

Memorandum

To: Harry Faulk, Township Manager



Date: February 1, 2023

From: Robert R. Robinson, P.E., Interim Township Engineer

CC: Juliana Morgan

RE: KU Resources, Inc. Engineering Proposal

Lincoln Hills Detention Basin Retrofits

MS4 Pollution Reduction Plans

Attached is a proposal from KU Resources, Inc., Township Consulting Engineer, for engineering, design and bidding services relative to the Lincoln Hills Detention Pond Retrofitting to meet the North Huntingdon's Pollution Reduction Plan (PRP) obligations required by MS4 and the Township's approved NPDES permit.

I recommend acceptance of KU's proposal for a cost not to exceed \$34,080.00 which includes (1) Existing Conditions Survey, (2) Erosion Sediment Pollution Control Plans and Design, (3) Bid Documents and (4) Construction Observation*

*The Construction Observation task in KU's proposal indicates a cost of \$8,960.00. The not to exceed cost of \$34,080.00 includes 50% of the cost of this task assuming that the Township staff will perform at least 50% of the Construction Observation.

In addition, I recommend a budget transfer of \$500,000.00 from the Reserve Fund to the 2023 General Fund to offset the costs for the Lincoln Hills Detention Pond Retrofitting Project and other MS4/PRP projects that may be performed in 2023.

Please let me know if you have any questions.

Attachment

End of Memorandum



KU Resources, Inc.

Innovative Solutions. Outstanding Support.

January 30, 2023

Robert Robinson, P.E.
North Huntingdon Township
11279 Center Highway
North Huntingdon, PA 15642

RE: Lincoln Hills Area
Stormwater Ponds

Dear Mr. Robinson,

We are pleased to submit for your consideration our proposal to provide professional engineering and land surveying services related to improvements of existing ponds in the Lincoln Hills area of the Township as referenced in the Pollution Reduction Plan prepared by Lennon, Smith, Souleret Engineering Inc. dated March 2019. To clarify the location of the ponds referenced in this proposal, we have listed them below by the related subdivision and parcel identification.

"Phase 1 Pond" Parcel A	Detention Basin Subdivision Inst. # 201005060015089	Tax Parcel # 54-12-05-0-198
"Phase 2 Pond" Parcel B	Detention Basin Subdivision Inst. # 201005060015089	Tax Parcel # 54-12-00-0-120
"Phase 6 Pond" Parcel D	Lincoln Hills Phase VI A & B Inst. # 200806270027475	Tax Parcel # 54-12-06-0-024
"Phase 7 Pond" Parcels E & E1	Lincoln Hills Phase VIII Plan No. 1 Inst. # 201407020020392	Tax Parcel # 54-12-06-0-049

Based upon our experience, we foresee the following services necessary in a four-step process. The first step will be to create an existing conditions survey of each pond. The second step will be to design applicable improvements to each of the ponds with the goal of meeting the requirements of the MS4 program as defined within the PRP. The third step will be to assist the Township with preparation of bid documents for advertisement of the project. The fourth and final step will be related to construction observation of the improvements by the contractor that the Township chooses. The scope for these tasks is further described below;

KU Resources will perform the services described in the Scope of Work herein on a time-and-materials basis. Our estimated cost to complete the Scope of Work is detailed below. KU Resources will not exceed this fee or perform any out-of-scope services without prior consent and approval.

- 1) Existing Conditions Survey
 - A. PA One Call design notification
 - B. Existing conditions topographic survey
- 2) Erosion Sediment Pollution Control Plans And Design
 - A. Analyze potential solutions for each pond
 - B. Erosion and sediment control plan
 - C. Erosion and sediment control details
 - D. Construction sequence
 - E. Submit to Westmoreland Conservation District for E&S review
- 3) Bid Documents
 - A. Assist with creation of bid documents and project description for advertisement
 - B. Provide pdf versions of all plans and documents related to each pond
 - C. Participate in a prebid conference, assist with reviewing bids, and assist with making recommendation for award
- 4) Construction Observation - *
 - A. Visit the sites at random during the construction of the improvements to verify adherence to design drawings/documents
(Estimated 2 week construction time per pond location, 5 visits per week)
 - B. Visit the site for a final review of the improvements once completed to confirm compliance with design drawings/documents
(Anticipated 1 visit per pond, 4 maximum/total)

Total of Items 1 – 3: \$ 29,600.00
* - Total of Item 4: \$ 8,960.00

**** - Item #4 is based upon construction window of 2 weeks per pond, 5 random spot inspections per week at 2 hours per inspection, and a single final inspection/walk through of each pond. North Huntingdon Township may choose to perform this service at their discretion with their own staff and thus eliminate the need for this service to be charged by KU.***

Should you require additional information, please do not hesitate to contact us.

