

**MASTER AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF SAN JOSE AND
CORNERSTONE EARTH GROUP, INC.
FOR ENVIRONMENTAL SERVICES FOR VARIOUS CITY PROJECTS**

This AGREEMENT is made and entered into this ____ day of _____ 2011, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and CORNERSTONE EARTH GROUP, INC., a California corporation (hereinafter "CONSULTANT").

RECITALS

The purpose for which this AGREEMENT is made and all pertinent recitals are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from the date of execution through December 31, 2013, inclusive, subject to the provisions of Section 12 of this AGREEMENT.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

SECTION 4. COMPENSATION.

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall not exceed TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00). The rate and schedule of payment is set

out in EXHIBIT D, entitled "COMPENSATION", which is attached hereto and incorporated herein.

SECTION 5. METHOD OF PAYMENT.

Each month, CONSULTANT shall furnish to the CITY, a statement of the services performed for compensation during the preceding month. Such statement shall also include a detailed record of the month's actual reimbursable expenditures. Such statement shall be sent to the following address:

The City of San José
Environmental Services Department
Attention: (Project Manager)
200 East Santa Clara Street, 10th Floor Tower
San José, CA 95113-1905

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY. As an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY. Any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. SUBCONSULTANTS.

Notwithstanding Section 7 above, CONSULTANT may use the following subconsultants in performing the services under this AGREEMENT:

PeneCore Drilling
RGA Environmental
TestAmerica Laboratories

CONSULTANT shall be responsible for directing the services of the approved subconsultants and for payment of any compensation due. CITY assumes no responsibility whatsoever concerning subconsultant compensation.

CONSULTANT shall change or add subconsultants only with the prior written approval of CITY's Environmental Services Director or the Director's authorized designee.

SECTION 9. INDEMNIFICATION.

CONSULTANT shall defend, indemnify and hold harmless CITY against all claims, losses or liability that arise out of, pertain to, or relate to the negligence (active or passive), recklessness or willful misconduct of CONSULTANT, its officers, employees, agents or sub consultants . The acceptance of said services and duties by the CITY shall not operate as a waiver of such right of indemnification.

SECTION 10. INSURANCE REQUIREMENTS.

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT E, entitled "INSURANCE", which is attached hereto and incorporated herein. All policies, endorsements, certificates, and/or binders shall be subject to approval by the Director of Human Resources or the Director's authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved, in writing, by the Risk Manager. CONSULTANT agrees to provide the CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 11. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 12. TERMINATION.

CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days written notice of termination.

If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.

CITY's Director of Environmental Services ("Director") is empowered to terminate this AGREEMENT on behalf of CITY.

In the event of termination, CONSULTANT shall deliver to CITY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed and other reimbursable expenses incurred to the date of termination.

SECTION 13. GOVERNING LAW.

CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 14. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments.

SECTION 15. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY or as required by law.

SECTION 16. OWNERSHIP OF MATERIALS.

All reports, documents, electronic equivalents or other materials developed or discovered by the CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of the CITY without restriction or limitation upon their use.

SECTION 17. WAIVER.

CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 18. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.

CONSULTANT agrees that, in the performance of this AGREEMENT, CONSULTANT shall perform its obligations under the agreement in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the CITY's website at the following link: <http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm>

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

1. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.).
2. Use of Energy Star Compliance equipment.
3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.).
4. Internal waste reduction and reuse protocol(s).
5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 19. THE CONSULTANT'S BOOKS AND RECORDS.

CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.

CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

Any records or documents required to be maintained, pursuant to this AGREEMENT, shall be made available for inspection or audit at no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, the City Auditor, the

City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of CONSULTANT's business, CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

SECTION 20. CONFLICT OF INTEREST.

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT.

SECTION 21. GIFTS.

CONSULTANT is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.

CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.

The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by the CONSULTANT. In addition to any other remedies CITY may have in law or equity, the CITY may terminate this AGREEMENT for such breach as provided in SECTION 12 of this AGREEMENT.

SECTION 22. DISQUALIFICATION OF FORMER EMPLOYEES.

CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters that are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San José Municipal Code ("Revolving Door Ordinance"). CONSULTANT shall not utilize, either directly or indirectly, any officer, employee, or agent of the CONSULTANT to perform services

under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 23. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

SECTION 24. NOTICES.

All notices and other communications required or permitted under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY: City of San José
Environmental Services Department
200 East Santa Clara Street, 10th Floor
San José, CA 95113 – 1905
Attn: Environmental Compliance Program Manager

To CONSULTANT: Cornerstone Earth Group, Inc.
1259 Oakmead Parkway
Sunnyvale, CA 94085
Attn: Kurt Soenen

All notices of a legal nature, including any claims against the CITY, its officers, or employees shall also be served in the manner specified above to the following address:

The City of San José
Richard Doyle, City Attorney
200 E. Santa Clara St., 16th Floor Tower
San José, CA 95113-1905

A notice shall be deemed effective on the date of personal delivery or, if mailed, three (3) days after deposit in the mail.

SECTION 25. VENUE.

In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa

Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 26. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

MOLLIE DENT
Senior Deputy City Attorney

By _____
DEANNA SANTANA
Deputy City Manager
200 E. Santa Clara St., 17th Floor
San José, CA 95113-1905

“CONSULTANT”

CORNERSTONE EARTH GROUP, INC.,
a California corporation

By _____
Name: _____
Title: _____

RD:MD1:RPH
2/3/2011

By _____

Name: _____

Title: _____

Company address: 1259 Oakmead Pkwy
Sunnyvale, CA 94085

Employer I.D.: _____

EXHIBIT A

RECITALS

WHEREAS, the CITY of SAN JOSE desires to obtain consultant services to provide environmental consulting for City projects.

