

RESOLUTION NO. OB-04-17

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER EL CAJON REDEVELOPMENT AGENCY APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC. TO PERFORM FURTHER GROUNDWATER INVESTIGATIONS AT THE PARK ROW PROPERTY LOCATED AT THE INTERSECTION OF PARK BOULEVARD AND BALLANTYNE STREET.

WHEREAS, Health and Safety Code section 34173(f) requires the City of El Cajon, as the Successor Agency to the El Cajon Redevelopment Agency, to carry out existing cleanup plans related to environmental contamination issues on properties located in the former redevelopment project area; and

WHEREAS, Health and Safety Code section 34177.3(a) provides that successor agencies may create enforceable obligations to comply with an enforceable obligation that existed prior to June 28, 2011; and

WHEREAS, enforceable obligations in the form of (1) a Development Disposition Agreement and (2) a Reimbursement and Indemnity Agreement for the environmental remediation of the Park Row property located at the intersection of Park Boulevard and Ballantyne Street were entered into on January 29, 2003 and December 16, 2003, respectively, and

WHEREAS, on March 27, 2017, the California Regional Water Quality Board, San Diego Region ("San Diego Water Board") directed the Successor Agency to continue with the approved work plan, including the installation of three (3) proposed monitoring wells, and also required the Successor Agency to develop a separate work plan for soil vapor survey and human health risk assessment after the soil and groundwater investigation is completed; and

WHEREAS, the Agreement will allow SCS Engineers, Inc. to perform further groundwater investigations at Park Row and perform other hazardous remediation activities ordered by the San Diego Water Board, pursuant to the Development Disposition Agreement and Reimbursement and Indemnity Agreement, which are enforceable obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY, AS FOLLOWS:

- A. The Oversight Board finds that:
1. The recitals above are true and correct and have been incorporated herein by reference.
  2. Approval to execute an agreement is exempt from the California Environmental Quality Act (CEQA) under section 15061 (b) (3) (General Rule) of the CEQA Guidelines because the proposed agreements will not cause a significant adverse physical change to the environment either directly or indirectly.
  3. Health and Safety Code section 34173(f) requires the City of El Cajon, as the Successor Agency to the El Cajon Redevelopment Agency, to carry out existing cleanup plans related to environmental contamination issues on properties located at the former redevelopment project area.
  4. Health and Safety Code section 34177.3(a) provides that successor agencies may create enforceable obligations to comply with an enforceable obligation that existed prior to June 28, 2011. Enforceable obligations in the form of a Development Disposition Agreement and a Reimbursement and Indemnity Agreement for the environmental remediation of the Park Row property located at the intersection of Park Boulevard and Ballantyne Street were entered into on January 29, 2003 and December 16, 2003, respectively.
  5. Since approximately 1998, SCS Engineers staff has been the sole consultant providing professional engineering and environmental services for this site and is the firm most qualified to conduct further groundwater investigations and perform other hazardous remediation activities to bring closure to the site, pursuant to Health and Safety Code section 34173(f).
- B. The Oversight Board hereby APPROVES the Professional Service Agreement with SCS Engineers, Inc. to conduct further groundwater investigations and conduct corrective actions to bring closure to the site, pursuant to Health and Safety Code section 34173(f), and approves execution of said Agreement by the City Manager, or such person designated by the City Manager, acting in the capacity of Chief Executive Officer of the Successor Agency.

PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency at a regularly-scheduled meeting held this 20<sup>th</sup> day of September 2017, by the following vote to wit:

AYES: BUXBAUM, CHADWICK, DAVIES, EMERSON, PAVAO, REARIC  
ABSTAIN: NONE  
ABSENT: NGUYEN

  
\_\_\_\_\_  
Debra Emerson, Chairperson

ATTEST:

  
\_\_\_\_\_  
Oversight Board Secretary

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**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN  
THE CITY OF EL CAJON AS SUCCESSOR AGENCY  
TO THE EL CAJON REDEVELOPMENT AGENCY  
AND  
STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC.**

This Agreement for Professional Services ("AGREEMENT") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF EL CAJON, a California charter city and municipal corporation, solely in its capacity as SUCCESSOR AGENCY TO THE EL CAJON REDEVELOPMENT AGENCY ("SUCCESSOR AGENCY") and STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC., a Virginia corporation, ("CONSULTANT").

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**Section 1. Term of Agreement.**

Subject to the provisions of Section 19 "Termination of Agreement" of this AGREEMENT, the term of this AGREEMENT shall be for a period of one (1) year from the date of execution of this AGREEMENT, as first shown above. Such term may be extended for four (4) additional one-year periods upon written agreement of both parties to this AGREEMENT, and the approval of the oversight board to the SUCCESSOR AGENCY ("OVERSIGHT BOARD").

**Section 2. Scope of Services.**

CONSULTANT agrees to perform the services set forth in that certain proposal entitled "Proposal to Conduct Environmental Consulting Services for Fiscal Year 2017/2018 including Groundwater Monitoring and Sampling, Soil Vapor Survey and Risk Assessment, Provide Underground Storage Tank Cleanup Fund Assistance, and Serve as Regulatory Agency Liaison, Site: El Cajon Summit, Former 327 North Magnolia Avenue, El Cajon, California" dated August 15, 2017, (the "Scope of Services") attached hereto as Exhibit "A" and incorporated herein as if fully set forth; provided, however, that should any covenant, requirement, provision or condition of the Scope of Services be in conflict with any covenant, requirement, provision or condition of this AGREEMENT, the terms of this AGREEMENT shall prevail.

**Section 3. Additional Services.**

CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to or outside of those set forth in this AGREEMENT or listed in the Scope of Services, unless such additional services are authorized in advance and in writing by the legislative body or City Manager of SUCCESSOR AGENCY, with the approval of the OVERSIGHT BOARD. CONSULTANT shall be compensated for any such additional services in the amounts and in the manner agreed to by the legislative body or City Manager, with the approval of the OVERSIGHT BOARD.

#### **Section 4. Compensation and Method of Payment.**

(a) Subject to any limitations set forth in this AGREEMENT, SUCCESSOR AGENCY agrees to pay, and CONSULTANT agrees to accept for said services the total compensation (including reimbursement for actual expenses) in an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), unless additional compensation is approved in writing by the legislative body or City Manager of SUCCESSOR AGENCY, which is subject to the approval of the OVERSIGHT BOARD.

