



## PROFESSIONAL SERVICES PROPOSAL

CLIENT:	Miyares and Harrington LLP Attn: Christopher Heep 40 Grove Street, Suite 190 Wellesley, MA 02482	DATE:	November 6, 2019
		REVISED:	November 13, 2019
CONSULTANT:	Lucas Environmental, LLC 500A Washington Street Quincy, MA 02169	PROJECT:	136 & 140 Worcester Street Wellesley, MA

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Per your request, Lucas Environmental, LLC (LE) is pleased to submit this proposal for professional services for the proposed project located at 136 & 140 Worcester Street in Wellesley, Massachusetts. Unless executed within 30 calendar days of the above date, this proposal, including all of its terms and conditions will not be considered valid. For the purposes of this proposal, it is assumed that LE will have access and permission to enter the project site to complete the following Scope of Services.

### A. SCOPE OF SERVICES

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#### 1.0 REVIEW & REPORTING

LE will complete a review of the wetland delineation and Notice of Intent (NOI) as detailed in the following scope of services, in association with the Client.

#### 1.1 NOI Review & Summary Letter

LE will complete the NOI review as follows:

- A. A Professional Wetland Scientist (PWS)/Registered Professional Soil Scientist (RPSS) will conduct a site visit to review the delineation of the wetland resource areas on the project site. Freshwater wetland areas will be reviewed in accordance with the Massachusetts Department of Environmental Protection (MassDEP) Division of Wetlands and Waterways Handbook for Delineating Bordering Vegetated Wetlands under the Massachusetts Wetlands Protection Act (1995). The site will be examined for wetland vegetation, hydric soils, and evidence of hydrology. LE will walk and inspect the uplands portions of the site on the sheets provided to ensure all wetland resource areas were identified.
- B. LE will confirm that the plans accurately depict site conditions in relation to the delineation including showing the limits of Resource Areas on site and the outer limits of the 100-Foot Buffer Zones. Any recommended changes made to the wetland boundaries will be sketched onto a survey plan and submitted to the Client.



- Additional Environmental Permitting: Preparation of permit application packages for local, state and federal permits not identified in the Scope of Services;
- Additional site walks/meetings, if required;
- Functions and Values Assessment;
- Vernal pool surveys; Wildlife Surveys and Habitat Analyses; Rare Species Surveys;
- NHESP Consultation and Permitting;
- Environmental monitoring;
- Field Survey of wetland resource areas;
- On-site soil testing is not included;
- Coordination and review of Massachusetts Historical Commission records; and
- Other services not listed specifically under the Scope of Services above.

**D. SERVICE AGREEMENT SIGNATURES**

Please execute this document in the space provided below and return the original copy to our office. Receipt of the signed proposal will serve as notice to proceed. If you have any questions or comments, please do not hesitate to contact me at 617.405.4140 or [cml@lucasenvironmental.net](mailto:cml@lucasenvironmental.net). By the signing of this proposal, you indicate your acceptance of the terms and conditions contained herein and the attached General Terms & Conditions, and you give authorization to proceed with the Scope of Services indicated.

Sincerely,  
LUCAS ENVIRONMENTAL, LLC

Christopher M. Lucas, Manager, PWS  
Environmental Consultant/Soil Scientist

Enclosure: General Terms and Conditions

**ACCEPTANCE OF PROPOSAL & AUTHORIZATION TO PROCEED**

This proposal is hereby authorized and accepted as executed below by a duly authorized signatory of Miyares and Harrington LLP. The signatory below also hereby warrants that he/she has full authority to act for, in the name of, and on behalf of Miyares and Harrington LLP to authorize this Agreement.

\_\_\_\_\_  
Signature of Authorized Representative for Miyares and Harrington LLP

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Date of Authorization



## General Terms & Conditions

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### Compensation and Payment

Unless otherwise provided for in writing, Lucas Environmental, LLC (hereafter referred to as LE) shall be compensated for its services and shall be reimbursed for costs and expenses reasonably incurred in its performance or professional services. Materials will be billed at cost; mileage will be billed per the current IRS standard mileage rates for business, unless other terms are outlined with this Proposal. Unless specifically excluded or other terms are outlined within this Proposal, LE shall require a signed Proposal to start work on this Project and retainer if included in the Proposal. **LE shall submit invoices that are due and payable upon receipt.** Billing is submitted monthly to the Client based upon the tasks performed (at applicable rates), plus reimbursable expenses not included in the Proposal. If Client disagrees with any portion of an invoice, it shall notify LE within seven (7) days of receipt of the invoice, and shall pay the portion not in dispute. On amounts not paid within thirty (30) days of invoice date, Client shall pay interest from invoice date until payment is received at a rate of 1.5 percent. A second invoice shall be sent when the invoice is thirty days (30) days past due. **Unpaid balances more than thirty (30) days will result in cessation of all project-related work until the portion of the overdue balance is paid in full.** If LE has stopped work on this Project for a reason, LE will not be held not responsible for consequences, financial or otherwise, associated with project delays or final completion thereof. Additional services and/or revisions to work outlined in this contract will be performed at additional costs when applicable or per an approved fee by the client. LE or any of its sub vendors shall not commence with any additional services until written authorization of an amended Scope of Services is approved by the Client. Prior to performing any work on the property, LE reserves the right to post a notice of contract. The parties to this contract specifically agree that LE has no obligation to release drawings or other documents until the final bill for services associated with the production of those documents has been paid in full. Prior to the execution of this Proposal, LE reserves the right to take measures necessary to evaluate the credit history of the Client and subsequently cancel or modify this Proposal as deemed necessary.