WHEREAS, CORNERSTONE EARTH GROUP, INC. has the necessary professional expertise and skill to perform the services required.

NOW, THEREFORE, the purpose of this AGREEMENT is to retain CORNERSTONE EARTH GROUP, INC. as CONSULTANT to CITY to perform those services specified in SECTION 1 of this AGREEMENT.

EXHIBIT B

SCOPE OF SERVICES

CONSULTANT shall provide to the CITY's Department of Environmental Services, environmental consulting services for various CITY projects.

CONSULTANT's services shall be provided as requested by the Director on an as-needed basis, as set forth in a specific Project Service Order. CONSULTANT shall provide general assistance on issues pertaining to CITY projects and shall prepare other environmental consultant services for Environmental Services as determined by the Director.

SECTION 1. GENERAL PROVISIONS

- A. CONSULTANT shall perform all services to the satisfaction of the CITY's Director.
- B. All of the services furnished by CONSULTANT under this AGREEMENT shall be of the currently prevailing professional standards and quality which prevail among environmental consultant professionals of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances. All documentation prepared by CONSULTANT shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines which are in effect at the time such documentation is prepared.
- C. All work performed under this AGREEMENT shall be authorized by a specific Service Order (see Exhibit G for form of Service Order). Each Service Order given by CITY shall detail the nature of the specific services to be performed by CONSULTANT, the time limit within which such services must be completed and the compensation for such services. Such details shall include a description of the project for which CONSULTANT shall perform the services, the geographic limits of the project, the type and scope of services to be performed, the format and schedule for deliverables, the schedule of performance, and the schedule of compensation. CONSULTANT shall not perform any services unless authorized by a fully executed Service Order. Any unauthorized services performed by CONSULTANT shall be at no cost to the CITY.
- D. CONSULTANT shall begin work under the Service Order only after receipt of the Service Order bearing the approval signature of the Director or the Director's designee and the signature of the City Attorney approving the Service Order as

to form. Each authorized Service Order issued under this AGREEMENT by CITY shall be incorporated into the terms and conditions of this AGREEMENT.

- E. CITY will assign a Project Manager to facilitate each Service Order authorized under this AGREEMENT. CONSULTANT shall coordinate with the designated Project Manager on the performance of each Service Order.
- F. CONSULTANT shall be responsible for the coordination with CITY and federal, state and local agencies that are necessary for all services authorized under this AGREEMENT.

SECTION 2. BASIC SERVICES.

- A. CONSULTANT shall provide environmental consulting services for various CITY projects, as more particularly described in the authorized Service Order. The authorized Service Order may include any of the specific environmental tasks set forth below in Section 3. The authorized Service Order may also include any other environmental services described and agreed to be performed by CONSULTANT, including, but not limited to, the following:
 - 1. Input regarding environmental/land use compatibility issues during the initial evaluation of potential sites for the various CITY projects; and
 - 2. Preparation of the appropriate project-level analysis and documents for each improvement as necessary to comply with the CITY's environmental requirements, the requirements of the California Environmental Quality Act and its implementing regulations and guidelines, and/or the requirements of the National Environmental Policy Act and its implementing guidelines.
- B. In addition to any specific services (described below in Section 3) that CONSULTANT must provide as part of each authorized Service Order, CONSULTANT shall perform any other general environmental services specified in the authorized Service Order. The following shall apply to such general services:
 - 1. CONSULTANT shall be responsible for providing thorough environmental consulting services in compliance with all applicable federal, state, and local regulations. All environmental work shall be conducted in conformance with applicable California state law.
 - 2. CONSULTANT shall meet with the Project Manager at the CITY offices to discuss the project details. CONSULTANT shall be made aware of the project description, location, schedule of deliverables, and requirements. CONSULTANT and CITY shall agree on the terms of the Service Order,

- including the specific tasks to be performed, the schedule for deliverables, and compensation.
3. After approval of Service Order and upon receipt of an authorized Service Order, CONSULTANT shall visit project site to note existing conditions, collect data, locate utilities, and familiarize himself/herself with the surrounding area. CONSULTANT shall make note of any issues that may need to be addressed in fulfilling the service request.
 4. CONSULTANT shall cooperate and communicate with CITY staff, project design firms, utility and regulatory agencies, and others who are involved with the CITY project, on an as-needed basis, to perform a comprehensive service. CONSULTANT shall perform their work in their offices.
 5. CONSULTANT shall perform service in accordance with the specific requirements and tasks stated in the Service Order.
 6. **Project Record** - CONSULTANT shall develop and maintain a detailed record of the chronology of the project tasks and milestones completed that are decisive, conclusive or relevant to the outcome of each Project. CONSULTANT shall submit a copy of the Project Record to the Project Manager prior to final payment for services performed on the Project. The Record shall be submitted in both paper and electronic format.
 7. **Project Documents** - Aside from deliverables specified in the Service Order, and before the conclusion of the Project and final payment for services performed on the Project, CONSULTANT shall submit to the Project Manager a copy of all project documents that are decisive, conclusive or relevant to the outcome of the Project. Such documents may include, without limitation, electronic files of all drawings and specifications, reports and studies, calculations, utility applications and permits, records of meetings, and communication documents. Documents shall be submitted in both paper and electronic format as available.

SECTION 3. SPECIFIC ENVIRONMENTAL SERVICES.

- A. In addition to any other environmental services contained in the authorized Service Order, the Service Order may incorporate any of the services set forth below in this Section 3 by simply identifying the particular Task, in which case the Task is considered to have been incorporated into the authorized Service Order and CONSULTANT shall perform the Task as set forth herein.
- B. Tasks: Listed below are the Tasks which may be included in the Service Order.