(b) Each month CONSULTANT shall furnish to SUCCESSOR AGENCY an **original** invoice for all services performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, subcontractor contracts and miscellaneous expenses. SUCCESSOR AGENCY shall independently review each invoice submitted by CONSULTANT to determine whether the services performed and expenses incurred are in compliance with the provisions of this AGREEMENT. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event SUCCESSOR AGENCY disputes any charges or expenses, SUCCESSOR AGENCY shall return the original invoice to CONSULTANT for correction and resubmission.

(c) Except as to any charges for services performed or expenses incurred by CONSULTANT, which are disputed by SUCCESSOR AGENCY, SUCCESSOR AGENCY will use its best efforts to cause CONSULTANT to be paid within thirty (30) days of receipt of CONSULTANT's invoice.

(d) Payment to CONSULTANT for services performed pursuant to this AGREEMENT shall not be deemed to waive any defects in services performed by CONSULTANT.

#### **Section 5. Inspection and Final Acceptance.**

SUCCESSOR AGENCY may inspect and accept or reject any of CONSULTANT's services under this AGREEMENT, either during performance or when completed. SUCCESSOR AGENCY shall reject or finally accept CONSULTANT's services within sixty (60) days after submitted to SUCCESSOR AGENCY. SUCCESSOR AGENCY shall reject services by a timely written explanation, otherwise CONSULTANT's services shall be deemed to have been accepted. SUCCESSOR AGENCY's acceptance shall be conclusive as to such services except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of CONSULTANT's services by SUCCESSOR AGENCY shall not constitute a waiver of any of the provisions of this AGREEMENT including, but not limited to, sections 15 and 16, pertaining to indemnification and insurance, respectively.

#### **Section 6. Ownership of Documents.**

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by CONSULTANT in the course of providing any services pursuant to this AGREEMENT shall become the sole property of SUCCESSOR AGENCY and may be used, reused or otherwise disposed of by SUCCESSOR AGENCY without the permission of CONSULTANT. Upon

completion, expiration or termination of this AGREEMENT, CONSULTANT shall turn over to SUCCESSOR AGENCY all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

**Section 7. Consultant's Books and Records.**

(a) CONSULTANT shall maintain any and all documents and records demonstrating or relating to CONSULTANT's performance of services pursuant to this AGREEMENT. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks or other documents or records evidencing or relating to services, expenditures and disbursements charged to SUCCESSOR AGENCY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONSULTANT pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for three years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon written request by SUCCESSOR AGENCY or its designated representative. Copies of such documents or records shall be provided directly to SUCCESSOR AGENCY for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

(c) Where SUCCESSOR AGENCY has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of CONSULTANT's business, SUCCESSOR AGENCY may, by written request, require that custody of such documents or records be given to the requesting party and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to SUCCESSOR AGENCY, as well as to its successors-in-interest and authorized representatives.

**Section 8. Status of Consultant.**

(a) CONSULTANT is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of SUCCESSOR AGENCY. CONSULTANT shall have no authority to bind SUCCESSOR AGENCY in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against SUCCESSOR AGENCY, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing by SUCCESSOR AGENCY.

(b) The personnel performing the services UNDER this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither SUCCESSOR AGENCY, nor any elected or appointed boards, officers, officials, employees or agents of SUCCESSOR AGENCY, shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that

CONSULTANT or any of CONSULTANT's officers, employees or agents are in any manner officials, officers, employees or agents of SUCCESSOR AGENCY.

(c) Neither CONSULTANT, nor any of CONSULTANT's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits, which may otherwise accrue, to SUCCESSOR AGENCY's employees. CONSULTANT expressly waives any claim CONSULTANT may have to any such rights, and shall indemnify and protect SUCCESSOR AGENCY from and against any claims to such rights made by CONSULTANT's officers, employees or agents.

(d) CONSULTANT hereby represents and warrants to SUCCESSOR AGENCY that none of its employees or contractors serving as CONSULTANT's representative under this Agreement shall be a "retired annuitant" under the any public retirement system in the State of California, such as the California Public Employees' Retirement System ("CalPers"), the County Employees Retirement Law of 1937 (the "1937 Act"), the California State Teachers' Retirement System ("CalSTRS"), or any other similar retirement system available to California public employees, intended to replace, in whole or in part, or work.

**Section 9. Standard of Performance.**

CONSULTANT represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this AGREEMENT in a thorough, competent and professional manner. CONSULTANT shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONSULTANT under this AGREEMENT.

**Section 10. Compliance with Applicable Laws; Permits and Licenses.**

CONSULTANT shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this AGREEMENT. CONSULTANT shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this AGREEMENT. Neither SUCCESSOR AGENCY, nor any elected or appointed boards, officers, officials, employees or agents of SUCCESSOR AGENCY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

**Section 11. Nondiscrimination.**

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, sexual orientation, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

**Section 12. Unauthorized Aliens.**

*[Intentionally omitted.]*



### **Section 13. Conflicts of Interest.**

(a) CONSULTANT covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of SUCCESSOR AGENCY or which would in any way hinder CONSULTANT's performance of services under this AGREEMENT. CONSULTANT further covenants that in the performance of this AGREEMENT, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. CONSULTANT agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of SUCCESSOR AGENCY in the performance of this AGREEMENT.

(b) If applicable, CONSULTANT shall at all times comply with the terms of the Political Reform Act and SUCCESSOR AGENCY's Conflict of Interest Code (Chapter 2.75 of the El Cajon Municipal Code). Application of this subdivision (b) shall be determined by SUCCESSOR AGENCY and shall be set forth in Exhibit "B" (Conflict of Interest Determination). The level of disclosure categories shall be set by SUCCESSOR AGENCY and shall reasonably relate to the Scope of Services provided by CONSULTANT under this AGREEMENT.

(c) SUCCESSOR AGENCY understands and acknowledges that CONSULTANT is, as of the date of execution of this AGREEMENT, independently involved in the performance of non-related services for other governmental agencies and private parties. CONSULTANT is unaware of any stated position of SUCCESSOR AGENCY relative to such projects. Any future position of SUCCESSOR AGENCY on such projects shall not be considered a conflict of interest for purposes of this section.

### **Section 14. Confidential Information; Release of Information.**

(a) All information gained by CONSULTANT in performance of this AGREEMENT shall be considered confidential, unless such information is in the public domain. All instruments of service provided by CONSULTANT in performance of this AGREEMENT shall be considered a public record under California law. CONSULTANT shall not release or disclose any such information or instruments of service to persons or entities other than SUCCESSOR AGENCY without prior written authorization from the City Manager, except as may be required by law.

