULING

The **lump sum cost** to perform the activities as described above is **\$1,875**. This cost includes project preparation, fieldwork and sampling, laboratory analysis, and preparation of a letter report documenting the results and conclusions of this project.

#### Itemized Cost Information

| Task                                       | Cost           |
|--|----------------|
| <b>Inspection, Sampling and Reporting</b>  | \$1,350        |
| <b>Laboratory Analysis*</b>                | \$525          |
| • 70 asbestos bulk samples @ \$7.50/sample |                |
| <b>Project Total</b>                       | <b>\$1,875</b> |

\*all sample costs assume 5-day turn-around-time

The cost presented above is based on the following assumptions:

- Up to seventy (70) bulk samples will be collected. The client will only be invoiced for actual bulk samples analyzed. If additional samples are needed to complete the project, you will be notified and they will be invoiced at a unit rate of \$7.50 per sample;
- All friable samples with a result of <1% following initial analysis must be considered an asbestos containing material or verified by point count analysis at a unit rate of \$24.25/sample on a 5-day turn-around time. The client will be notified prior to performing any additional analysis;
- All roofing materials will be assumed positive unless the client requests sampling. If sampling is requested, roof access must be granted at the time of the

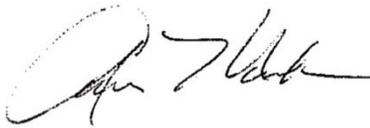
initial inspection. August Mack will not be responsible for leaks associated with roof sampling.

- All areas to be inspected are readily accessible;
- The inspection can be completed within one (1) business day; and
- Normal conditions will be encountered, and that any delays caused by the client or the client's agents will result in additional expense to the client.

If you are in agreement with the scope of work, fees, and attached terms and conditions as set forth in this proposal, please sign and return one copy to us as your authorization to proceed.

We appreciate the opportunity to provide you with this proposal and look forward to working with you on this project. Please feel free to contact us if you have any questions or comments regarding this information 317.916.3162.

Sincerely,



Aaron Manka  
Staff Industrial Hygienist



Brian P. Wilson  
Senior Manager

Accepted by: \_\_\_\_\_  
In accordance with the attached Terms and Conditions

Date: \_\_\_\_\_

## TERMS AND CONDITIONS

**DEFINITIONS.** When used herein, the terms "we," "us," "August Mack," or "our" refer to August Mack Environmental, Inc., and the terms "you," "your," "he/she," "his/her," "it," and "its" refer to Client.

**AGREEMENT.** This agreement is governed by the following terms and conditions in the order of precedence: a) these Terms and Conditions; and b) August Mack's Proposal accepted by Client (the Proposal and these Terms and Conditions shall be collectively referred to as the "Agreement"). This Agreement constitutes the entire agreement between the parties and shall supersede all prior oral or written communications.

**SCOPE OF WORK.** Client has requested that August Mack perform the work ("Work") as specified in and for the charges set forth in our Proposal and as authorized by Client.

**COMPENSATION.** Invoices for services provided are due and payable upon receipt. Balances outstanding more than thirty (30) days after invoice date shall be deemed delinquent and shall be subject to a monthly finance charge of 1 ½ percent, court costs, attorney's fees, and any other cost of collection incurred by August Mack.

**RIGHT OF ENTRY AND RIGHT TO PROCEED.** Client grants a right of entry from time to time to August Mack, its agents, staff, consultants, and contractors or subcontractors, to perform all acts, tests, studies, evaluations and research pursuant to the Work. To the extent that any of the Work requires access to property owned or controlled by a third party, Client represents that it has obtained all licenses, permits, and rights-of-way necessary to grant August Mack access to such property.

**PERMITS.** Client represents that it possesses all permits and licenses required to comply fully with all laws, ordinances, and regulations governing the performance of its activities at the site.

**STANDARD OF CARE AND WARRANTY.** Professional services provided by us will be performed, findings obtained, and recommendations prepared in accordance with generally accepted engineering principles and practices. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED.