Task 1 – Phase I Environmental Site Assessment

CONSULTANT shall perform a Phase I Environmental Site Assessment to identify potential presence of hazardous substances and soil or groundwater contamination on the Project site. CONSULTANT shall perform the Phase I Environmental Site Assessment per the most current ASTM (American Society for Testing Materials) guidelines applicable to such assessments and the CITY's requirements.

CONSULTANT shall submit one draft of the report to the CITY and then a final report (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY on the draft report.

Task 2 – Phase II Environmental Site Assessments

CONSULTANT shall perform a Phase II Environmental Site Assessment on the Project site. CONSULTANT shall perform the Phase II Environmental Site Assessment per the most current ASTM guidelines applicable to such assessments and the CITY's requirements.

CONSULTANT shall submit one draft of the report to the CITY and then a final report (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY on the draft report.

Task 3 – Leaking Underground Fuel Leak Investigations

CONSULTANT shall assist the CITY in performing leaking underground storage tank (LUST) investigations at Project Site. The work performed will typically consist of, but may not be limited to: soil and groundwater investigations and remediation, regulatory interaction, routine groundwater monitoring, well closures, tank removals and other associated work to maintain the Project site in compliance with local and state regulators.

When a written deliverable is part of the work, CONSULTANT shall submit one draft of the deliverable to the CITY and then a final deliverable (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY.

Task 4 – Health Risk Assessments

CONSULTANT shall prepare a site-specific Health Risk Assessment that will address potential human health impacts to the future users of the Project arising from the presence of the hazardous material found at the Project site. The Health

Risk Assessment (“HRA”) will be prepared by a toxicologist. The HRA will consider compound concentrations, transport and fate of compounds, exposure pathways, and property use. The HRA may involve the following steps:

- The selection of chemicals of concern/Hazard Identification
- Does Response assessment
- Exposure assessment
- Risk characterization

When a written deliverable is part of the work, CONSULTANT shall submit one draft of the deliverable to the CITY and then a final deliverable (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY.

Task 5 – Asbestos and Lead-Based Paint Surveys

CONSULTANT shall perform asbestos and lead-based paint surveys following the standard environmental practices and regulations of local, state and federal environmental regulatory agencies (e.g. NESHAPs). The interaction may consist of preparing letters, reports and work plans, phone calls and/or attending meetings.

When a written deliverable is part of the work, CONSULTANT shall submit one draft of the deliverable to the CITY and then a final deliverable (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY.

Task 6 – Remedial Design and Feasibility Studies for Contaminated Properties

CONSULTANT shall prepare remedial design and feasibility studies for contaminated properties. The Project site may contain soil, soil gas and/or groundwater contamination. The work shall be performed following standard environmental practices.

When a written deliverable is part of the work, CONSULTANT shall submit one draft of the deliverable to CITY and then a final deliverable (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY.

Task 7 – Air Quality Studies

CONSULTANT shall perform air quality studies at Project site following standard environmental practices and meeting the requirements of local, state and federal regulatory as directed by the CITY.

When a written deliverable is part of the work, CONSULTANT shall submit one draft of the deliverable to the CITY and then a final deliverable (one hard copy and one electronic copy) that incorporates and responds to any comments made by the CITY.

Task 8 – Miscellaneous Environmental Consulting Support

CONSULTANT shall perform various environmental tasks on an as-needed basis as directed by the CITY. The work is expected to be routine environmental consulting tasks that may include, but not be limited to: reviewing other consultants' work, preparing engineering cost estimates, assisting CITY in characterization and off-site disposal of hazardous and non-hazardous soil and groundwater, locating underground structures and other general environmental tasks.

EXHIBIT C

SCHEDULE OF PERFORMANCE

All work under this AGREEMENT shall be completed on or before December 31, 2013. Work shall be initiated on an as-needed basis at the request of CITY, and work shall be prosecuted pursuant to details defined in each specific Service Order, as set forth in EXHIBIT B of this AGREEMENT.

At the discretion of CITY, the term of this AGREEMENT may be extended up to six (6) months in order to complete specific project work that is authorized by Service Order prior to December 1, 2013. Extension of the term of the AGREEMENT shall be accomplished only by written authorization by the Director of Environmental Services Department or the Director's designee, and only in the event that no other provision of this AGREEMENT is modified.

EXHIBIT D
COMPENSATION

Section 1. Maximum Compensation for Master Agreement.

Maximum Amount: The maximum amount of compensation CITY will pay to the CONSULTANT under this Master Agreement, including both payment for professional services and reimbursable expenses, shall not exceed TWO HUNDRED FIFTY THOUSAND Dollars (\$250,000.00). Any hours worked for which payment would result in a total exceeding this maximum amount shall be at no cost to the CITY.

Manner of Payment: Each Service Order will set forth whether the CITY will pay CONSULTANT for work performed under such Service Order on a lump sum basis or on a "time and materials" basis. Section 2 of this Exhibit applies to each Service Order where CITY will pay CONSULTANT a lump sum for the work performed. Section 3 of this Exhibit applies to all Service Orders where CITY will pay the CONSULTANT on an hourly basis for the work performed.

Section 2. Lump Sum Payment.