(b) CONSULTANT, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of SUCCESSOR AGENCY, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the services performed under this AGREEMENT. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives SUCCESSOR AGENCY notice of such court order or subpoena.

(c) If CONSULTANT, or any officer, employee, agent or subcontractor of CONSULTANT, provides any information or instruments of service in violation of this AGREEMENT, then SUCCESSOR AGENCY shall have the right to reimbursement and

indemnity from CONSULTANT for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of CONSULTANT's conduct.

(d) CONSULTANT shall promptly notify SUCCESSOR AGENCY should CONSULTANT, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this AGREEMENT and the work performed thereunder. SUCCESSOR AGENCY retains the right, but has no obligation, to represent CONSULTANT or be present at any deposition, hearing or similar proceeding. CONSULTANT agrees to cooperate fully with SUCCESSOR AGENCY and to provide SUCCESSOR AGENCY with the opportunity to review any response to discovery requests provided by CONSULTANT. However, this right to review any such response does not imply or mean the right by SUCCESSOR AGENCY to control, direct, or rewrite said response.

#### **Section 15. Indemnification.**

(a) SUCCESSOR AGENCY and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "INDEMNITEES") shall have no liability to CONSULTANT or any other person for, and CONSULTANT shall indemnify, protect and hold harmless INDEMNITEES from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which INDEMNITEES may suffer or incur or to which INDEMNITEES may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of CONSULTANT's negligent performance of any services under this AGREEMENT, or by the negligent or willful acts or omissions of CONSULTANT, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT.

(b) The foregoing obligations of CONSULTANT shall not apply to the extent that the CLAIMS arise from the sole negligence or willful misconduct of SUCCESSOR AGENCY or its elected and appointed boards, officials, officers, agents, employees and volunteers.

#### **Section 16. Insurance.**

(a) CONSULTANT agrees to obtain and maintain in full force and effect, during the term of this AGREEMENT, commercial general liability insurance of not less than \$2,000,000. Such insurance policy shall comply with El Cajon City Council Policy D-3, which is attached hereto as Exhibit "C" and made a part of this AGREEMENT. If there is any conflict between Exhibit "C" and this section 16, the terms of Exhibit "C" shall apply. All insurance policies shall be subject to approval by SUCCESSOR AGENCY as to form and content.

(b) CONSULTANT shall furnish properly executed endorsements and certificates of insurance to SUCCESSOR AGENCY prior to commencement of services under this AGREEMENT. Such endorsements and certificates shall:

1. Clearly evidence all coverages required above, including specific evidence of a separate endorsement naming SUCCESSOR AGENCY as an additional named insured;
2. Indicate whether coverage provided is on claims-made or occurrence basis; and
3. Provide that such insurance shall not be materially changed, terminated, or allowed to expire except on thirty (30) days prior written notice, via first class mail to SUCCESSOR AGENCY.
4. CONSULTANT agrees to provide SUCCESSOR AGENCY with copies of all required policies upon request.

(c) CONSULTANT shall also obtain and maintain professional liability insurance coverage in an amount not less than \$1,000,000.

(d) CONSULTANT shall maintain Workers' Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than \$1,000,000 per accident.

#### **Section 17. Assignment.**

The expertise and experience of CONSULTANT are material considerations for this AGREEMENT. SUCCESSOR AGENCY has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon CONSULTANT under this AGREEMENT. In recognition of that interest, CONSULTANT shall not assign or transfer this AGREEMENT or any portion of this AGREEMENT or the performance of any of CONSULTANT's duties or obligations under this AGREEMENT without the prior written consent of the legislative body of SUCCESSOR AGENCY, with the approval of the OVERSIGHT BOARD. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this AGREEMENT entitling SUCCESSOR AGENCY to any and all remedies at law or in equity, including summary termination of this AGREEMENT. SUCCESSOR AGENCY acknowledges, however, that CONSULTANT, in the performance of its duties pursuant to this AGREEMENT, may utilize subcontractors.

#### **Section 18. Continuity of Personnel.**

CONSULTANT shall make every reasonable effort to maintain the stability and continuity of CONSULTANT's staff assigned to perform the services required under this AGREEMENT. CONSULTANT shall notify SUCCESSOR AGENCY of any changes in CONSULTANT's staff assigned to perform the services required under this AGREEMENT, prior to any such performance.

#### **Section 19. Termination of Agreement.**

(a) SUCCESSOR AGENCY may terminate this AGREEMENT, with or without cause, at any time by giving thirty (30) days written notice of termination to CONSULTANT. In the event such notice is given, CONSULTANT shall cease immediately all work in progress.

(b) SUCCESSOR AGENCY may terminate this AGREEMENT at any time if funds are no longer appropriated for the work to be performed by CONSULTANT.



To CONSULTANT:

Chris Crosby, Project Manager  
SCS Engineers  
3900 Kilroy Airport Way, Suite 100  
Long Beach, CA 90806

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, five (5) days after deposit of the same in the custody of the United States Postal Service.

**Section 24. Authority to Execute.**

The person or persons executing this AGREEMENT on behalf of CONSULTANT represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONSULTANT to the performance of its obligations hereunder.

**Section 25. Binding Effect.**

This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**Section 26. Modification of Agreement.**

No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by CONSULTANT and by the legislative body or City Manager of SUCCESSOR AGENCY, and the OVERSIGHT BOARD. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

**Section 27. Waiver.**

Waiver by any party to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this AGREEMENT shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by SUCCESSOR AGENCY of any work or services by CONSULTANT shall not constitute a waiver of any of the provisions of this AGREEMENT.

**Section 28. Law to Govern; Venue.**

This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of San Diego, East County Division. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Southern District of California, in San Diego. CONSULTANT hereby expressly waives any right to remove any action from San Diego County as is otherwise permitted by Code of Civil Procedure section 394.

**Section 29. Dispute Resolution.**

The parties hereby mutually agree that should any dispute arise out of or relate to this AGREEMENT, or its alleged breach thereof, said parties shall first attempt to settle such dispute or alleged breach by good faith negotiation. If, after good faith negotiation the parties are unable to resolve the dispute, the parties may, but are not obligated to submit the dispute to mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to arbitration, litigation, or other action.

**Section 30. Attorneys' Fees, Costs and Expenses.**

In the event litigation or other proceeding is required to enforce or interpret any provision of this AGREEMENT, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled.