**INSURANCE.** August Mack maintains workers' compensation and employer's liability insurance for our employees as required by state laws. In addition, we maintain commercial general liability and auto liability insurance. A Certificate of Insurance can be supplied evidencing such coverage. We will not be liable or responsible for any loss, damage, or liability beyond the amounts, limits, coverage, or conditions of such insurance specified above.

**PROFESSIONAL LIABILITY.** Client acknowledges and agrees that our total aggregate liability to Client or any third party arising from negligent professional acts, errors, omissions, or breach of the above described standard of care and warranty, shall not exceed the amounts, limits, coverage, or conditions of our professional liability insurance or our total fee, whichever is less.

**HAZARDOUS SUBSTANCES AND CONSTITUENTS.** Prior to the start of any Work Client shall advise us of any hazardous substances or any condition existing in, on, or near the site presenting a potential danger to human health, the environment, or equipment. Client shall provide continuing information as it becomes available to the Client in the future. We do not assume control of or responsibility for the site or the person in charge of the site, or for communicating with any federal, state, or local public agencies regarding the Work or the site, or undertake responsibility for reporting to any federal, state, or local public agencies any conditions that may present a potential danger to public health, safety, or the environment, including but not limited to spills, releases, or leaks. Client shall bear the sole responsibility for communicating with any federal, state, or local public agencies regarding the Work or the site, and for notifying the appropriate federal, state, or local public agencies in a timely manner, any information that may be necessary to prevent any danger to health, safety, or the environment, including but not limited to spills, releases, and leaks. Client shall indemnify and hold us harmless for the consequences of any communication or reporting or failure to report to any such public agency. Client shall have sole responsibility for compliance with any and all federal, state, or local laws, regulations, guidance, or other requirements relating to the handling, treatment, storage, or disposal of hazardous substances or constituents, and shall have sole responsibility for any and all changed conditions at, or hazardous substances or constituents introduced to the site by Client or any third party before, during, or after the completion of the Work. Client shall have sole responsibility for compliance with all applicable laws relating to the handling, removal, transportation, treatment, storage, or disposal of hazardous substances or constituents from, to or at the site. Client shall indemnify and hold harmless August Mack for any and all liability arising from such action, including but not limited to any allegation that August Mack is an owner, handler, generator, operator, treater, storer, arranger, transporter, or disposer under the Resource Conservation and Recovery Act as amended, the Comprehensive Environmental Response, Compensation, and Liability Act as amended, or any other similar federal, state, or local regulation or law.

**CONTAMINATED EQUIPMENT.** All laboratory and field equipment contaminated in performing the Work which cannot be reasonably decontaminated shall become the property and responsibility of Client. All such equipment shall be delivered to Client for final disposal. Client shall pay all costs associated with the storage, transportation, and disposal of such designated equipment. Client agrees to pay the fair market value of any such equipment which cannot reasonably be decontaminated.

**UNFORESEEN OCCURRENCES.** If, during the performance of the Work, any unforeseen hazardous substances or constituents or other unforeseen conditions or occurrences are encountered which, in our sole discretion affect or may affect the Work, the risk involved in performing the Work, or the recommended scope of the Work, we will promptly notify Client thereof. Subsequent to that notification, August Mack in its sole discretion may:

- (a) Complete the original Scope of Services, if practicable, in accordance with the procedures originally intended in the Proposal;
- (b) Agree with Client to modify the Scope of Services and the estimate of charges to include work on the previously unforeseen conditions or occurrences; or

(C) Terminate the Work as provided herein effective on the date specified by us.

August Mack shall be excused for any delay in the performance of the Work resulting from unforeseen circumstances that could not have been avoided by the exercise of due care.

