



CITY OF MERCER ISLAND

9611 SE 36th Street • Mercer Island, WA 98040-3732
(206) 275-7605 • FAX (206) 275-7726
www.mercergov.org

May 29, 2015

Bill Summers
PO Box 261
Medina, WA 98039

RE: Request for Information - File No. CAO15-001/SEP15-001 at
5637 East Mercer Way
Mercer Island, WA 98040;
King County Tax Parcel # 1924059312

Dear Mr. Summers:

As you are aware, the public comment period for the subject proposal ended on May 18, 2015. A number of comments were submitted to the City, which were sent to you under separate correspondence. Based on the comments received and the need to assess probable significant environmental adverse impacts, the City requests additional information prior to making a State Environmental Policy Act determination. Please provide the following:

1. An arborist report, prepared by a certified arborist with Tree Risk Assessor Certification (TRACE). This report should include factual data such as species, location, diameter at breast height, dripline, general health of the trees, description of disease/structural defects, site conditions, etc. Please also provide a mitigation plan for tree removal.
2. A downstream analysis, prepared by a Washington State licensed civil engineer. This report should analyze the on-site and downstream stormwater impacts of the proposed development, with proposed mitigation measures for any identified impacts.
3. The City requests peer review of the March 5, 2015 "Revised Critical Areas Report" by Sewall Wetland Consulting, Inc. Please see the attached scope of work by the peer reviewer, ESA. Review is to be paid by you, directly to the peer reviewer. Please contact ESA to arrange their site visit.

4. The City requests peer review of the March 13, 2015 "Geotechnical Engineering Study" by GEO Group Northwest, Inc. Please see the attached scope of work by the peer reviewer, Perrone Consulting, Inc. Review is to be paid by you, directly to the peer reviewer. Please contact Perrone Consulting to arrange their site visit.
5. An updated SEPA checklist that reflects the findings of the above requested items.

Should you have any questions, please contact me at 206-275-7717 or via e-mail at travis.saunders@mercergov.org.

Sincerely,



Travis Saunders, Senior Planner
City of Mercer Island Development Services Group



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 phone
206.789.9684 fax

www.esassoc.com

May 19, 2015

Mr. Travis Saunders
Senior Planner
City of Mercer Island
Development Services Department
9611 SE 36th Street
Mercer Island, WA 98040-3732

Subject: Scope of Work and Cost Estimate – Wetland and Stream Review for MI Treehouse, LLC Property

Dear Travis:

Environmental Science Associates (ESA) appreciates the opportunity to provide this scope of work and budget to the City of Mercer Island for wetland and stream peer review services for the MI Treehouse, LLC property. The property consists of 0.88 acre located at 5637 East Mercer Way (parcel 1924050312). The property owner has submitted to the City a wetland, stream, and wildlife survey report and critical areas enhancement plan prepared by Sewall Wetland Consulting, Inc. (revised March 5, 2015), a boundary/topographic survey prepared by CHS Engineers, LLC (November 2014), and proposed site plans prepared by Healey-Jorgensen Architects (December 2014). A geotechnical engineering study was also submitted; however, this document was not reviewed. At the City's request, ESA has prepared the following scope of work and cost estimate to review the submitted materials for compliance with City of Mercer Island critical areas code requirements (Chapter 19.07 Mercer Island Municipal Code).

Task 1a. Site Visit with Applicant's Biologist (Option 1)

ESA will meet onsite with the applicant's biologist to walk the property and review flagged stream and wetland boundaries. We will evaluate the wetland category, stream type, associated buffer requirements, and habitat conditions described in the March 2015 revised report.

Assumptions:

- The site visit can be completed by two ESA biologists within one day.
- The City will arrange permission from the property owner for ESA to access the site.
- If it is not possible for the applicant's biologist to meet ESA onsite, then the applicant will replace any missing wetland and stream boundary flags prior to ESA's site visit.

Deliverables:

- There are no written deliverables under this task.
- ESA will attempt to resolve any questions about the wetland/stream boundaries directly with the applicant's biologist during the site meeting.



MI Treehouse, LLC Review
May 19, 2015
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Task 1b. ESA-Only Site Visit (Option 2)

ESA will walk the property and review approximate stream and wetland boundaries, comparing onsite conditions with conditions documented in the revised report. We will evaluate the wetland category, stream type, associated buffer requirements, and habitat conditions described in the March 2015 revised report.

Assumptions:

- The site visit can be completed by one ESA biologist within one day.
- The City will arrange permission from the property owner for ESA to access the site.
- Stream and wetland boundaries will not be marked in the field.

Deliverables:

- There are no written deliverables under this task.
- ESA will document any significant stream or wetland boundary discrepancies in the review letter.