**Section 31. Entire Agreement.**

This AGREEMENT, including the attached Exhibits "A," "B" and "C," is the entire, complete, final, and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONSULTANT and SUCCESSOR AGENCY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party, which are not embodied herein shall be valid and binding. To the extent that the terms and conditions of this AGREEMENT conflict with, or are in any way inconsistent with, the terms and conditions of Exhibits "A," "B" and "C," the terms and conditions of this AGREEMENT will prevail. No amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives, and approved by the OVERSIGHT BOARD.

**Section 32. Severability.**

If a term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

**CITY OF EL CAJON,**  
a California charter city and  
municipal corporation, as  
SUCCESSOR AGENCY TO THE  
EL CAJON REDEVELOPMENT AGENCY

**STEARNS, CONRAD AND SCHMIDT,  
CONSULTING ENGINEERS, INC.,**  
a Virginia corporation

By \_\_\_\_\_  
Douglas Williford, City Manager

By \_\_\_\_\_  
Curtis Jang, Vice President

**ATTEST:**

By \_\_\_\_\_  
Curtis Jang, CFO

\_\_\_\_\_  
Daryl A. Betancur, MPA, MMC, City Clerk

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Dirk Epperson, Director of Public Works

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Morgan L. Foley, City Attorney

Council Date: 06/13/17  
Item #: 1.9

## SCS ENGINEERS

August 15, 2017  
Project Number: 01212281.01

Mr. David Keltner, P.E.  
City of El Cajon  
200 Civic Center Way  
El Cajon, California 92020

**RE: Proposal to Conduct Environmental Consulting Services for Fiscal Year 2017/2018 including Groundwater Monitoring and Sampling, Soil Vapor Survey and Risk Assessment, Provide Underground Storage Tank Cleanup Fund Assistance, and Serve as Regulatory Agency Liaison**

**Site: El Cajon Summit  
Former 327 North Magnolia Avenue  
El Cajon, California**

Dear Mr. Keltner:

SCS Engineers (SCS) is pleased to submit this scope of services change number 4 (SSC4) to conduct environmental consulting services for fiscal year 2017/2018. These services include conducting groundwater monitoring and sampling activities, a soil vapor survey and risk assessment, underground storage tank cleanup fund assistance, and project management and regulatory agency liaison. These services will be provided pursuant to the requirements of the California Regional Water Quality Control Board (RWQCB). Upon your signature, SSC4 will serve as an amendment to the Contract between SCS and City of El Cajon (Client).

### 1 BACKGROUND

Pursuant to RWQCB requirements and your recent request, SCS is pleased to present this proposal for environmental consulting services for the Site and the ongoing leaking underground storage tank investigation. Historical information and background history of the Site may be found in our most recent workplan, *Revised Workplan for Additional Site Assessment*, dated March 11, 2016.

SCS personnel met with you and the RWQCB on March 27, 2017, to discuss data collected from the on-Site direct push borings, RWQCB directive letter dated March 2, 2017, and implementation of the approved March 11, 2016 workplan. During the meeting the RWQCB concurred with SCS recommendation to complete the implementation of the approved 2016 workplan which included the installation and sampling of three groundwater monitoring wells. Additionally the RWQCB had requested in their March 2, 2017 directive letter that a workplan to conduct on-Site and off-Site soil vapor sampling and health risk assessment be submitted by April 10, 2017. The RWQCB agreed to postpone the soil vapor sampling workplan submittal until the previously approved 2016 workplan scope was completed.

**EXHIBIT "A"**



SCS installed three groundwater monitoring wells (MW9R, MW14, and MW15) between June 5 and 7, 2017 and conducted the semi-annual groundwater monitoring and sampling event of all Site wells between June 28 and 30, 2017.

## SITE DESCRIPTION SUMMARY

Site Name: El Cajon Summit (The Site has also been identified as Magnolia Villas)

Site Owner: Magnolia Villas Home Owner's Association and Priest Development Corporation

Site Address: Former 327 North Magnolia Avenue, El Cajon, California  
(The Site has also been identified as 315 N. Magnolia Avenue)

RWQCB Case No: 9UT1401

Global ID: T0607300241

Assessor's Parcel Numbers (APNs): 448-420-01 to 68 and 488-421-01 to 54

## 2 OBJECTIVES

The objectives of the proposed scope of service are:

- Complete various carryover work associated with the newly installed monitoring wells and semi-annual groundwater sampling event conducted in June 2017.
- Prepare and submit a Site Assessment Report documenting the recent assessment activities conducted at the Site.
- Prepare and submit a workplan to the RWQCB to conduct onsite and offsite soil vapor survey and assessment of potential vapor intrusion risks to meet the objectives in the RWQCB email dated March 27, 2017.
- Conduct routine groundwater monitoring and sampling pursuant to RWQCB requirements to assess the possible presence of phase-separated hydrocarbons (PSH), depth-to-groundwater, hydraulic gradient, and the extent and concentrations of total petroleum hydrocarbons as gasoline (TPHg), benzene, toluene, ethylbenzene, xylenes (BTEX), and related chemicals of concern (CoCs) as well as evaluate the stability of the dissolved-phase contaminant plume.
- Evaluate potential vapor intrusion risks to residence from contaminated groundwater beneath the buildings onsite and offsite. SCS will assess the presence and concentrations of constituents of concern (CoCs) in soil vapor. If CoCs are detected, SCS will then conduct a vapor intrusion risk assessment to assess the likelihood that a

significant<sup>1</sup> health risk is present in occupied structures as a result of the CoCs in groundwater.

- Prepare and submit a workplan to the RWQCB to conduct additional site assessment activities to assess the downgradient groundwater impacts.
- Prepare and submit routine reimbursement request(s) for the work described in this proposal to the USTCF on behalf of the City of El Cajon.
- Provide project management support such as City of El Cajon and regulatory agency liaison, correspondence; and meetings as well as general project management support.

### 3 SCOPE OF SERVICES

#### TASK 23 PROJECT MANAGEMENT AND DESIGN FOR FY2017/2018

Time included in this task was for project management and project design in order to prepare a detailed scope of services and budget for the required environmental services for the City's fiscal year between July 1, 2017 and June 30, 2018 (FY2017/2018).

#### TASK 24 DRUM DISPOSAL, DRILL REPORT, WELL SURFACE ADJUSTMENTS, AND WELL SURVEY

Due to field activities conducted at the Site at the end of June 2017, various carryover work associated with the newly installed monitoring wells and semi-annual groundwater sampling event will be completed during FY2017/2018.

#### **Disposal of Soil Cuttings, Rinsate Water, and Purged Groundwater**

Soil cuttings, rinsate water, and purged groundwater generated during the well installation and development activities was placed in appropriate 55-gallon drums. The soil cuttings, rinsate water, and purged groundwater were profiled for disposal as non-hazardous waste. Thirteen drums were removed from the Site on July 6, 2017 and disposed at the Crosby Overton Plant #1 in Long Beach, California. The cost for disposal is included in this task.