- 2.1 **Lump Sum Amount:** The Service Order shall specify the lump sum amount the CITY will pay CONSULTANT for performing the required work. The lump sum amount compensates CONSULTANT for all its costs necessary to complete the work, including professional services and reimbursable expenses. CONSULTANT shall complete all work set forth in the Service Order for the lump sum amount.
- 2.2 **Progress Payments:** The Service Order may provide for CITY to pay the lump sum amount by making progress payments. Under such circumstances, the Service Order shall specify appropriate milestones and the amount payable upon successful completion of each milestone. Upon completion of a milestone to the Director's satisfaction, the CONSULTANT shall invoice CITY for the appropriate progress payment. CITY will make the appropriate progress payment to CONSULTANT within thirty-(30) days of the Director's approval of the CONSULTANT's invoice.
- 2.3 **Lump-Sum Payment:** If the Service Order does not provide for CITY to make progress payments, then CITY shall make a single, lump-sum payment to the CONSULTANT upon completion of all the work to the Director's satisfaction. Upon completion of the work to the Director's satisfaction, CONSULTANT shall invoice CITY for the lump-sum amount. CITY shall pay the lump-sum amount within thirty-(30) days of the Director's approval of CONSULTANT's invoice.

Section 3. Payment on an Hourly Basis.

- 3.1 **Maximum Compensation:** The Service Order shall specify the maximum amount of compensation for the work, including both payment for professional services and reimbursable expenses. CONSULTANT shall complete all work it is required to perform under the Service Order for no more than the specified maximum amount. Any hours worked for which payment would result in a total exceeding this maximum amount shall be at no cost to the CITY.
- 3.2 **Budget:** If the Service Order itemizes budget amounts for any phase or category of work, then CONSULTANT shall not exceed such itemized amount without the Director's prior written authorization. Director may approve, in writing, transfers of budget amounts between any of the phases or categories of work listed in the Service Order, provided the aggregate total compensation does not exceed the maximum compensation.
- 3.3 **Hourly Rates:** CITY will compensate CONSULTANT at the hourly rates in Exhibit D.1 of this Master Agreement. Notwithstanding anything to the contrary, these hourly rates are valid for the term of this Master Agreement unless changed by written amendment.
- 3.4 **Reimbursable Expenses:** CITY will reimburse for expenses subject to the following:

Each Service Order will specify the maximum amount of expenses for which CITY will reimburse CONSULTANT. CITY will reimburse expenses at actual cost plus fifteen (15%) percent. Any expense CONSULTANT incurs beyond the specified amount is at no cost to CITY.

The following expenses are reimbursable to the extent CONSULTANT documents to Director's satisfaction that they were incurred in performing the work required by the Service Order:

- (a) the cost of mailing, shipping and/or delivery of documents or products to CITY.
 - (b) the cost of photographing, reproducing and/or copying.
 - (c) the cost of the subconsultant, provided the Director has preapproved, in writing, the use and cost of the subconsultant.
 - (d) telephone and fax charges.
 - (e) the rental of any specialized equipment to the extent the Director has preapproved, in writing, the cost of such rental.
 - (f) any other expenses expressly identified in the Service Order as reimbursable. No other expenses are reimbursable unless the Director has preapproved, in writing, such expense.
- 3.5 **Invoice:** Every month the CONSULTANT shall invoice CITY for work performed during the immediately previous month. The monthly invoice shall set forth the

relevant invoice period, a detailed description of the work completed, the number of hours worked and the applicable hourly rates, a detailed description of the reimbursable expenses incurred and the amount of such expenses, and documents supporting the reimbursable expenses. The invoice shall also show the total to be paid for the invoice period, the aggregate amounts of payments received to date under the Service Order and the balance of maximum compensation for remaining work on the Service Order.

EXHIBIT D.1

SCHEDULE OF CHARGES

**Cornerstone Earth Group, Inc.
Hourly Fee Rates and Equipment Charges
Through December 31, 2013**

Principal Engineer or Geologist	\$191.00
Senior Risk Assessor	\$191.00
Senior Project Engineer or Geologist	\$179.00
Project Engineer or Geologist	\$155.00
Construction Services Manager	\$155.00
Senior Staff Engineer or Geologist	\$139.00
Senior Supervisory Technician	\$139.00
Staff Engineer or Geologist	\$120.00
Supervisory Technician	\$120.00
Engineering Technician II	\$98.00
Dispatcher/Engineering Technician I	\$93.00
Technical Illustrator/CAD Operator	\$89.00
Technical Editor	\$85.00

Charges for personnel will be made in accordance with the above rates. For field and laboratory engineers and technicians, regular hourly rates are normal workday construction hours. For time spent over 8 hours in a day, time spent on swing shifts, and time spent on Saturdays by field and laboratory personnel, overtime rates will be charged at 1.5 times the hourly rate. Work on Sundays and holidays and for work in excess of 12 hours in one day will be charged at 2.0 times the hourly rate. Field rates are based on a 48 hour notice. For less than a 48 hour notice, a 10 percent surcharge will be added. All field personnel, vehicle and equipment charges are portal to portal. Reproduction of project documents will be charged as a project expense. The hourly rate for professional staff to attend legal proceedings will be 2 times the hourly rate specified above.

Equipment Charges

Vehicle	\$11.00 per hour
Nuclear Density Gauge	\$6.00 per test
Slope Inclinometer	\$150.00 per day
GPS Unit	\$50.00 per day
Hand Auger Equipment	\$45.00 per day
55-gallon Drum	\$55.00 each
Liners	\$6.00 each
AutoCad and Modeling Software	\$20.00 per hour
Organic Vapor Meter	\$125.00 per day
PDR-1000 Dust Meter	\$150.00 per day or \$400 per week
Depth Sounder	\$35.00 per day
Insulated Sample Carriers	\$5.00 per day
Plotter	\$5.00 per plot
Laboratory Equipment	\$10.00 per hour
Encore Sampler	\$15.00 per sampler
Encore Handle	\$50.00 per handle

Direct Expenses

Reimbursement for the direct expenses listed below incurred in connection with the Work will be billed at cost plus 15 percent.