Task 2. Review Letter

ESA will prepare a brief letter for the City of Mercer Island describing the results of our site visit (Task 1) and any comments we have on the submitted wetland/stream report and associated maps and plans. Our review will be limited to the stream, wetland, and wildlife sections of the City's critical areas code (Chapter 19.07 Mercer Island Municipal Code).

This task includes time for ESA staff to review the submitted materials, communicate with City staff by phone or email as needed, and write the comment letter.

Assumptions:

- ESA will provide written comments to the City within 2 weeks of the site visit.
- This task does not include any in-person meetings.

Deliverables:

- Brief comment letter in electronic format (Word and PDF).



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Budget

The table below shows ESA's proposed fee to complete the above listed tasks. This is the maximum anticipated fee; the City would be billed for ESA's services on a time and materials basis.

Task	Cost
Site Visit (Option 1)	\$1,160
Site Visit (Option 2)	\$480
Review Letter	\$1,735
Direct Costs (mileage, camera)	\$45
Total	\$2,940 (Option 1)/ \$2,260 (Option 2)

Thank you for the opportunity to provide this proposal. Please contact me if you have any questions at (206) 789-9658.

Sincerely,

Scott Olmsted
Associated Scientist



May 29, 2015

Bill Summers
MI Treehouse, LLC
PO Box 261
Medina, Washington 98039

Subject: Proposal for Geotechnical Engineering Services
Third Party Review
5637 E. Mercer Way
Mercer Island, Washington

Perrone Consulting, Inc., P.S. (PCI) is submitting this proposal to provide a geotechnical engineering third party review of the proposed development at 5637 E. Mercer Way, Mercer Island, Washington. This proposal is based upon our discussions with Mr. Travis Saunders, City of Mercer Island Development Services Group.

The purpose of our services will be to review the geotechnical engineering design report and evaluate whether the project complies with City of Mercer Island Municipal Code requirements. Specifically we propose the following scope of services:

1. Conduct a site reconnaissance to observe existing slope conditions including soil exposures, vegetation, and any seepage.
2. Review published geologic information and slope stability maps.
3. Review Geo Northwest Group report and the proposed development plans.
4. Evaluate compliance with Mercer Island Municipal Code requirements.
5. Prepare a written report summarizing the results of our evaluation. Provide a preliminary assessment of the impacts of the proposed trail.

We propose to provide these services on a time and expense basis and in accordance with the "Terms for Geotechnical Engineering Services," and "Fee Schedule" which are attached and part of this agreement. For the scope of services outlined above, we estimate a fee of about \$1,500. In the event that project requirements change or unforeseen conditions are encountered which require additional work beyond the agreed scope of work, we will bring these to your attention and request your approval for an addendum to the contract cost.

If the scope of work and arrangements indicated above are satisfactory, you may authorize us to proceed by signing one copy of this proposal in the space provided below and returning it to us. We look forward to providing these services. If you have questions, please contact us.

Sincerely,
PERRONE CONSULTING, INC., P.S.

A handwritten signature in black ink, reading "Vincent J. Perrone", with a long horizontal flourish extending to the right.

Vincent J. Perrone, Ph.D., P.E.
Principal Engineer

Attachments: Terms for Geotechnical Engineering Services; Fee Schedule

The above statements are understood and accepted.

Authorized by:

Signature

Date

Name and Title (printed or typed)

Company

TERMS FOR GEOTECHNICAL ENGINEERING SERVICES

This Agreement between MI TREEHOUSE, LLC ("Client") and PERRONE CONSULTING, INC. P.S. ("Consultant") is effective as of MARCH 29, 2015. The parties agree as follows:

ARTICLE I – SERVICES

The Agreement between the parties consists of these terms, the attached proposal dated March 29, 2015 and any exhibits or attachments noted in the proposal. Together, these elements will constitute the entire Agreement superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this Agreement must be mutually agreed to in writing.

ARTICLE II – PAYMENT

Unless otherwise stated in a Work Order, payment shall be on a time and materials basis. Client shall pay undisputed portions of each progress invoice within ten (10) days of the date of the invoice. If payment is not maintained on a thirty (30) day current basis, Consultant may suspend further performance until payments are current. Client shall notify Consultant of any disputed amount within fifteen (15) days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount. Client shall pay an additional charge of one and one-half percent (1½%) per month for any past due amount. In the event of a legal action for invoice amounts not paid, attorneys' fees, court costs, and other related expenses shall be paid to the prevailing party.