Respectfully submitted,



Donald R. Housley Jr.
Project Manager



Charlie Prokopik, P.E.
Senior Project Manager



**KU RESOURCES, INC.
2023 MUNICIPAL RATE SCHEDULE**

Hourly billing rates for work performed by KU Resources are as follows:

<u>STAFF</u>	<u>RATE PER HOUR</u>
Principal	\$150.00
Senior Project Manager	\$135.00
Project Manager	\$120.00
Project Engineer	\$115.00
Staff Surveyor	\$ 95.00
Staff Engineer	\$104.00
Senior Design Tech	\$100.00
Staff Designer	\$ 75.00
Technician	\$ 75.00
Clerical	\$ 65.00
2-Man Survey Crew (PER PERSON)*	\$ 90.00
*Includes GPS Equipment	

Direct costs for reimbursable items such as travel, reproduction, etc. will be invoices at cost or according to the following rates:

GPS Equipment	\$50/hr.
Vehicle Mileage	\$0.58/mile
Copies	\$0.15/sheet
Telephone and Postage	At Cost
Large Prints	\$3.50/sheet



**KU RESOURCES, INC.
GENERAL TERMS AND CONDITIONS FOR SERVICES**

The terms and conditions set forth below govern all work or services requested by CLIENT as described and set forth in the Proposal of KU Resources, Inc. ("Company") attached hereto, and the Purchase Order issued by CLIENT or Agreement between Company and CLIENT ("Agreement"). The provisions of said Proposal or Agreement govern the scope of services to be performed, including the time schedule, compensation, and any other special terms. The terms and conditions contained herein shall apply unless expressly stated to the contrary or inconsistent with said Proposal or Agreement.

1. COMPENSATION

Unless otherwise stated in the Proposal or Agreement, CLIENT agrees to compensate Company in accordance with Company's published rate schedules in effect on the date when the services are performed. Copies of the schedules currently in effect are attached hereto. Company's rate schedules are revised periodically. Company's published labor rates will apply to all full-time, part-time and temporary employees or independent contractors used by Company to perform such services.

2. INVOICES AND PAYMENT

Invoices normally will be submitted monthly and payment is due within thirty (30) days of the invoice. Subcontractor billings will be billed as received and payable upon presentation. Payment of invoices shall be in U.S. dollars.

CLIENT shall notify Company within thirty (30) days of receipt of invoice of any charges associated with the invoice that CLIENT disputes and contends that CLIENT does not owe to Company. If CLIENT so notifies Company, and if only a portion of the invoice is disputed, CLIENT shall pay the undisputed portion within thirty (30) days or such portion shall be deemed delinquent. Any charges disputed by CLIENT in good faith will not be deemed delinquent. However, should Company have to resort to legal action to collect disputed charges and Company is successful in such action, then Company will be entitled to collect interest at the rate of 1-1/2% per month on the collected disputed charges beginning thirty (30) days after receipt by CLIENT of the invoice first containing the collected disputed charge. CLIENT may be charged interest at the rate of 1-1/2% per month on the unpaid balance on all delinquent invoices.

In the event that CLIENT terminates or suspends Company's services or work prior to completion, CLIENT shall pay, upon demand by Company, all outstanding invoices. Invoices not paid on demand when services are terminated or suspended shall be deemed delinquent.

All costs and expenses, including outside legal fees and Company's technical and legal personnel costs, reasonably incurred by Company to successfully collect charges associated with delinquent invoices or which are in dispute between CLIENT and Company, shall be paid by CLIENT. CLIENT shall also pay Company's legal costs and expenses related to any other lawsuit between CLIENT and Company regarding these terms and conditions in which the Company is ultimately successful.

Company reserves the right to cease or suspend any or all work or services under this Agreement, upon five (5) days written notice to CLIENT, in the event CLIENT fails to pay Company's invoices to CLIENT when due and payable under this Agreement or if, in the Company's opinion, CLIENT's financial condition or other circumstances do not warrant Company's continuing performance of its work or services hereunder.

