

December 1, 2016  
Project No. 1301-1276

Mr. Joe Flatley, Director of Facilities and Modernization  
Milpitas Unified School District  
1331 East Calaveras Blvd.  
Milpitas, CA 95035

Subject: Proposal for Finalizing and Implementing the O&M Plan for NOA in Soil at the New TK-6 School Site, McCandless Drive, Milpitas, Santa Clara County, California.

Dear Mr. Flatley:

Padre Associates, Inc. (Padre) on behalf of the Milpitas Unified School District (District) has prepared the following proposal for finalizing and implementing the Operation and Maintenance (O&M) Plan for naturally occurring asbestos (NOA) identified in soil at the new TK-6 school site, located on McCandless Drive, Milpitas, Santa Clara County, California (Project Site).

The selected response action to eliminate, reduce, and/or mitigate the identified chemicals of concern is the implementation of engineering controls in the form of a “cap” placed over the NOA-containing soil, creating a barrier to prevent or greatly reduce human exposure and health impacts. In addition, the California Department of Toxic Substances Control (DTSC) requires the preparation of an O&M Plan for maintaining long-term monitoring and maintenance of engineering controls and management of soils containing elevated concentrations of NOA at the Project Site.

## **SCOPE OF SERVICES**

### **Task 1 – Project Management**

Padre will coordinate the planned activities with the District, the District’s civil engineer/contractor(s), and DTSC. Project management includes scheduled conference calls, meetings, and site visits to discuss project procedures and status.

### **Task 2 – Finalize O&M Plan**

The draft O&M Plan presented in the RAW will be updated and finalized to reflect final site design and site conditions associated with the “cap”. The O&M Plan presents the policies and procedures of the District for long-term operation, maintenance, and monitoring of engineering controls and management of soils containing elevated concentrations of NOA at the Project Site.

Final site design information (to be provided by the District) to complete the O&M Plan includes: construction cross-sections for each “cap” component design (i.e., clean fill material; building foundations; asphalt-concrete parking; sidewalks; playfields; landscape areas; etc.).

### **Task 3 – ISM for Decision Units #2 and #3**

Soil sample results used for verifying the performance of the bioremediation project consisted of collecting 80 soil samples at various depths from Decision Units #1 and #4. Padre submitted the soil sample results to DTSC on September 29, 2016. Based on DTSC’s review of the data, Padre was directed to additionally sample Decision Units #2 and #3. An additional 80 soil samples were collected and analyzed using the Incremental Sampling Methodology (ISM). The results of this additional scope of work indicated that the standards and objectives of the RAW have been met. Therefore, Padre will proceed with completing the Removal Action Completion Report (RACR).

### **Task 4 – Construction Monitoring for NOA Soil**

Padre will provide environmental oversight and construction monitoring (as needed) during the preparation and installation of a “cap” designed for mitigating the presence of NOA-containing soil at the Project Site. Padre understands that construction and grading activities will follow local and state requirements, including the requirements of the Bay Area Air Quality Management District (BAAQMD) regarding the excavation/grading of NOA-containing soils. Padre will coordinate with the District’s Civil Engineer/Contractor regarding the various stages of construction and develop a Soil Management Plan (SMP) for the site grading, and installation of underground utilities.

### **Task 5 – Implementation of O&M Plan (1<sup>st</sup> Year).**

Padre will provide project management and oversight for the first year of implementation of the O&M Plan, including coordination with DTSC. Implementation of the O&M Plan includes NOA awareness training for District staff, quarterly inspections, and annual reporting.

## **COST SUMMARY**

The scope of services detailed herein will be performed on a time and materials basis in accordance with Padre's Professional Services Agreement and General Conditions (attached) for an estimated cost of \$44,500. A summary of the cost estimate is outlined below:

### **Scope of Services Cost Estimate**

Task 1 – Project Management	\$ 4,300.
Task 2 – Finalize O&M Plan	\$ 5,200.
Task 3 – ISM for Decision Units #2 and #3	\$ 11,500.
Task 4 – Construction Monitoring for NOA Soil	\$ 8,500.
Task 5 – Implementation of O&M Plan (1 <sup>st</sup> Year)	<u>\$ 15,000.</u>
Total Cost Estimate:	\$ 44,500.

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## **SCHEDULE AND ASSUMPTIONS**

Padre is prepared to begin work on the described scope of services immediately upon receiving authorization. Finalization of the O&M is dependent on Padre receiving final site design information requested in Task 2 of this proposal.