- 1) Drillers, utility locators, laboratories, contractors, hygienists, and consultants
- 2) Rented vehicles, public transportation, tolls, and air flights
- 3) Permits and special fees, insurances and licenses required to perform Work
- 4) Computer programs and rented field equipment
- 5) Large volume copying of project documents
- 6) Maps, photographs, and environmental databases
- 7) Overnight or same day delivery charges
- 8) Copying or production of over-sized figures and plans



PeneCore Drilling
1238 Alice Street
Woodland, CA 95776
Ph: 530-661-3600
Tuan@PeneCore.com

Estimator		Project Name		Project Location		
Tuan Nguyen		General Pricing		General Pricing		
Line Item	Description	Unit	Unit Price	Quantity	Line Total	
1.0	Mobilization/Demobilization	HR	\$ 110.00	0	\$ -	
2.0	Geoprobe 6600 DPT Rig (2-man crew)	Day	\$ 1,650.00	0	\$ -	
3.0	Geoprobe 7822 Tracked Rig	Day	\$ 1,800.00	0	\$ -	
4.0	Hollow Stem Auger Combo Rig	Day	\$ 2,450.00	0	\$ -	
5.0	DPT Sample Liners	FT	\$ 2.00	0	\$ -	
6.0	PVC For Groundwater Sampling	FT	\$ 3.00	0	\$ -	
7.0	Borehole abandonment (up to 3" bh)	FT	\$ 1.25	0	\$ -	
8.0	2" PVC	FT	\$ 6.00	0	\$ -	
9.0	Well Materials (sand, cement, bent)	FT	\$ 8.00	0	\$ -	
10.0	Well Boxes (flush mount)	EA	\$ 125.00	0	\$ -	
11.0	Well Boxes (monument)	EA	\$ 350.00	0	\$ -	
12.0	Decontamination equipment	Day	\$ 75.00	0	\$ -	
13.0	Drums	EA	\$ 50.00	0	\$ -	
14.0	Concrete coring (if needed)	EA	\$ 50.00	0	\$ -	
15.0	Per diem (per crew member)	Day	\$ 110.00	0	\$ -	
16.0	Well Development	Day	\$ 1,850.00	0	\$ -	
17.0	Overtime (time exceeding 10-hrs)	HR	\$ 250.00	0	\$ -	
Estimated Total					\$0	

Scope of Work:

PeneCore offers Direct Push, Hollow Stem Auger, Well Development, and Technician Services.
Please call Tuan for your specific needs.



2010 FEE SCHEDULE

PERSONNEL

	<u>HOURLY RATES</u>
PRINCIPAL/ CERTIFIED INDUSTRIAL HYGIENIST	\$225.00
CERTIFIED INDUSTRIAL HYGIENIST - NON PRINCIPAL	\$155.00
CERTIFIED SAFETY PROFESSIONAL	\$155.00
SENIOR PROJECT MANAGER	\$155.00
CONSULTING REGISTERED GEOLOGIST	\$155.00
PROJECT MANAGER	\$135.00
SENIOR REGISTERED GEOLOGIST	\$135.00
CONSULTING INDUSTRIAL HYGIENIST	\$95.00
SENIOR INDUSTRIAL HYGIENIST	\$85.00
CERTIFIED ASBESTOS CONSULTANT (California only)	\$75.00
FIELD TECHNICIAN	\$65.00
DRAFTING (CADD)	\$75.00
ADMINISTRATIVE	\$55.00
LEGAL EXPERT DEPO (CIH)	\$375.00
DAILY RATE FOR FIELD INDUSTRIAL HYGIENIST/SAFETY CNSLT	\$ TBD
OVERTIME AT 1.5 TIMES THE HOURLY RATE	

EXPENSES

SUB CONSULTANTS	Cost plus 15%
MILEAGE	.65/mile
TRAVEL TIME for less than 8 hour day (within 30 miles of RGA offices)	No Charge
TOLL	At Cost
MISCELLANEOUS	Cost plus 10%
REPORTS HARD COPIES BW	\$0.50 /pg
REPORT COLOR COPIES	\$1.00 /pg
MISCELLANEOUS	Cost plus 10%
REPORTS HARD COPIES BW	\$ 0.50 /pg
REPORT COLOR COPIES	\$ 1.00 /pg

ASBESTOS AND LEAD SAMPLE ANALYSES

PLM - Bulk (24 HOUR TURNAROUND)	\$ 20.00 Each
PCM - Air (24 HOUR TURNAROUND)	\$ 20.00 Each
TEM - Air (24-36 HOUR TURNAROUND)	\$ 125.00 Each
TEM - Air or Microvac (36-48 HOUR TURNAROUND)	\$ 125.00 Each
LEAD AIR, BULK or WIPE BY FLAME AA (24 HOUR TURNAROUND)	\$ 25.00 Each

MOLD & FUNGUS SAMPLE ANALYSES

DIRECT MICROSCOPY (TOTAL - VIABLE AND NON-VIABLE)

BULK SAMPLE (drain pans, filters, carpet, wall molding, etc.)	\$ 80.00 Sample
AIR-O-CELL	\$ 80.00 Sample

CULTURE

STANDARD FUNGAL ANALYSIS (Genus ID +Aspergillus to species)	\$ 100.00 Sample
---	------------------

1466 66th Street ~ Emeryville, California ~ 94608 ~ 510.547.7771 ~ 510.547.1983 fax



AIR SAMPLE – PREMIUM FUNGAL ANALYSES, FULL SPECIATION	\$	275.00	Sample
BULK SAMPLE (drain pans, filters, carpet, wall molding, etc.) - PREMIUM	\$	275.00	Sample
ADDITIONAL BACTERIAL IDENTIFICATION, PER ISOLATE	\$	95.00	Sample
ADDITIONAL FUNGAL IDENTIFICATION, PER ISOLATE	\$	95.00	Sample