#### **60-Day Drilling Report**

A 60-day drilling report is required as part of the DEH well installation permit requirements for the three newly installed wells (MW9R, MW14, and MW15), therefore SCS will prepare a transmittal letter with figures, boring logs, and well completion diagrams per the permit requirements and submit to the DEH.

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<sup>1</sup> For the purposes of this assessment, significant is defined as greater than one in 1,000,000 excess lifetime cancer risk.

### **Well Surface Completion Adjustments Due to Redevelopment Activities**

Redevelopment activities in the northern area of the Site are currently under construction. Based on conversations with the site superintendent from Priest Development, wells MW1-2007 and MW9R will require new surface completions to match the newly installed street grade which is proposed to be installed in August 2017. The dedicated low-flow groundwater purging pump would be removed from well MW1-2007, existing concrete surface completions would be jack-hammered out and concrete removed, PVC well casing elevation adjusted if necessary, and new traffic rated well boxes installed in concrete per DEH requirements. The work will be overseen by SCS personnel to ensure compliance with DEH well standards.

Note that the PVC well casing for well MW1-2007 is expected to be cut lower to be at an elevation sufficiently below the proposed street grade. If the PVC well casing is lowered, SCS will have the top of well casing elevation surveyed by a licensed land surveyor as described below.

### **Well Survey**

All new Site monitoring wells will be surveyed and tied into the existing datum and well network by a licensed land surveyor to allow for an accurate estimate of groundwater elevation and gradient in accordance with State of California regulations. As stated above, the PVC well casing for well MW1-2007 may need to be cut lower to be at an acceptable elevation grade to match the newly install street grade. SCS expects to have the three newly installed wells (MW9R, MW14, and MW15) and MW1-2007 surveyed during the same mobilization. If an additional mobilization is required to survey MW1-2007, additional costs will be incurred.

### **Installation of Dedicated Low-flow Bladder Pumps**

SCS will install three new dedicated low-flow bladder pumps and tubing in wells MW9R, MW14, and MW15 prior to the next groundwater sampling event.

### **TASK 25 COMPREHENSIVE REPORT PREPARATION**

One report (Assessment Report) will be prepared to document the drilling and sampling from the eight direct push borings conducted in May 2016, groundwater monitoring and sampling conducted in June 2016, well installation and soil sampling activities conducted in June 2017, and groundwater monitoring and sampling conducted in June 2017. Based on the findings of the field investigation and laboratory results from the drilling and sampling activities an Assessment Report will be prepared in general accordance with RWQCB guidelines. This Assessment Report will include laboratory reports, chain-of-custody records, figures, tabulated analytical results, soil sampling results, boring logs, and appropriate supporting documentation. The Assessment Report will be peer reviewed and signed by the appropriately licensed professional.

### **Electronic Delivery Format Upload**

In addition, pursuant to State of California law, an electronic delivery format (EDF) report of the sample laboratory analytical results, depths to groundwater and a PDF copy of the Assessment Report will be prepared and submitted to the State of California GeoTracker database.

### **TASK 26 PREPARATION AND SUBMITTAL OF WORKPLAN FOR SOIL VAPOR ASSESSMENT**

Pursuant to RWQCB requirements, a workplan is required for additional assessment activities at the above-referenced Site. Therefore, SCS personnel will prepare and submit a workplan to RWQCB. The findings of past fieldwork activities, discussions from the March 27, 2017 meeting with RWQCB and client, and email correspondence from the RWQCB dated March 27, 2017 will serve as the foundation for the Site investigation design. This workplan will purpose on-Site and off-Site soil vapor sampling and will present the specific tasks designed to achieve the objectives and will describe the procedures used in the field, including the type of collection methods and laboratory analyses to be performed. This workplan will be submitted to RWQCB for approval prior to implementing the work discussed in the workplan. Note that the budget for this task includes the preparation and submittal of one workplan and does not account for revised workplan submittals if required by the RWQCB.

### **TASK 27 SOIL VAPOR SURVEY AND RISK ASSESSMENT**

Upon RWQCB approval of SCS's workplan described in Task 26 above, SCS will implement the approved workplan. SCS proposes to collect soil vapor samples at six to eight locations on-Site near residential buildings in the northern portion of the Site and eight to ten locations off-Site near residential buildings to evaluate potential vapor intrusion to indoor air. Note that actual locations and number of samples may be different depending on RWQCB requirements. SCS expects the soil vapor survey will be conducted in two 8-hour days.

### **Preparation for Fieldwork**

#### **Preparation of Health and Safety Plan**

A health and safety plan for work conducted at the Site and workers within the "exclusion zone" is required pursuant to the regulations found in 29 Code of Federal Regulations (CFR) Part 1910.120 and California Code of Regulations (CCR), Title 8, Section 5192. Therefore, a health and safety plan will be prepared for the proposed scope of services, and will outline the potential chemical and physical hazards that may be encountered during soil vapor sampling activities. The appropriate personal protective equipment and emergency response procedures for the anticipated site-specific chemical and physical hazards will be detailed in this plan. SCS and contracted personnel involved with the proposed field work will be required to sign this document in order to encourage proper health and safety practices.

### **Utility Search and Markout**

SCS will notify Underground Service Alert (USA), as required by state law. A private utility locator will be retained to locate and markout possible utilities in the vicinity of the proposed groundwater monitoring wells. This procedure is designed to minimize the likelihood of drilling into a subsurface utility.

### **Private Property Access Agreement**

Negotiations with and access agreements for soil vapor sampling offsite will be conducted. SCS anticipates collecting all ten soil vapor samples from the property located at 280 Wells Avenue.

Because the level of effort associated with obtaining site access is unknown (and based on SCS experience can be highly variable) SCS has assumed the following level of effort, which should be considered a "bid allowance":

- Six hours Project Manager
- One hour Project Director
- Two hours Administrative

In addition, Client assistance will be integral to negotiate site access and we have assumed that the Client will provide support and assistance in these negotiations (e.g., drafting or review of access agreements; assistance/attendance at meetings).

### **Subcontractor Management**

The appropriate subcontractor services will be obtained such as utility clearance, drilling, sample analysis, and other required contractor services. This task also includes time to coordinate and manage subcontractors, secure the necessary specialized equipment, and prepare for field mobilization.