Several assumptions have been made in developing this proposal and cost estimate and, if not valid, will constitute a change in the scope of services, requiring an adjustment in project cost. We will notify the District of any such changes in writing. Assumptions and limitations to our scope of services are presented below:

- The District will provide Padre with construction cross-sections for each “cap” component design (i.e., clean fill material; building foundations; asphalt-concrete parking; sidewalks; playfields; landscape areas; etc.).
- The District will provide Padre a site plan showing the locations of each “cap” component at the Project Site.
- All earthwork conducted at the Project Site by the District’s Civil Engineer/Contractor will follow local and state requirements, including the requirements of the Bay Area Air Quality Management District (BAAQMD) regarding the excavation/grading of NOA-containing soils.
- Construction monitoring costs presented herein are estimates. Actual costs will be dependent on the work schedule of the District’s civil engineer/contractor, and billed on a time and materials basis in accordance with the Padre’s Professional Service Agreement.
- All imported fill material will be approved by DTSC as “Clean Fill Material”.
- This proposal does not include costs for characterizing imported fill material.

## **AUTHORIZATION**

To authorize this proposal please sign the attached Professional Services Agreement and return a copy to Padre. Padre appreciates the opportunity to provide environmental consulting services to the Milpitas Unified School District.

If you have any questions or require additional information, please contact the undersigned at (916) 333-5920, Ext. 24.

Sincerely,  
**PADRE ASSOCIATES, INC.**



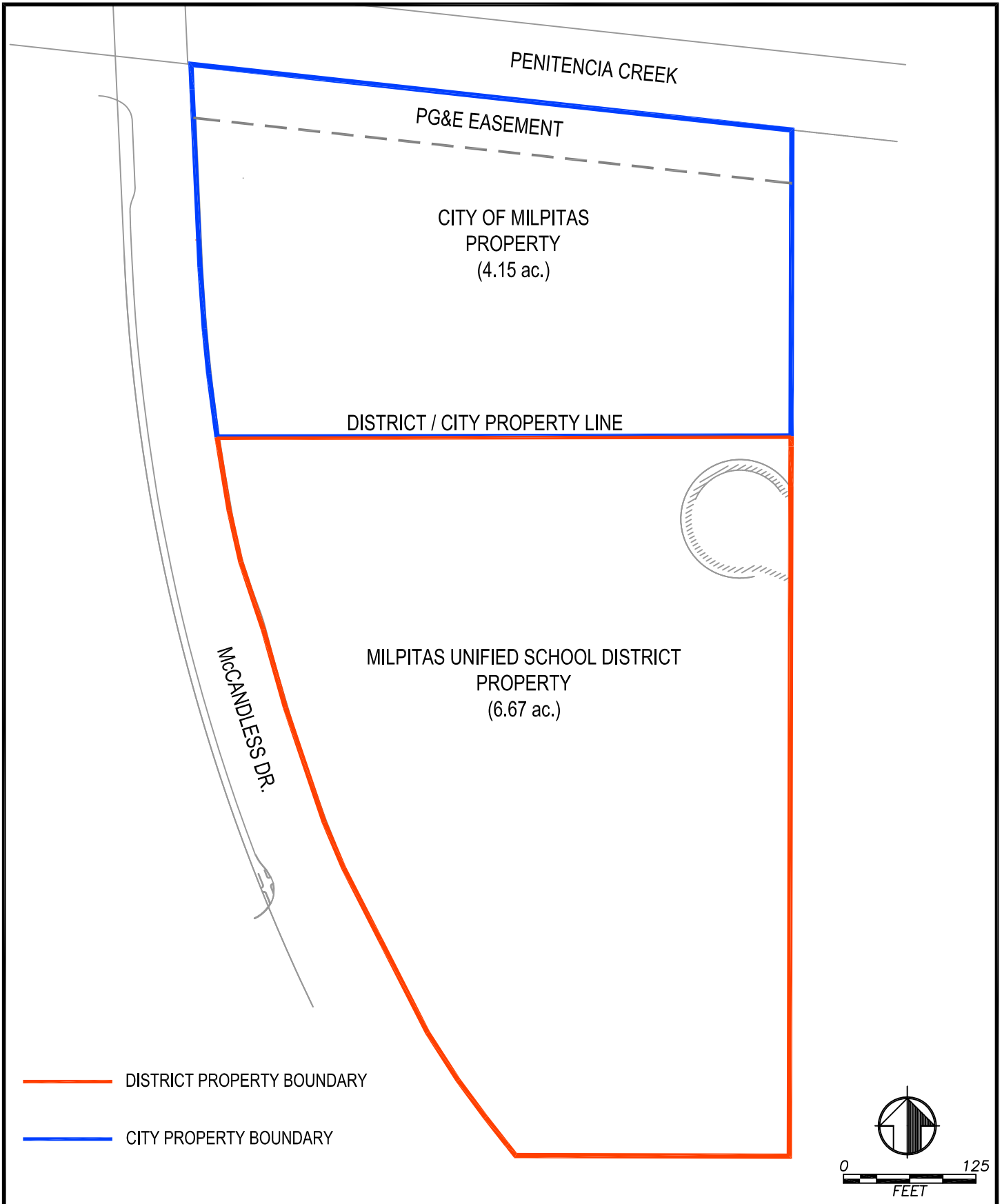
Alan J. Klein, R.E.P.A., C.P.E.S.C., QSD/QSP  
Senior Environmental Scientist