**CLAIMS.** If a third party or employee of Client brings a suit or claim for damages against us alleging exposure to or damage from hazardous substances, material, elements, or constituents at or from the property where the Work is being performed as specified in the Proposal or the surrounding property before, during, or after the Work, which is alleged to have resulted in or caused disease or any adverse health condition or other personal injury or property damage, including remediation costs, diminution of property value, or uninhabitability of property, then: Client shall be liable for, hold harmless, and indemnify us in any such suit or claim and pay on our behalf, to the maximum extent permitted by law, any and all damages, losses, liabilities, obligations, penalties, claims, judgments, costs, disbursements, or expenses, including but not limited to attorneys' and experts' fees, court costs and other costs, expenses, or disbursements, and personnel costs incurred in defense of such suit or claim. To the extent permitted by law, and not related to exposure of hazardous substances at or from the property where the Work is being performed, August Mack shall indemnify and hold harmless Client and its officials, employees, and agents from and against all liability, claims, suits, losses, damages, costs, and demands, including reasonable attorney's fees, on account of personal injury including death, or property damage, sustained by any person or entity, arising out of or connected with the performance of the Work, to the extent such injury, death, or damage is caused by the negligence or willful misconduct of August Mack or its subcontractors or their respective employees, officers, and agents; provided that such injury, death, or damage is not occasioned by the negligence of Client or its contractors or their respective officials, employees, and agents. To the extent permitted by law, Client shall indemnify and hold harmless August Mack and its officers, employees, and agents from and against all liability, claims, suits, losses, damages, costs, and demands, including reasonable attorney's fees, on account of personal injury including death, or property damage, sustained by any person or entity, arising out of or connected with the performance of the Work, to the extent such injury, death, or damage is caused by the negligence or willful misconduct of Client or its contractors or their respective officials, employees, and agents; provided that such injury, death, or damage is not occasioned by the negligence of August Mack or its contractors or their respective officers, employees, and agents. Notwithstanding the preceding, Client does not waive any statutory defenses that may be available due to the contributory negligence of August Mack or others. In the event that Client makes a claim against us of any kind or nature whatsoever for any alleged error, omission, or act arising out of the performance of the Work that cannot be mutually resolved without resort to arbitration or litigation, and Client fails to prove such claim, then Client shall pay all costs incurred by us in defending ourselves against the claim, including, but not limited to attorneys' and experts' fees, court costs, arbitration costs, and other costs, expenses, or disbursements, and personnel costs incurred in defense of such claim or suit.

Notwithstanding any provision herein to the contrary or inconsistent herewith the prevailing party in any litigation or arbitration shall be entitled to all reasonable costs of litigation or arbitration including a reasonable attorney fee.

**EQUIPMENT.** In the event that August Mack leases certain equipment to Client in order to perform the work contemplated by this Agreement: Client shall be responsible to August Mack for any loss, theft, damage, destruction, or other misuse of that equipment, and shall pay August Mack upon written demand, the amount necessary to repair or replace that equipment. To cover Client's liability to August Mack for such equipment. Client may obtain and maintain appropriate insurance against loss, theft, damage, destruction, or other misuse of such equipment, which names August Mack as an additional insured with a carrier acceptable to us. If a third party or employee of Client brings suit or makes a claim for damages against August Mack arising out of such use of August Mack's equipment, Client shall indemnify and shall pay on our behalf, to the maximum extent permitted by law, any and all damages, losses liabilities, obligations, penalties, claims, judgments, costs, disbursements, or expenses, including but not limited to attorneys' and experts' fees, court costs and other costs, expenses or disbursements, and personnel costs incurred by us in defending such claim or suit.

**DOCUMENTS.** Client will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents, and other information deemed necessary by us for proper performance of our services and Client warrants and represents that any such information provided shall not infringe on any United States or foreign patent, copyright, trade secret, or other proprietary right of any third party, and shall hold August Mack harmless and indemnify us for any such infringement. We may rely upon Client-provided documents in performing the Work; however, we assume no responsibility or liability for their accuracy. Client-provided documents will remain property of Client. All documents, including, but not limited to drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations, and estimates, prepared by us as instruments of service pursuant to this Agreement, shall be our sole property. Client agrees and acknowledges that all documents furnished to Client or Client's agents or designees by August Mack shall be treated as confidential, and shall be disseminated only to those employees or agents whose duties justify their need to know such information, unless prior written authorization is obtained from August Mack or disclosure is compelled by a court of competent jurisdiction. Client further agrees that any documents not paid for will be returned to us upon demand and will not be used by Client for any purpose. Client further agrees that under no circumstances shall any documents produced by us pursuant to this Agreement be used at any location for any project or by any person not expressly provided for in this Agreement without our prior written permission. If Client uses all or any of our documents for another project or disseminates our documents in violation of this paragraph, to the maximum extent permitted by law, Client shall indemnify and hold us harmless from any and all claims arising from such unauthorized use. Further, no part of any document we deliver to Client shall be reproduced or distributed, whether for advertising or any other purpose, without our prior written consent. Any such reproduction or distribution shall be at Client's sole risk and without liability or legal exposure to August Mack, and Client shall indemnify and hold us harmless, to the maximum extent permitted by law, from any and all claims arising from such unauthorized reproduction or distribution.