3. INDEPENDENT CONTRACTOR

Company shall be an independent contractor and shall be fully independent in performing the services or work and shall not act or hold itself out as an agent, servant or employee of CLIENT.

4. COMPANY'S LIMITED WARRANTY

The sole and exclusive warranty which Company makes with respect to the services to be provided in the performance of the work is that they shall be performed in accordance with generally accepted professional practices and CLIENT'S standards and specifications to the extent disclosed to and accepted by Company.



Claims for defects, deficiencies, errors or omissions or any other claims of CLIENT must be made in writing no later than one hundred eighty (180) days after completion of the work and within thirty (30) days of CLIENT'S discovery of the alleged defect, deficiency, error or omission or other claim. In the event Company's performance of the work, or any portion thereof, fails to conform with the above stated limited warranty, the Company shall, at its discretion and its expense, proceed expeditiously to reperform the nonconforming work, or upon the mutual agreement of the parties, refund the amount of compensation paid to Company for such nonconforming work. In no event shall Company be required to bear the cost of gaining access in order to perform its warranty obligations.

Company's liability for nonconforming work shall be limited to the correction of such nonconforming work as provided herein to the extent of the contract price and shall be subject to the provisions of Section 7 below. Correction of any defect of nonconformity in the manner and for the period of time provided above shall constitute complete fulfillment of all such liabilities of Company whether the claims of CLIENT are based on contract, in tort (including negligence or strict liability) or otherwise with respect to or arising out of the work.

The foregoing warranties are exclusive and in lieu of all other warranties and, except as set forth above, Company makes no warranty, expressed or implied, in fact or in law, and no other warranty of any kind, whether statutory, written, oral, expressed or implied (including warranties of fitness for a particular purpose or merchantability) shall apply to the work. The remedies provided above are CLIENT'S exclusive remedies for any failure of Company to comply with its obligations.

5. CLIENT WARRANTY

CLIENT warrants that: it will provide to Company all available information regarding the site, structures, facilities, buildings and land involved with the work and that such information shall be true and correct; it will provide all licenses and permits required of it in order for Company to perform

d in accordance with generally accepted professional practices; and it has title to or will to all property necessary to perform the work.

6. INDEMNITY

Subject to the limitations of Section 7 below, Company agrees to indemnify, and hold harmless CLIENT (including its officers, directors, employees and agents) from and against any and all losses, damages, liabilities, claims, suits and the costs and expenses incident thereto (including legal fees and reasonable costs of investigation) which any or all of them may hereafter incur, become responsible for or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, private or public, contamination or adverse effects on the environment or any violation or alleged violation of governmental laws, regulations, or orders, to the extent caused by or arising out of: (i) Company's breach of warranties or other provisions hereunder or (ii) negligence or willful misconduct on the part of Company in performing services hereunder.

CLIENT agrees to indemnify and hold harmless Company (including its officers, directors, employees and agents) from and against any and all losses, damages, liabilities, claims, suits and the costs and expenses incident thereto (including legal fees and reasonable costs of investigation) which any or all of them may hereafter incur, become responsible for or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, private or public, contamination or adverse effects on the environment or any violation or alleged violation of governmental laws, regulations, or orders, caused by, or arising out of: (i) any negligence or willful misconduct of CLIENT, (ii) any breach by CLIENT of any warranties or other provisions hereunder, (iii) any condition including, but not limited to, contamination existing at the site, or (iv) contamination of other property arising or alleged to arise from or be related to the site, provided however, that such indemnification shall not apply to the extent any losses, damages, liabilities or expenses result from or arise out of: (i) any negligent or willful misconduct of Company; or

(ii) any breach by Company of any warranties hereunder.

7. LIMITATION OF LIABILITY

Company, its officers, agents, or employees, or its subcontractors, shall not be liable to CLIENT for any indirect, special, incidental or consequential losses, damages, or expenses whatsoever,



including, but not limited to personal injury, loss of use or non-operation of any CLIENT'S plant or property, loss of profits, costs to repair or replace any of CLIENT'S property, loss of use of or damage to the property of a third party, increased expenses of operations, penalties, fines, clean up costs or decline in value of stock caused by or resulting from the performance or nonperformance of the services or work, or the use of any resultant report, data, or other information.

Company's total liability, whether arising from or based upon breach of warranty, breach of contract, tort, Company's negligence, errors and omissions, strict liability, indemnity or any other cause or basis whatsoever, is expressly limited to the net fee received by Company. This provision limiting Company's liability shall survive the termination, cancellation or expiration of any contract and the completion of services thereunder. Any legal costs arising three (3) years after completion of Company's services to defend third party claims made against Company in connection with such services will be paid in full by CLIENT.