Alan Churchill, P.G.  
Project Geologist

ATTACHMENTS:     Plate 1-2: Site Plan  
                         Professional Services Agreement and General Conditions  
                         2015 Fee Schedule

Cc: Wendy Zhang, Assistant Superintendent, Milpitas Unified School District



## PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT is made by and between **PADRE ASSOCIATES, INC.** (CONSULTANT), and **MILPITAS UNIFIED SCHOOL DISTRICT** (CLIENT). This AGREEMENT is subject to the GENERAL CONDITIONS, printed on the second page, along with any other attachments specifically referenced herein.

Date: December 1, 2016 Project No: 1301-1276  
Client: Milpitas Unified School District Contact: Joe Flatley, Dir of Fac  
Address: 1331 East Calaveras Blvd, Milpitas, CA 95035 Phone: (408) 635-2600  
Padre Contact: Alan Klein Phone: (916) 333-5920 x24

Project Title: New TK-6 School Site (McCandless Property)

Scope of Services: ☒ O&M Plan & Implementation  
Compensation: ☒ \$44,500.  
Terms and Conditions: ☒ Attached

The TERMS AND CONDITIONS of this AGREEMENT are accepted by:

CLIENT:

CONSULTANT:

**MILPITAS UNIFIED SCHOOL DISTRICT**

**PADRE ASSOCIATES, INC.**

BY:

BY: Alan J. Klein

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Date:

Date: December 1, 2016

## GENERAL CONDITIONS

**1. PAYMENT.** CLIENT accepts responsibility for payment of CONSULTANT under the conditions stated herein. All invoices are due and payable upon presentation. Amounts unpaid more than thirty (30) days after the date of the invoice shall bear interest at the rate of one-and-one-half (1.5) percent per month or the maximum rate permitted by law, whichever is less.

**2. STANDARD OF CARE.** CLIENT recognizes that site and subsurface conditions may vary from those observed at locations where drill holes, surveys, or explorations are made, and that site and subsurface conditions may change with time. Data, interpretations, and recommendations by CONSULTANT will be based solely on information available to CONSULTANT. CONSULTANT is responsible for its data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed, or for information provided by others.

CONSULTANT agrees to strive to perform the services set forth in this AGREEMENT in accordance with generally accepted professional engineering and geologic practices, in the same or similar localities, at the time the services are performed. CONSULTANT's services shall not be subject to any express or implied warranties whatsoever.

**3. CLIENT RESPONSIBILITIES.** The CLIENT shall provide all information it has access to that relates to the site and may bear upon the services of the CONSULTANT, including, but not limited to, a legal description of the site, a site plan, the location of utilities and underground structures at the site, previous geologic/geotechnical reports and any previous environmental assessments and audits. The CLIENT shall obtain all necessary authorizations and permits to allow the CONSULTANT to have access to the site at reasonable times throughout contract performance. CONSULTANT will take reasonable precautions to minimize damage to the site, but unavoidable damage or alteration may occur and CLIENT agrees to assume responsibility for same. CLIENT agrees to assume responsibility for damages due to CONSULTANT's interference with subterranean structures such as pipes, tanks, and utility lines that are not correctly shown on the documents provided to CONSULTANT.