ARTICLE III - STANDARD OF CARE

Client recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendation by Consultant will be based solely on information available to Consultant. Consultant is responsible for those data, interpretations, and recommendations, but will not be responsible for the interpretation or use of the information developed by any other persons or entities.

Services performed by Consultant under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the geotechnical engineering profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, express or implied, is made in connection with the providing of geotechnical engineering services.

ARTICLE IV - SITE ACCESS AND CONDITIONS

Client warrants to Consultant that it has full legal right to authorize Consultant to enter upon the real property where Consultant services are to be performed (the "Site") and upon all property, if any, required for ingress and egress to the Site. Client authorizes Consultant to enter upon the Site and such adjoining property as is necessary to allow Consultant to perform its services.

Consultant will take reasonable precautions to minimize any damage to the Site. However, Client acknowledges that during the normal course of the performance of Consultant services, some damage to the site may occur. The correction of any damage to the Site (surface or subsurface) shall be the obligation of the Client.

Client is responsible for accurately locating all subsurface structures and utilities. Consultant will take reasonable precautions to avoid known subsurface structures and utilities. Client shall indemnify and save harmless Consultant, its agents and employees from and against any and all claims, costs, suits and damages, including attorneys' fees, arising from damage done to subsurface structures and utilities not identified or accurately located. In addition, Client agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such claim, with compensation to be based upon Consultant's prevailing fee schedule.

ARTICLE V - SAMPLE DISPOSAL

Consultant will retain all samples of soil, rock or other materials obtained in the course of performing its services for a period of thirty (30) days after submission of the report covering those samples. Thereafter, further storage or transfer of samples to Client may be made at Client's expense upon written request from Client to Consultant received by Consultant prior to the expiration of the 30-day period. Unless written request is timely made, Consultant will dispose of such samples without liability of any kind to Client.

ARTICLE VI – ON-SITE SERVICES

When Consultant's services are provided on the job site, it is understood that the Owner and/or contractors other than those retained directly by Consultant will be solely and completely responsible for their own working conditions on the job site, including safety of all persons and property during the performance of the work, and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the contractor's performance conducted by Consultant personnel does not include review of the adequacy of the contractor's safety measures in, on, or near the work site. Additionally, Consultant takes no responsibility for budgetary or schedule matters associated

with the contractor's performance other than for contractors retained directly by Consultant, nor does Consultant take any responsibility for the adequacy and reliability of any procedure or analyses performed by the contractor.

ARTICLE VII - OWNERSHIP OF DOCUMENTS

All reports, borings, logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Consultant shall remain the property of Consultant. Client shall have the right to use all of the data, recommendations, proposals reports, design criteria and similar information provided to it by Consultant provided that this information shall not be used or relied upon by any party other than Client, save and except as may be required by the design and licensing requirements of the project for which the information is provided; further, such use shall be limited to the particular site and project for which the information is provided. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Client's right to the use of the information is expressly conditioned upon Client's prompt payment to Consultant of all sums due under this Agreement. In the event of Client's nonpayment or partial payment Client agrees that it shall not use any of the information for any purpose whatsoever and shall return the information to Consultant upon demand.

Consultant will retain all pertinent records relating to the Services for a period of two (2) years following submission of a report by Consultant, during which period the records will be made available to the Client for inspection and copying at Client's expense at reasonable times, provided that full payment of Consultant fees and expenses has been made and the consent of Consultant has been obtained.

ARTICLE VIII – UNFORESEEN CONDITIONS

If any unforeseen conditions or occurrences are encountered which, in Consultant's sole judgment, significantly affects or may affect the recommended scope of work, then Consultant will promptly notify client. After such notification, Consultant will complete the original scope of work if appropriate, or agree with Client to modify the scope of work, or terminate the Agreement pursuant to Article IX.

ARTICLE IX - TERMINATION

In the event that Client requests termination of work prior to completion of the work or Consultant terminates work due to unforeseen occurrences under Article VIII, Consultant will be paid for all work performed up to notice of termination and for all expenses incurred or committed that cannot be canceled. Consultant also has the right to complete at Client's expense, the analyses and records Consultant considers necessary to protect its professional reputation.

ARTICLE X – CLIENT RESPONSIBILITY

Client shall: (1) provide Consultant, in writing, all information relating to Client's requirements for the project; (2) correctly identify to Consultant, the location of subsurface structures, such as pipes, tanks, cables and utilities; (3) notify Consultant of any potential hazardous substances or other health and safety hazard or condition known to Client existing on or near the project site; (4) give Consultant prompt written notice of any suspected deficiency in the Services; and (5) with reasonable promptness, provide required approvals and decision. In the event that Consultant is requested by Client or is required by subpoena to produce documents or give testimony in any action or proceeding to which Client is a party and Consultant is not a party, Client shall pay Consultant for any time and expenses required in connection therewith, including reasonable attorney's fees.