### **Soil Vapor Borings**

SCS proposes to collect up to 18 soil vapor samples from temporary vapor wells. The soil vapor sampling probe, which consists of a 1-inch diameter, hollow, metal rod will be driven to the desired sampling depth using a roto-hammer at up to 18 locations. Soil vapor samples will be collected from approximately 5 feet below grade. The estimated budget includes the analysis of two duplicate samples. Sampling will be conducted following Department of Toxic Substances Control guidelines. The soil vapor probe holes will be backfilled with appropriate backfill materials. Please note that while we will make our best effort to achieve the target depths and collect soil vapor samples, we may not be able to do so because of the hardness or resistance of the soil encountered during drilling. Chain-of-custody procedures will be implemented for sample tracking. Note that the RWQCB may require multiple sampling events. If so, SCS will prepare and submit a permit application and construct the probes as semi-permanent soil vapor sampling wells. This would result in contingency monies being used from Task 33 described below, if required.

### **Laboratory Analysis**

The soil vapor samples will be analyzed on-Site by a State-accredited mobile laboratory. Samples will be analyzed for VOCs in general accordance with Modified EPA Method 8260SV and fixed gases (oxygen, nitrogen, and carbon dioxide) by modified American Society for Testing and Materials (ASTM) Method D1945. The estimated budget includes the analysis of as many as 18 soil vapor samples and 2 duplicate samples. If additional sample analysis is deemed necessary based on laboratory data, field observations, or our professional opinion, additional costs will be incurred. A written analytical report will be provided by the laboratory upon the completion of the sample testing.

### **Limited Vapor Intrusion Risk Assessment**

If detectable concentrations of VOCs are reported in the soil vapor samples, a limited vapor intrusion risk assessment (VIRA) will be conducted. Separate vapor intrusion risk assessments will be performed for on-Site and off-Site. This assessment will include a review of the information developed from the soil vapor survey to assess the extent and concentration of VOCs in soil vapor, if any, beneath occupied buildings. In addition, this task will include identification of potential vapor migration pathways, and will identify likely future receptors for subsurface contaminants. Based on this information, SCS will develop a reasonable and defensible vapor phase transport model. SCS personnel will then assess whether a potential significant human health risk exists to on-Site and/or off-Site based on the available data and current land uses.

### **Report Preparation**

Based on the findings of the field investigation and laboratory results one report will be prepared in general accordance with RWQCB guidelines. This report will include laboratory reports, chain-of-custody records, figures, tabulated analytical results, soil vapor sampling results, and appropriate supporting documentation. The report will be peer reviewed and signed by the appropriately licensed professional. The work conducted at the Site will be overseen by a professional geologist.

### **Electronic Delivery Format Upload**

In addition, pursuant to State of California law, a PDF copy of the report will be prepared and submitted to the State of California GeoTracker database.

## **TASK 28 THIRD QUARTER 2017 LIMITED GROUNDWATER MONITORING AND SAMPLING EVENT**

SCS proposes to conduct one limited groundwater monitoring and sampling event during the third quarter 2017 (3Q2017). All fifteen site wells will be monitored for depth to groundwater and the presence of PSH using an inter-phase probe with the manufacturer's reported accuracy of 0.01 foot. Purging and groundwater sampling will be performed on the three new wells (MW9R, MW14, and MW15) in general accordance with DEH guidelines. Purge water generated during purging and sampling will be placed in appropriate 55-gallon drums which will be labeled and stored on the Site pending disposal.

The three new wells will be purged and sampled using the low-flow method with dedicated bladder pumps and tubing in each well. The sample will be collected after the groundwater quality meter has been disconnected from the tubing, and the sample will be decanted directly into appropriate, laboratory-supplied containers.

All groundwater samples will be labeled and transported in an ice-packed cooler under chain-of-custody procedures to a state-accredited laboratory for the following analyses:

- TPHg in general accordance with EPA Method 8015 or CA DHS LUFT Method
- Full list VOCs in accordance with EPA Method 8260B

#### **Disposal of Purged Groundwater**

Purged groundwater and rinsate generated during the assessment activities will be placed in appropriate 55-gallon drums. The disposal of the groundwater and rinsate may be dependent upon the concentrations of petroleum hydrocarbons encountered. For budgetary purposes, we have assumed that one drum will be generated and disposed as non-hazardous waste.

If the City of El Cajon is unable to provide an authorized representative to sign the manifests at the time of scheduled waste pickup, SCS will provide a representative who is qualified under 49 CFR Subpart H (Parts 172.700-704), to act as the signatory for the generator (the City of El Cajon). The budget includes time for our representative to travel to and from the Site and for the disposal of one drum of non-hazardous water. Your signature on this proposal indicates your agreement for SCS to act as your authorized agent, if necessary.

#### **Report Preparation**

The findings of the field investigation and laboratory results from the above scope of services will be combined with the fourth quarter 2017 full sampling event presented in a single report described in Task 28 below. Time for SCS staff to prepare the appropriate sections regarding work performed in the scope described in Task 27 is included in the budget for Task 27.

### **TASK 29 FOURTH QUARTER 2017 GROUNDWATER MONITORING AND SAMPLING EVENT AND REPORTING**

SCS proposes to conduct one full groundwater monitoring and sampling event during the fourth quarter 2017 (4Q2017). All fifteen wells will be monitored for depth to groundwater and the presence of PSH using an inter-phase probe with the manufacturer's reported accuracy of 0.01 foot. Purging and groundwater sampling will be performed in general accordance with DEH guidelines. Purge water generated during purging and sampling will be placed in appropriate 55-gallon drums which will be labeled and stored on the Site pending disposal.

The nine on-Site wells (MW1-2007 through MW8-2007 and MW9R) and six off-Site wells (MW10, MW11R, and MW12 through MW15) will be monitored and sampled using the low-flow method with the dedicated bladder pumps and tubing in each well. The sample will be

collected after the groundwater quality meter has been disconnected from the tubing, and the sample will be decanted directly into appropriate, laboratory-supplied containers.

All groundwater samples will be labeled and transported in an ice-packed cooler under chain-of-custody procedures to a state-accredited laboratory for the following analyses:

- TPHg in general accordance with EPA Method 8015 or CA DHS LUFT Method
- BTEX and fuel oxygenates in accordance with EPA Method 8260B. Note wells MW9R, MW14, and MW15 will be analyzed for full list VOCs by EPA Method 8260B.

#### **Disposal of Purged Groundwater**

Purged groundwater and rinsate generated during the assessment activities will be placed in appropriate 55-gallon drums. The disposal of the groundwater and rinsate may be dependent upon the concentrations of petroleum hydrocarbons encountered. For budgetary purposes, we have assumed that one drum will be generated and disposed as non-hazardous waste.