**4. LIMITATION OF LIABILITY.** CLIENT hereby agrees that to the fullest extent permitted by law the CONSULTANT's total liability to CLIENT for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way relating to the project, the site, or this AGREEMENT from any cause or causes, including, but not limited to, the CONSULTANT's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the greater of the total amount paid by the CLIENT for the services of the CONSULTANT under this contract or \$50,000.00, whichever is greater. CLIENT and the CONSULTANT further agree that, to the fullest extent permitted by law, neither party shall be liable to the other for any special, indirect, or consequential damages.

**5. INDEMNIFICATION.** CLIENT shall defend, indemnify, and hold harmless CONSULTANT and its directors, officers, shareholders, employees, contractors, subcontractors, agent, or affiliates from and against any and all suits, actions, legal or administrative proceedings, claims, demands, actual damages, fines, punitive damages, losses, costs, liabilities, interest, and attorneys' fees (including any such fees and expenses incurred in enforcing this indemnity) which, irrespective of CONSULTANT's negligence: (a) exceed the limitation on CONSULTANT's liability provided for in Article 4, or (b) result from, arise out of, or are in any way connected with: (i) acts or omissions of CLIENT, CLIENT's employees, agents, and subcontractors and their employees or agents; (ii) the release of any hazardous substance; or (iii) any other generation, treatment, or transport of waste materials.

CLIENT agrees that CONSULTANT had nothing whatsoever to do with the creation, existence, or presence of asbestos, hazardous substances, or pollutants on or near the subject property. Accordingly, and to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold CONSULTANT, its agents, subcontractors, and employees harmless from and against any and all claims, defense costs, including attorneys' fees, damages, and other liabilities arising out of or in any way related to CONSULTANT's reports or recommendations concerning this AGREEMENT, CONSULTANT's presence on the project property, or the presence, release, or threatened release of asbestos, hazardous substances, or pollutants on or from the project property; **provided that** CLIENT shall not indemnify CONSULTANT against liability for damages to the extent caused by the negligence or intentional misconduct of CONSULTANT, its agents, subcontractors, or employees.

**6. DISCOVERY OF UNANTICIPATED POLLUTANT RISKS.** If, while performing the services, pollutants are discovered that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated project costs will be reconsidered and that this contract shall immediately become subject to renegotiation or termination.

**7. SAMPLE DISPOSAL.** Samples of unpolluted soil and rock will be disposed of by the CONSULTANT thirty (30) days after submission of the final Report. If samples are suspected to contain hazardous substances as defined by federal, state, or local statutes, regulations, or ordinances, CONSULTANT will, after completion of testing (i) return such samples and materials to CLIENT, or (ii) reach an agreement in writing to have such samples and materials properly disposed in accordance with applicable laws. CLIENT agrees to pay all costs associated with the storage, transport, and disposal of samples and materials. CLIENT recognizes and agrees that CONSULTANT is acting as a bailee and at no time assumes title to said waste.

**2015 FEE SCHEDULE**

**2015 STANDARD FEE SCHEDULE**

**PROFESSIONAL SERVICES**

Principal Professional .....	\$ 160/hr
Senior Professional II.....	\$ 140/hr
Senior Professional.....	\$ 130/hr
Project Professional II.....	\$ 120/hr
Project Professional.....	\$ 110/hr
Staff Professional II.....	\$ 100/hr
Staff Professional.....	\$ 95/hr
Senior Technician (Non-Prevailing Wage).....	\$ 90/hr
Senior Technician (Prevailing Wage).....	\$ 95/hr
Technician (Non-Prevailing Wage) .....	\$ 80/hr
Technician (Prevailing Wage) .....	\$ 85/hr
Drafting.....	\$ 70/hr
Word Processing .....	\$ 60/hr

\*Overtime rates for Technicians and Office Staff is 1.3 x rates shown.

Fees for expert witness preparation, testimony, court appearances, or depositions will be billed at the rate of \$425 per hour.

**OTHER DIRECT CHARGES**

Subcontracted Services.....	Cost Plus 15%
Outside Reproduction.....	Cost Plus 15%
Travel, Subsistence, and Expenses.....	Cost Plus 15%
SCUBA Charge .....	\$ 100/day
Vehicle .....	\$ 80/day
Photoionization Detector .....	\$ 120/day
Nuclear Density Gauge .....	\$ 85/day
Automobile Mileage .....	IRS Standard Mileage Rates