8. CONFIDENTIALITY

Each party shall retain as confidential all information and data furnished to it by the other party which relate to the other party's technologies, formulae, procedures, processes, methods, trade secrets, ideas, improvements, inventions and/or computer programs, which are designated in writing by such other party as confidential at the time of transmission and are obtained or acquired by the receiving party in connection with work or services performed under this Agreement, and shall not disclose such information to any third party.

Nothing herein is meant to prevent nor shall it be interpreted as preventing either Company or CLIENT from disclosing and/or using said information or data: (i) when the information or data is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when the information or data is generally available to the public without the receiving party's fault; or (iii) where the information or data is obtained or acquired in good faith at any time by the receiving party from a third party who has the right to disclose such information or data; or

(iv) where a written release is obtained by the receiving party from the transmitting party; or (v) as required by law.

9. FORCE MAJEURE

Neither party shall be responsible or liable to the other for default or delay in the performance of any of its obligations hereunder (other than the payment of money for services already rendered) caused in whole or in part by strikes or other labor difficulties or disputes; governmental orders or regulations; war, riot, fire, explosion; acts of God; acts or omissions of the other party; any other like causes; or any other unlike causes which are beyond the reasonable control of the respective party.

In the event of delay in performance due to any such cause, the time for completion will be extended by a period of time reasonably necessary to overcome the effect of the delay.

The party so prevented from complying shall within a reasonable time of its knowledge of the disability advise the other party of the effective cause, the performance suspended or affected, and the anticipated length of time during which performance will be prevented or delayed, and shall make all reasonable efforts to remove such disability as soon as possible, except for labor disputes, which shall be solely within CLIENT'S discretion. The party prevented from complying shall advise the other party when the cause of the delay or default has ended, the number of days which will be reasonably required to compensate for the period of suspension and the date when performance will be resumed.

Any additional costs or expense accruing or arising from the delaying event shall be solely for the account of CLIENT.

10. NOTICE

Any notice, communication, or statement required or permitted to be given hereunder shall be in writing and deemed to have been sufficiently given when delivered in person or sent by telex, facsimile, wire, or mail, to the address of the party for whom it is intended, or to such other address for either party as the party may by written notice designate.

11. ASSIGNMENT/SUBCONTRACT



Neither party hereto shall assign this Agreement or any part thereof or any interest therein without the prior written approval of the other party hereto except as herein otherwise provided. Company shall have the right to subcontract any portion of the work. Subject to the foregoing limitation, the Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

12. ESTIMATES

To the extent the work requires Company to prepare estimates (for example, estimates for the cost of construction, financing, acquisition of land or rights-of-way), such estimates shall be prepared in accordance with good engineering practice and procedure. However, Company has no control over construction costs, competitive bidding and market conditions, costs of financing, acquisition of land or rights-of-way and Company does not guarantee the accuracy of such cost estimates as compared to actual costs or contractors' bids.

13. MODIFICATION

In the event modifications and/or changes are requested by CLIENT after services have been performed, which modifications and/or changes are through no fault of Company, or in the event additional work not covered by the Agreement is requested by CLIENT, Company shall have the right to review such requests and notify CLIENT of the effect on price, schedule or any other obligations assumed by Company under this Agreement. Subject to the availability of required resources and on a schedule compatible with Company's other schedules and commitments, Company shall initiate work on any such changes.

14. DELAYED AGREEMENTS AND INFORMATION

The performance by Company of its obligations under this Agreement depends upon CLIENT performing its obligations in a timely manner and cooperating with Company to the extent reasonably required for completion of the work.

Delays by CLIENT in providing information or approvals or performing its obligations set forth in this Agreement may result in an appropriate adjustment of contract price and schedule.

15. CONSTRUCTION PHASE

To the extent the work is related to or shall be followed by construction work not performed by Company, Company shall not be responsible during the construction phase for the construction means, methods, techniques, sequences or procedures of construction contractors, or the safety precautions and programs incident thereto, and shall not be responsible for the construction contractor's failure to perform the work in accordance with the contract documents.