EQUIPMENT

CO, CO2, Temperature and Humidity Meter	\$	150.00	Day
Anderson Air Sampler (Mold & Fungus)	\$	150.00	Day
Explosive Gas Meter (MultiRAE for 5 Gases – LEL and VOC detection)	\$	75.00	Day
DustTrak Aerosol Monitor (TSI 8520)	\$	150.00	Day
Balometer (HVAC Balancing)	\$	150.00	Day
Infrared Camera	\$	250.00	Day
Direct Read Moisture Meters and Probes	\$	25.00	Day
Other Equipment (As needed)			Cost plus 15%

SOILS

TPH Multi-Range (Gas, Diesel, Oil)	\$	175.00	Sample
TPH by 8015C, STANDARD Turnaround	\$	75.00	Sample
TPH by 8015C, pit samples on 24 hour RUSH	\$	175.00	Sample
Volital Organic Compounds (VOC's) -EPA 8260	\$	175.00	Sample
CAM 17 Metals	\$	175.00	Sample
BTEX by 8021 STANDARD TAT	\$	75.00	Sample
LUFT 5 Metals by 6010C - STANDARD TAT	\$	75.00	Sample
TILC (3 to 5 day turnaround)	\$	125.00	Sample
TCLP (3 to 5 day turnaround)	\$	125.00	Sample
STLC (3 to 5 day turnaround)	\$	125.00	Sample
RCRA (TCLP/STLC) Includes Mercury Cold Vapor AA (3 to 5 day)	\$	300.00	Sample

TestAmerica <small>INCORPORATED in Pennsylvania, USA</small>		Analysis for:	
Featuring: <ul style="list-style-type: none"> • 5-day turnaround standard • Local service, national scope • Final reports emailed to you • Soil and water same price • Friendly, courteous people • Prompt reliable electronic reports 		<ul style="list-style-type: none"> Site investigation • Remediation • Risk assessment • Groundwater monitoring • Natural attenuation • Discharge permits • 	
		TAL San Francisco 1220 Quarry Lane Pleasanton, CA 94566 Tel (925) 484-1919 Fax (925) 484-1699 www.testamericainc.com	
5 day TAT			
Volatile Organics Analysis			
TPH gas/BTEX with MTBE	EPA 8260B		50.00
Five fuel oxygenates	EPA 8260B		75.00
TPH gas, BTEX, 5 fuel oxygenates, 12 DCA & EDB	EPA 8260B		110.00
TPH gas, BTEX, 5 fuel oxy, 12 DCA & EDB, ethanol	EPA 8260B		125.00
TPH gas, full Volatile organics (VOC) plus oxygenates	EPA 8260B		140.00
Halogenated Volatile Organics (HVOC) list	EPA 8260B (8021 list)		70.00
Volatile organic compounds (VOC) Standard list	EPA 8260B/ 624		90.00
TPH gasoline/BTEX	EPA 8015M/8021B		quote
Semivolatile Organics Analysis			
TPH diesel	EPA 3550, 3511, or 3510/8015M		50.00
TPH diesel and motor oil (TEPH)	EPA 3550, 3511, or 3510/8015M		55.00
TPH other extractable hydrocarbons (TEPH)	EPA 3550, 3511, or 3510/8015M		60.00
Semivolatile organic compounds (SVOC)	EPA 8270C, 625		150.00
Polynuclear Aromatic Hydrocarbons (PAH, PNA) (low level)	EPA 8270C (GC/MS)		125.00
	EPA 8270 SIM/8310		135.00
	EPA 8270C		125.00
Phenols	EPA 8270 SIM		135.00
1,4 Dioxene/NDMA	EPA 8081A		75.00
Organochlorine pesticides	EPA 8082	PCBs in oil: 45.00	55.00
PCBs	EPA 8081A and 8082, 608		130.00
Organochlorine pesticides and PCBs	EPA 8015M		125.00
Glycols	EPA 8015M		100.00
Alcohols (methanol, ethanol, isopropanol)	EPA 3810		125.00
Dissolved Gases (methane, ethane, ethene, CO2)			
Air Analysis - For samples in Tedlar bags. Rush charges apply to samples received on Friday or samples more than 24 hours old.			
Halogenated volatile organics (HVOC)	EPA 8021B by 8260		100.00
TPH gasoline/BTEX/MTBE	EPA 6030/8015/8021B		85.00
Volatile organic compounds (VOC)	EPA 8260B		175.00
Low level volatiles analysis	TO-14 and TO-15 (analyzed at TAL Los Angeles)		quote
Metals Analysis			
Individual metals by ICP	EPA 6010		15.00
Mercury (cold vapor)	EPA 7470/7471		30.00
LUFT heavy metals (5 metals)	EPA 6010B		55.00
RCRA metals (8 metals)	EPA 6010B and 7470/7471		75.00
Priority Pollutants (13 metals)	EPA 6010B and 7470/7471		85.00
Title 22 (CAM 17 metals)	EPA 6010B and 7470/7471		95.00
Hexavalent chromium	EPA 7195		55.00
Leaching and Cleanup Procedures			
TCLP, STLC, STLC DI Water leach, metals	EPA 1311/CAM W.E.T.		55.00
TCLP, STLC, STLC DI organics, other procedures	EPA 1311-ZHE/CAM W.E.T./SPL/others		65.00
Silica gel cleanup	EPA 3630M		10.00
Gel permeation cleanup	EPA 3640A (done at TAL Seattle)		quote
General Chemistry Tests			
Alkalinity	EPA 310.1		22.50
Anion scan (Br, Cl, F, NO ₃ , NO ₂ , PO ₄ , SO ₄)	EPA 300		90.00
Anion individual	EPA 300		18.00
Flash Point	EPA 1010		35.00
Hardness	EPA 200.7/6010		22.50
Oil and grease	EPA 1684		55.00
Per cent Moisture/ dry weight result	EPA SW 846		15.00
pH	EPA 9040/9045	Water 7.50	Soil 15.00