If the City of El Cajon is unable to provide an authorized representative to sign the manifests at the time of scheduled waste pickup, SCS will provide a representative who is qualified under 49 CFR Subpart H (Parts 172.700-704), to act as the signatory for the generator (the City of El Cajon). The budget includes time for our representative to travel to and from the Site and for the disposal of one drum of non-hazardous water. Your signature on this proposal indicates your agreement for SCS to act as your authorized agent, if necessary.

#### **Report Preparation**

Based on the findings of the field investigation and laboratory results from the scope of services from Task 28 and 29, one groundwater monitoring report (4Q2017 Report) will be prepared in general accordance with RWQCB guidelines. This 4Q2017 Report will cover the routine groundwater monitoring events and include laboratory reports, chain-of-custody records, figures, tabulated analytical results, groundwater sampling results, and appropriate supporting documentation. The 4Q2017 Report will be peer reviewed and signed by the appropriately licensed professional. The work conducted at the Site will be overseen by a professional geologist.

#### **Electronic Delivery Format Upload**

In addition, pursuant to State of California law, an electronic delivery format (EDF) report of the semi-annual groundwater sample laboratory analytical results, depths to groundwater and a PDF copy of the Reports will be prepared and submitted to the State of California GeoTracker database.



### TASK 30 FIRST QUARTER 2018 LIMITED GROUNDWATER MONITORING AND SAMPLING EVENT

SCS proposes to conduct one limited groundwater monitoring and sampling event during the first quarter 2018 (1Q2018). All fifteen wells will be monitored and wells MW9R, MW14, and MW15 will be purged and sampled as described in Task 28 above.

### TASK 31 SECOND QUARTER 2018 GROUNDWATER MONITORING AND SAMPLING EVENT AND REPORTING

SCS proposes to conduct one full groundwater monitoring and sampling event during the second quarter 2018 (2Q2018). All fifteen wells will be monitored and sampled as described in Task 29 above. Based on the findings of the field investigation and laboratory results from the scope of services from Task 30 and 31, one groundwater monitoring report (2Q2018 Report) will be prepared in general accordance with RWQCB guidelines.

### TASK 32 PREPARATION AND SUBMITTAL OF WORKPLAN FOR ADDITIONAL SITE ASSESSMENT

Based on the June 2017 groundwater sampling results from well MW15, SCS anticipates the RWQCB will require additional downgradient assessment. Pursuant to RWQCB requirements, a workplan is required for additional assessment activities. Therefore, SCS personnel will prepare and submit a workplan to RWQCB. The scope of this workplan will be based on the findings of past fieldwork activities, discussions with RWQCB and client, and directives from the RWQCB for the Site investigation. This workplan will present the specific tasks designed to achieve the objectives and will describe the procedures used in the field, including the type of collection methods and laboratory analyses to be performed. This workplan will be submitted to RWQCB for approval prior to implementing the work discussed in the workplan. Note that since the workplan scope of work is unknown at this time, SCS has not included a task in this proposal to implement the workplan. The implementation of this workplan is likely to occur after FY2017/2018. Note that the budget for this task includes the preparation and submittal of one workplan and does not account for revised workplan submittals if required by the RWQCB.

### TASK 33 PREPARE AND SUBMIT A USTCF REIMBURSEMENT REQUEST

SCS will prepare and submit a request for the reimbursement of recent invoices consisting of the following:

- Preparation of spreadsheet with reimbursable costs (well installation, sampling, etc.)
- File review to provide agency correspondence and directives
- Organization of all invoices to be reimbursed and the required subcontractor backup and cancelled checks to the same

- Inclusion of required contracts and EDF submittals
- Preparation of a scope of work narrative
- Liaise with the USTCF as questions arise pertaining to the reimbursement request
- Inclusion of requisite forms
- Client meeting to review completed reimbursement request(s)
- Subsequent reimbursement requests (not appeals) should the USTCF place items in the "pending" category requiring further clarification
- Subsequent reimbursement requests

SCS will base their cost to prepare a reimbursement request on an hourly time and materials basis to prepare each reimbursement request. Please note that some of the costs included in this task are past costs.

#### TASK 34 PROJECT MANAGEMENT/REGULATORY AGENCY LIAISON AND NEGOTIATION AND SUPPORT

This task includes SCS project management as well as regulatory agency correspondence, meetings, and liaison. The estimated budget for this task is based on an hourly time and materials basis and includes meeting preparation time and attendance at meeting(s) by the licensed professional geologist, a principal of the firm, and the project manager.

In addition, this task includes Client Meetings and updates, and other follow up or support, as required or directed by the Client.

#### TASK 35 RWQCB CONTINGENCY

The scope of work described in Tasks 23 through 34 is based on the SCS's understanding of the RWQCB requirements. The scope of work described above will be included in the workplans that will be submitted to the RWQCB for approval. Please note that the RWQCB may modify the scope of work proposed in the workplans, which SCS cannot determine or budget for until the proposed workplans are submitted and reviewed by the RWQCB. Examples of out of scope items the RWQCB could require are additional sample locations, additional samples per boring, analysis of additional constituents, ect. This task is a contingency to allow budget for potential out of scope work required by the RWQCB that is outside of SCS's proposed scope of work described in Tasks 23 through 34. If the workplan is approved by the RWQCB without modification, SCS will not charge to this task.

#### 4 BUDGET AND SCHEDULE

The SCS team stands ready to begin this project immediately upon receipt of the signed Contract. Possible impediments to the schedule include property access negotiations, timely RWQCB approval, availability of subcontractors, and the timing of permits. Results from the field work should be available approximately two weeks from each sampling event. Reports will be prepared and submitted to the RWQCB within 60 working days of the receipt of all laboratory data. SCS expects to complete the scope of work described in SSC4 by June 30, 2018.