ARTICLE XI – PERFORMANCE TIME PERIOD

The dates of performance shall be interpreted as a material consideration in this Agreement; however, in no event shall dates be construed as falling within the meaning of "time is of the essence."

ARTICLE XII - RISK ALLOCATION

Client agrees to limit Consultant's liability to Client and to all other parties for claims arising out of Consultant's performance of the services described in this Agreement. The aggregate liability of Consultant will not exceed the amount of the fee paid to Consultant for negligent professional acts, errors, or omissions, and Client agrees to indemnify and hold harmless Consultant from and against all liabilities in excess of the monetary limit established above.

Limitations on liability and indemnities in this Agreement shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action, except for willful misconduct or gross negligence. The parties also agree that Client will not seek damages in excess of the limitations indirectly through suits with other parties who may join Consultant as a third-party defendant. "Parties" means Client and Consultant and their officers, employees, agents, affiliates, and subcontractors.

Both Client and Consultant agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this Agreement.

ARTICLE XIII - DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Consultant and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Consultant and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for Consultant to take immediate measures to protect health and

safety. Client agrees to compensate Consultant for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

Notwithstanding any other provision of the Agreement, Client waives any claim against Consultant and, to the maximum extent permitted by law, agrees to defend, indemnify, and save Consultant harmless from any claim, liability, and/or defense costs for injury or loss arising from Consultant's discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the property's value.

Client will be responsible for ultimate disposal of any samples secured by Consultant which are found to be contaminated.

ARTICLE XIV - DISPUTES RESOLUTION

In the event of any dispute arising out of this Agreement, the parties agree to submit the dispute to mediation as a condition precedent to litigation. If a dispute at law arises from matters related to the services provided under this Agreement and that dispute requires litigation, then: (1) the claim will be brought and tried in judicial jurisdiction of the court of the county where Consultant's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction, and (2) the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, and other claim related expenses.

ARTICLE XV - FORCE MAJEURE

Consultant shall not be responsible for damages or delays in performance caused by force majeure, acts of God, or other events beyond its control.

ARTICLE XVI - NO THIRD PARTY RIGHTS

This Agreement shall not create any rights or benefits to parties other than Client and Consultant. No third party shall have the right to rely on Consultant opinions rendered in connection with the Services without Consultant written consent and the third party's agreement to be bound to the same conditions and limitations as Client.

ARTICLE XVII - GOVERNING LAW AND SURVIVAL

The law of the State of Washington will govern the validity of these Terms, their interpretation and performance. If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this Agreement for any cause.

FEE SCHEDULE

The "Fee Schedule" is subject to annual adjustment. Charges for our services are based on the Fee Schedule in effect at the time the services are provided.

Hourly Charges for Personnel

<i>Professional Service</i>	<i>Billing Rate</i>
Expert Testimony	\$250.00
Litigation and Expert Consultation	\$200.00
Engineering Design, Analyses, Consultation & Reporting	\$165.00
Project Management	\$135.00
Field Engineering	\$105.00
Technical Illustration and Boring Logs.....	\$75.00
Clerical Services	\$60.00

The hourly billing rates are based on the limitation of liability provisions as contained in the "Terms for Geotechnical Engineering Services."

Expenses

1. Subcontract services and exploration expenses (drilling, trenching etc.) are billed at cost plus a 15% handling fee.
2. Travel and subsistence expenses (transportation, room and board, etc.) for individuals on projects requiring travel and/or living away from the principal office are charged at cost plus a 15% handling fee.
3. Automobile expenses are charged at cost plus 15% or at a rate of \$0.575 per mile for travel between office and project.
4. Other out-of-pocket direct project expenses (mailing, reproduction, field supplies, etc.) are charged at cost plus a 15% handling fee.
5. Permits will be charged at cost.

Invoices

1. Invoices are submitted to the client on a monthly basis. Invoices will show charges for each category of personnel and expense classification.
2. Payment is due upon presentation of invoice and is past due fourteen (14) days from invoice date. In the event Client fails to make any payment to Perrone Consulting, Inc. when due, Perrone Consulting, Inc. may immediately cease work until the payment, together with a service charge at the rate of one and one-half percent (1½%) per month from the due date, has been received. Further, Perrone Consulting, Inc. may at its sole option and discretion refuse to perform any further work irrespective of payment from Client in the event Client fails to pay Perrone Consulting within 14 days of the invoice date for services rendered.
3. Attorneys' fees or other costs incurred in collecting any delinquent amount shall be paid by Client.