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General Chemistry (continued)

				5-day TAT
Paint Filter Test	EPA 9095			30.00
RCI (reactivity to water, corrosivity, and ignitability)	CA Title 22	Water	150.00	Soil 67.50
Settleable Solids (SS)	EPA 160.5			20.00
Specific Conductance	EPA 120.1, 9050	Water	7.50	Soil 20.00
Total Dissolved Solids (TDS)	EPA 160.1			20.00
Total Suspended Solids (TSS)	EPA 160.2			20.00

Testing Packages

General Mineral, Ground water (Alkalinity, pH, SG, TDS, Hardness, Cl, SO ₄ , Na, K, Ca, Mg, Fe, Mn, Cu, Zn)	170.00
General Mineral, Surface water (Same as above, plus MBAS - detergents)	210.00
Natural Attenuation Package (alkalinity, ferrous iron, manganese, nitrate, sulfate, methane and carbon dioxide)	210.00

Other Testing Procedures:

Compositing fee (per container)				3.75
Filtration in lab		Organics	20.00	Metals: 10.00
Crushing & homogenizing sample				15.00
Encore™ soil container processing fee (per container)				5.00
Extract and hold sample, with no analysis				half of analysis cost
Disposal fee. Applies if over half of containers are on hold. Price per container.				3.00

Other Routine Tests -- sent to other TAL Laboratory

Individual metals by ICP/MS (price per metal)	EPA 6020, 200.8			45.00
Title 22 (CAM17) metals by ICP/MS	EPA 6020			165.00
Ammonia	EPA 350.2			30.00
Asbestos (PCM, PLM on solids)*	EPA 600-R-93-116			25.00
BOD*	EPA 405.1			60.00
COD	EPA 410			35.00
Coliform Bacteria, quantified, plus fecal coliform*	SM 9221E			60.00
Coliform Bacteria, presence/absence (drinking water)*	SM 9223B			35.00
Cyanide-total	EPA 335.2/9016			61.00
Cyanide-reactive	SW 846, Chapter 7, Section 7.3			61.00
Dioxin-disposal, part per billion reporting (TAT 28d)	EPA 8280A			675.00
Dioxin-risk assessment, part per quadrillion (TAT 28d)	EPA 8290/1613			675.00
Fish Bioassay, Title 22 or NPDES % survival*	CA Methods			310.00
Mercury (sub-part per billion)	EPA 1631			175.00
Organochlorine herbicides	EPA 8161			200.00
Organophosphorus pesticides	EPA 8141			175.00
Sulfide-total	EPA 376.1/9030A	Water	33.00	Soil 60.00
Sulfide-reactive	SW 846, Chapter 7, Section 7.3			44.00
Total organic carbon (TOC)	EPA 415.1	Soil	125.00	Water 35.00

*Tested at a non-TAL lab, with a two week turnaround. Add three days to turnaround for shipping. Rush charges may be higher.

Reporting and Professional Services:

Electronic report (EDD)	Standard EDD included on request. EDD with GC Data +5%. CA State EDF \$25 per submittal. Custom deliverables, training, and applications are also available.
Chromatograms, summary reports	5.00 each
Report and data research	50.00 per hour
Data Packages	EPA Level 3 report +15%, EPA Level 4 report +20%
Professional investigations and testimony	Analyst or project manager, \$100/hr; QA Manager, \$150/hr; Lab Director, \$200/hr

Rush Charges:

Three days turnaround (from date received)	Std. Tests: add 25%	STLC: add 100%	TCLP: add 50%
2 days	add 50%	not available	add 100%
1 day	add 100%	not available	not available
24hrs	add 125%		
Same day, Overnight, or Weekends	add 200%		(\$400 minimum for weekend work)

Note: Rush turnarounds due at close of business, unless arranged in advance. Samples received for rush after 3 pm begin turnaround the next day, unless arranged in advance.

Courier Services:

Sample pickup at Bay Area/North Bay/Sacramento	No charge, with 24 hours notice. Charged at our cost if less than 24 hours notice.
Pickup at well-defined Bay Area job sites	No charge, with 24 hours notice.
Pickup at other times and locations	Charged at cost. Please give 4 hours' notice, 24 hours if outside the Bay Area.
Emergency supplies delivery	Charged at cost.

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Sample Receiving Hours: 7 am to 7 pm Monday to Friday

TestAmerica's minimum charge for a group of samples received and logged in together at the laboratory is \$100. Group of samples received that require service totaling less than \$100 will be charged a \$100 minimum transaction charge for the sample group.

Supplies Services:

Class VOA, 1 L amber glass, plastic sample jars
Other supplies

No charge with 48 hours notice. Delivery charged at cost if <48 hours notice.
See Container Request Form for prices of containers and filtration kits.

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EXHIBIT E
INSURANCE

CONSULTANT, at CONSULTANT's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions insurance for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. **Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. **Workers' Compensation and Employers Liability:** Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. **Professional Liability Errors and Omissions:** \$1,000,000 Aggregate Limit.

C. Deductibles and Self-Insured Retention

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, employees, agents and contractors; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverage

- a. The City of San José, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, the CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
- b. CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be in excess of CONSULTANT's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
- d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain waiver of subrogation in favor of the City of San José, its officers, employees, agents and contractors.