16. REPORTS, DOCUMENTS AND INFORMATION

All field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Company in performance of the work shall remain the property of Company. If required as part of the work, Company shall prepare a written report addressing the items contained in the work including the test results. Such report shall be the property of CLIENT. Company shall be entitled to retain three (3) copies of such report for its internal use and reference. All drawings and documents produced under the terms of this Agreement are the property of Company, and cannot be used for any reason other than their intended purposes.

17. LIMITED USE OF REPORT

Any report prepared as part of the work will be prepared solely for the use of CLIENT. Third parties are not to rely upon the report, unless both Company and CLIENT consent in writing to such reliance.

18. SAMPLE MANAGEMENT

Ownership of all samples obtained by Company from the project site is maintained by CLIENT. Company will store such samples in a professional manner in a secure area for the period of time necessary to complete the project. Upon completion of the project, Company will return any unused samples or portions thereof to CLIENT or, at Company's option, dispose of the samples in a lawful manner and bill CLIENT for all costs related thereto. Company will normally store samples for thirty (30) days.



19. RECOGNITION OF RISK

CLIENT recognizes and accepts that the work to be undertaken by Company may involve unknown conditions and hazards and that the results of Company's services cannot be guaranteed. CLIENT further recognizes that environmental, geologic, hydrological, and geotechnical conditions can and may vary from those encountered by Company at the times and locations where it obtained data and information, and that limitations on available data results in some uncertainty with respect to the interpretation of these conditions, despite the use of due professional care by Company. CLIENT recognizes that the performance of services hereunder or the implementation of recommendations made by Company may unavoidably alter the existing site conditions and affect the environment in the area being studied.

20. CONTAMINATED MATERIAL

It is understood and agreed that Company is not, and has no responsibility as, a generator, operator, owner, treater, storer, or disposer of pre-existing substances or wastes found or identified at work sites. Company shall not directly or indirectly assume title to such substances or wastes and shall not be liable to third parties alleging that Company has or had title to such materials.

CLIENT will indemnify and hold harmless Company from and against all incurred losses, damages, costs and expenses, including but not limited to attorneys' fees, arising or resulting from actions brought by third parties alleging or identifying Company as a generator, operator, storer, treater, owner, or disposer of pre-existing substances or wastes found or identified at work sites.

21. SUSPENSION OR TERMINATION

In the event the work is terminated or suspended by CLIENT prior to the completion of the services contemplated hereunder, Company shall be paid for: (i) the services rendered to the date of termination or suspension, (ii) the demobilization costs, (iii) the costs incurred with respect to noncancelable commitments, and (iv) reasonable services provided to effectuate a professional and timely project termination or suspension.

22. GOVERNING LAW

This Agreement shall be governed by and interpreted pursuant to the laws of the Commonwealth of Pennsylvania.

23. HEADINGS AND SEVERABILITY

Any heading preceding the text of sections hereof is inserted solely for convenience of reference and shall not constitute a part of the Agreement and shall not affect the meanings, content, effect or construction of the Agreement. Every part, term or provision of this Agreement is severable from others. Notwithstanding any possible future finding by a duly constituted authority that a particular part, 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, terms and provisions shall not be affected thereby.

24. ENTIRE AGREEMENT

The terms and conditions set forth herein constitute the entire Agreement and understanding of the parties relating to the work or services provided by Company to CLIENT, and merges and supersedes all prior agreements, commitments, representations, writings and discussions between them and shall be incorporated in all work orders, purchase orders and authorizations unless otherwise so stated by typed or handwritten, but not by pre-printed, words therein. The terms and conditions may be amended only by written instrument signed by both parties.



**KU RESOURCES, INC.
2023 MUNICIPAL RATE SCHEDULE**

Hourly billing rates for work performed by KU Resources are as follows:

<u>STAFF</u>	<u>RATE PER HOUR</u>
Principal	\$150.00
Senior Project Manager	\$135.00
Project Manager	\$120.00
Project Engineer	\$115.00
Staff Surveyor	\$ 95.00
Staff Engineer	\$104.00
Senior Design Tech	\$100.00
Staff Designer	\$ 75.00
Technician	\$ 75.00
Clerical	\$ 65.00
2-Man Survey Crew (PER PERSON)*	\$ 90.00

*Includes GPS Equipment

Direct costs for reimbursable items such as travel, reproduction, etc. will be invoices at cost or according to the following rates:

GPS Equipment	\$50/hr.
Vehicle Mileage	\$0.58/mile
Copies	\$0.15/sheet
Telephone and Postage	At Cost
Large Prints	\$3.50/sheet