### Proprietary Information

All documents, drawings, specifications, plans, related reports, calculations, maps, charts, specifications, electronic data, information and any and all documents enumerated in, or prepared under, this Proposal prepared, provided, or procured by LE are instruments of service. LE shall retain all common law, statutory and other reserved rights, including copyright in those instruments of service. Drawings, specifications, and other documents and materials and electronic data are furnished for use solely with respect to this Project. LE will provide Client will a specific number of copies of plans, reports or other media generated by LE as defined in the Scope of Services. Additional copies will be provided for a fee. Designs, documents, specifications, and other work produced by LE will not be provided to any third party unless specifically requested by the Client, and if requested, will be provided for an additional fee.

### Dispute Resolution

Client and LE agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or related to this Agreement to mediation in accordance with industry standard mediation rules of the American Arbitration Association, effective as of the date of this Agreement.

### Force Majeure

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without negligence.

### Indemnification

Client and LE each agree to indemnify and hold the other harmless, and their respective officers, employee, agents and representatives, from and against liability for all claims, losses, damages, and expenses, including reasonable attorney's fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages, or expenses are caused by the joint concurrent negligence of the Client and LE, they shall be borne by each party in proportion to its negligence.

### Modifications or Changes

In the event of material change in LE's Scope of Services or LE's time or other conditions for the performance of services, through no fault of LE, the compensation due LE and the time allowed for LE's performance shall be equitably adjusted. Any such change shall be by a duly executed written instrument.

### No Third Party Beneficiaries

Unless expressly provided otherwise in this Agreement, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by LE to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and not for the benefit of any other party.



## General Terms & Conditions

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### **Opinions of Cost**

Any opinions or estimates of probable construction or implementation costs prepared or verbally indicated by LE represent LE's professional judgment based on its experience and available information. However, since LE has no control over the cost of labor, materials, equipment, or services furnished by others, over contractor's methods or determining prices, or over competitive bidding or market conditions, LE cannot and does not guarantee that proposals, bids, or actual costs will not vary from LE's opinions, estimates or evaluations of cost.

### **Other Consultants or Contractors**

LE shall not have any duty or authority to direct or supervise any separate consultants or contractors of Client to provide their means, methods, sequences, safety procedures, or programs or to stop or otherwise suspend their activities, LE shall not be responsible for the failure of Client's separate consultants or contractors to fulfill their responsibilities and Client agrees to indemnify, hold harmless, and defend LE against any claims arising out of such failures.

### **Responsibility for Permits, Approvals, and Regulatory Reporting**

Unless specifically identified in the scope of services, LE shall provide technical criteria, written descriptions, and design data for Client's use in filing applications for permits from or approvals of governmental authorities having jurisdiction over the Project and shall assist Client in consultations with such authorities.

### **Responsibilities of Client**

So far as to not delay the services of LE, Client shall designate in writing a person to act as its representative with respect to LE's services; provide all criteria and full information as to Client's requirements for the Project; place at LE's disposal all available information pertinent to the Project and any site where services are to be performed; provide or arrange for legal access and make all provisions for LE to enter any site where services are to be performed; give prompt written notice to LE whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of LE's services; and provide any notices required to be given to governmental authorities in connection with LE's services, except for such notices LE has agreed in writing to give. LE shall be entitled to rely upon the information, services, and instructions provided by Client and Client's Representative.

### **Other Information**

LE will rely upon commonly used sources of data, including database searches and agency contacts. LE does not warrant the accuracy of the information obtained from those sources and unless specifically requested by the Client will not independently verify such information.

### **Standard of Care**

The standard of care for all professional service performed or furnished by LE under this agreement will be the skill and care used by members of the environmental consulting industry practicing under similar circumstances at the same time and in the same locality. LE makes no warranties, either express or implied, under this Agreement or otherwise, in connection with LE's services.

### **Termination of Contract**

Client may terminate this Agreement with seven days prior written notice to LE for convenience or cause. LE may terminate this Agreement for cause with seven days prior written notice to Client. **Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until LE has been paid in full all amounts due.**

### **Limitation of Liability**

**To the fullest extent permitted by the law, the total liability of LE and its subconsultants and subcontractors to Client for any and all injuries, claims, losses, expenses or damages whatsoever from any cause or causes, including, but not limited to, strict liability, breach of contract, breach of warranty, negligence, or errors and omissions (collectively "claims") shall not exceed three thousand dollars and zero cents (\$3,000.00) or LE's total fee, whichever is greater. In no event shall LE, its subconsultants or subcontractors be liable for punitive, special, incidental or consequential damages. Client, as a material inducement for LE to enter into this agreement, waives all claims against, forever discharges and promises not to sue LE for all claims. Client agrees to look solely to LE for the satisfaction of any claims arising from or relating to this agreement that client would otherwise have against LE absent the waiver set forth above.**