**RECORDS RETENTION.** August Mack has a two (2) year records retention policy and will destroy all project records for all closed and inactive projects that are in excess of three (3) years old. Client shall notify us of any records it chooses or is required to maintain beyond the three-year retention period and we will provide them to the Client for Client's retention.

**ASSIGNABILITY.** Neither party shall assign or transfer their interest in this Agreement without prior written consent from the other party.

**TERMINATION.** This Agreement may be terminated by either party due to a material breach of this Agreement by the other party. Prior to termination, the nonbreaching party shall provide the breaching party written notice of the breach. The breaching party shall have ten (10) days following the receipt of written notice to cure the breach. On the eleventh (11<sup>th</sup>) day following receipt of written notice, the nonbreaching party may terminate this Agreement if the breach has not been cured to the reasonable satisfaction of the nonbreaching party.

If not previously terminated this Agreement shall expire upon August Mack's completion of the Work. Upon termination of this Agreement, August Mack shall be entitled to payment for Work performed up to and including the date of termination as well as all reasonable costs of demobilization and closeout of the Work.

**DUTY TO COOPERATE.** The parties agree to provide reasonable access to information regarding the site or the Work performed and to responsible personnel as may be required to address any claim made regarding the Work performed or this Agreement. The parties further agree to provide copies to each other of any claims, demands, or notices from any federal, state, or local public agency regarding the Work performed or this Agreement.

**NO WAIVER.** The failure of August Mack to insist on strict performance of the terms hereunder will not be considered as a waiver of any right or remedies that it may have for any subsequent breach, default, or non-performance, or its right to insist strict performance of this Agreement. No waiver is valid unless in writing signed by August Mack.

**SEVERABILITY.** In the event that any provision herein shall be deemed invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and binding upon the parties hereto.

**SURVIVAL.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between Client and August Mack shall survive the completion of the services and the termination of this Agreement.

**INTEGRATION.** This Agreement and the documents attached hereto and which are incorporated herein constitute the entire agreement between the parties and cannot be changed except by written instrument signed by both the parties.

**COUNTERPARTS.** This Agreement and any subsequent modifications may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same Agreement.

**ALTERNATIVE DISPUTE RESOLUTION.** Client and August Mack agree and acknowledge that all disputes or controversies arising out of, from, or under this Agreement or the parties' relationship (except for the need for extraordinary or provisional remedies such as injunctive relief or specific performance) that cannot be settled through negotiations between the parties will be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association then in effect. Arbitration shall take place in Marion County, Indiana. The arbitration shall be conducted before one (1) neutral arbitrator if the dispute or controversy involves legitimate claims in the aggregate of less than Two Hundred Thousand dollars (\$200,000.00) or before three (3) neutral arbitrators if the dispute or controversy exceeds in the aggregate Two Hundred Thousand dollars (\$200,000.00).

**GOVERNING LAW, VENUE, AND JURISDICTION.** This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Indiana and shall in all respects be governed, construed, applied, and enforced in accordance with the laws of such State. Any litigation brought in connection with this Agreement shall be commenced and maintained in the United States District Court for the Southern District of Indiana in Indianapolis, Indiana or the Superior Court of Marion County, Indiana having jurisdiction over the parties and the subject matter of the dispute.