2. Workers' Compensation and Employer's Liability

Coverage shall contain waiver of subrogation in favor of the City of San José, its officers, employees, agents and contractors.

3. All Coverage

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

CONSULTANT shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to Riskmgmt@sanjoseca.gov, or mailed to the following postal address or any subsequent email or postal address as may be directed in writing by the Risk Manager:

City of San José-Human Resources
Risk Management
200 E. Santa Clara Street, 2nd Floor Wing
San José, CA 95113-1905

G. Subconsultants

CONSULTANT shall include all subconsultants as insured under its policies or shall obtain separate certificates and endorsements for each sub-consultant.

EXHIBIT F

SPECIAL PROVISIONS

In the performance of this Agreement:

1. Prohibition on Discrimination and Preferential Treatment.

CONSULTANT shall not discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin.

This provision is applicable to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing.

Nothing herein shall be interpreted as precluding any reasonable accommodation provided to any person with a disability.

2. Compliance Reports.

If directed by the Compliance Officer of the CITY, CONSULTANT shall file, and cause any subcontractor to file, compliance reports with the Compliance Officer. Compliance reports shall be in the form and filed at such times as may be designated by the Compliance Officer. Compliance reports shall contain such information and be supported by such data or records as may be requested by the Compliance Officer to determine whether CONSULTANT or its subcontractor is complying with the nondiscrimination and nonpreference provisions of this AGREEMENT and Chapter 4.08 of the Municipal Code.

3. Failure to Comply with Nondiscrimination Provisions.

If the Compliance Officer determines that the CONSULTANT has not complied with the nondiscrimination or nonpreference provisions of this AGREEMENT, the CITY may terminate or suspend this AGREEMENT, in whole or in part. Failure to comply with these provisions may also subject CONSULTANT and/or subcontractor to debarment proceedings pursuant to provisions of the San José Municipal Code. Failure to comply with these provisions is a violation of Chapter 4.08 of the San José Municipal Code and is a misdemeanor.

4. Subconsultants Agreements.

CONSULTANT shall include provisions 1 through 3, inclusive, in each subconsultant agreement entered into in furtherance of this AGREEMENT so that such provisions are binding upon each of its subconsultants.

5. Waiver of Nondiscrimination Provisions.

The nondiscrimination provisions of this AGREEMENT may be waived by the Compliance Officer, if the Compliance Officer determines that the CONSULTANT has its own nondiscrimination requirements or is bound in the performance of this AGREEMENT by the nondiscrimination requirements of another governmental

agency, and the nondiscrimination provisions of the CONSULTANT or other governmental agency are substantially the same as those imposed by the CITY.

6. Prevailing Wages.

CONSULTANT acknowledges that portions of the services required by this AGREEMENT are a Public Work, subject to the provisions of Section 1771 of the California Labor Code. CONSULTANT shall pay, or cause to be paid, prevailing wages, as set forth in the California Labor Code Section 1770 *et. seq.*, for all labor performed to facilitate the professional services provided under this AGREEMENT, including, but not limited to, inspection, surveying, drilling, trenching, and excavation. CONSULTANT shall include in all agreements for such labor, a requirement that the employer provide all workers with written notice that prevailing wages apply.

CONSULTANT shall maintain, or cause to be maintained, all records documenting the payment of prevailing wages as required by the State prevailing wage law. CONSULTANT shall maintain these records for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT under this AGREEMENT. CONSULTANT shall provide to the CITY, at no cost to the CITY, a copy of all such records within ten (10) working days of a request for such records by the CITY's Office of Equality Assurance.

CONSULTANT expressly agrees that the compensation agreed to between the parties includes all payment necessary to meet state prevailing wage law requirements. CONSULTANT shall indemnify the CITY for any claims, costs or expenses which the CITY incurs as a result of CONSULTANT's failure to pay, or cause to be paid, prevailing wages.

7. Retroactive Services.

It is understood and agreed that CONSULTANT has provided services prior to the execution of this AGREEMENT in anticipation of its execution. If CITY accepts and approves the services provided by CONSULTANT prior to the date of this AGREEMENT, CITY agrees to compensate CONSULTANT for those services in accordance with the terms of this AGREEMENT. However, in no event shall CONSULTANT be compensated for work performed for CITY prior to October 4, 2010.

EXHIBIT G
EXEMPLAR SERVICE ORDER FORM

City of San José – Environmental Services Department
SERVICE ORDER – Environmental Consultant Services Master Agreement

Initiation Date: _____

I. CONSULTANT MASTER AGREEMENT

Service Order No.: _____

Max. Master Agrmt. Compensation: \$ _____ Previously Encumbered, SOs # _____

Consultant: Firm Name: _____

Address: _____

Contact: _____ Phone: _____

II. PROJECT DESCRIPTION

Project Name: _____

Description: _____

Attachment A: Includes Description of Project, Scope of Services, Schedule of Performance
and Compensation

III. CITY PROJECT MANAGEMENT

Managing Division: _____

Project Manager: _____

Contract Manager: _____

Date: _____

IV. FISCAL/BUDGET

Current amount in Master Agreement: \$ _____

Consultant Comp. for S.O. #__ : \$ _____

New balance in Master Agreement: \$ _____

V. APPROVALS

> Consultant: _____ Date: _____

> Deputy City Attorney: _____ Date: _____

> Director of ESD: _____ Date: _____

VI. PROGRESS PAYMENTS FOR THIS SERVICE ORDER

Payment # _____

Total: \$ _____ Previous Payments: \$ _____

Current Payment: \$ _____

Bal. Remaining: \$ _____