Task	Description	Estimated Cost
23	Project Scoping and Design for FY2017/2018	\$2,300
24	Drum Disposal, Drill Report, Well Surface Adjustments, and Well Survey	\$9,500
25	Assessment Report Preparation	\$6,950
26	Preparation and Submittal of Workplan for Soil Vapor Assessment	\$3,600
27	Access Negotiations	\$1,500
	Soil Vapor Survey (onsite and offsite)	\$13,000
	Limited Vapor Intrusion Risk Assessment (\$1,500/each)	\$3,000
	Report Preparation	\$4,000
28	3Q2017 Limited Quarterly Groundwater Monitoring and Sampling Event	\$4,000
29	4Q2017 Semi-Annual Groundwater Monitoring and Sampling Event and Reporting	\$13,000
30	1Q2018 Limited Quarterly Groundwater Monitoring and Sampling Event	\$4,000
31	2Q2018 Semi-Annual Groundwater Monitoring and Sampling Event and Reporting	\$13,000
32	Preparation and Submittal of Workplan for Additional Site Assessment	\$3,600
33	Prepare and Submit USTCF Reimbursement Request	\$3,000
34	Project Management and Regulatory Agency Liaison and Negotiation	\$5,000
35	RWQCB Contingency	\$5,000
	<b>Total Time and Materials Cost – Not to Exceed</b>	<b>\$94,450</b>

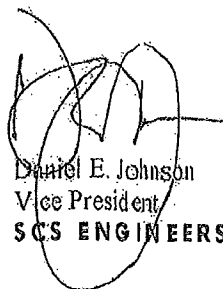
The Total Time and Materials Not to Exceed Cost For the Activities Described in Tasks 23 through 35 Herein Is \$94,450.

Compensation described herein shall be subject to renegotiation if authorization to proceed has not been given within 30 days of the date of the Agreement of Services. We propose to perform our services, and invoice, in accordance with the executed Consulting Agreement and the attached Schedule of Rates and Conditions of Service.

If we can be of further assistance, or if you have any questions regarding the above scope of services, please contact one of the undersigned at (858) 571-5500.

Sincerely,

  
Chris Crosby  
Project Manager  
SCS ENGINEERS

  
Duane E. Johnson  
Vice President  
SCS ENGINEERS

## CONDITIONS OF SERVICE

This Proposal is based on, but not limited to, the following conditions:

### GENERAL CONDITIONS

We would be pleased to perform services in addition to those described in this Proposal. However, additional services that are requested that are not specifically outlined in this Proposal will be billed to the City of El Cajon as an additional cost per our Fee Schedule contained herein. We also respectfully request written notification of any additional tasks that you desire us to perform.

### CLIENT SERVICE SUPPORT

The City of El Cajon will provide available reports (such as geotechnical and grading), maps, as-built drawings, and all other documentation regarding historical land usage and Site history, including, but not limited to, construction plans, subsurface investigations, geophysical studies, and copies of previous environmental studies. If "as built" are not available or are inaccurate, SCS is not responsible for damages of any kind from this investigation to features including, but not limited to, subsurface structures, utilities, appurtenances, and improvements, including consequential damages.

### USTCF

SCS agrees to provide the City of El Cajon with necessary detailed invoices and backup to support claims made to the USTCF. For an additional fee as noted in Task 33, SCS will submit requests for reimbursement to the USTCF, including but not limited to the preparation of necessary spreadsheets and backup documentation. USTCF assistance will not be provided by SCS until receipt of notice to proceed with Task 33 from the City of El Cajon.

**SCS ENGINEERS**

**SCS ENGINEERS SAN DIEGO  
FEE SCHEDULE**  
(Effective April 1, 2017 through March 31, 2018)

	Rate/Hour
Clerical.....	72
Administrative/Secretarial.....	75
Technician.....	80
Senior Engineering Technician.....	90
CADD Drafter.....	90
Designer/Drafter.....	95
Office Services Manager/Project Administrator.....	88
Associate Staff Professional.....	95
Technical Editor.....	113
Project Analyst.....	100
Office Services Manager/Senior Project Administrator.....	105
Staff Professional I.....	105
Staff Professional II.....	115
Project Professional I.....	122
Project Professional II.....	130
Construction Superintendent.....	123
Laboratory Manager.....	133
Senior Project Professional I.....	146
Senior Project Professional II.....	156
Certified Safety Professional.....	175
Certified Environmental Manager.....	175
Certified Industrial Hygienist.....	205
Project Manager I.....	170
Project Manager II.....	185
Senior Project/Technical Manager.....	198
Project Director.....	250
Principals.....	See Note 7

**General Terms**

1. Scheduled rates are effective through March 31, 2018. Work performed thereafter is subject to a new Fee Schedule.
2. Scheduled labor rates include overhead, administration, and profit. Costs for outside consultants and subcontractors, equipment/supplies, and for job-related employee travel and subsistence, are billed at actual cost plus a 15 percent administrative fee.
3. Charges for SCS field equipment and instruments will be in accordance with SCS's Field Equipment Rental Rates Schedule in effect at the time the work is performed. Company trucks are charged at \$50 for up to a half day (4 hours) of use, and \$100 for up to a full day



(company cars at \$40/\$80). These charges incorporate an allowance of 100 miles per job per day; a \$0.30 per mile surcharge is applied for additional miles. Vehicle charges for long-term and/or high-mileage projects may be negotiated on a case-by-case basis.

4. Invoices will be prepared monthly or more frequently for work in progress, unless otherwise agreed. Invoices are due and payable upon receipt. Invoices not paid within 30 days are subject to a service charge of 1.5 percent per month on the unpaid balance.
5. Payment of SCS invoices for services performed will not be contingent upon the client's receipt of payment from other parties, unless otherwise agreed in writing. Client agrees to pay legal costs, including attorney's fees, incurred by SCS in collecting any amounts past due and owing on client's accounts.
6. For special situations such as expert court testimony and limited consultation, hourly rates will be on an individually negotiated basis and general litigation support will be charged at normal hourly rates.
7. Hourly rates for Principals will be on an individually negotiated basis. Typically, these rates are \$260/hour for Vice Presidents and other Principals and \$305/hour for Senior Vice Presidents and Senior Executives.
8. Per diem will be charged on all projects requiring overnight stays from our office. The per diem rate is \$175.00 per day per person or the federal per diem rate for the area, whichever is greater.
9. Overtime will be charged at 125 percent of standard rates for weekday work in excess of 8 hours. Work performed on holidays and weekends will be charged at 150 percent of standard rates.

**STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC.**  
**As-Needed Groundwater Investigation Services for Park Row**

**CONFLICT OF INTEREST DETERMINATION**

CONSULTANT, as a consultant to the SUCCESSOR AGENCY, shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before SUCCESSOR AGENCY in which CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for SUCCESSOR AGENCY.

“Consultant<sup>1</sup>” means an individual who, pursuant to a contract with a state or local agency:

- (A) Makes a governmental decision whether to:
  - 1. Approve a rate, rule or regulation;
  - 2. Adopt or enforce a law;
  - 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  - 4. Authorize SUCCESSOR AGENCY to enter into, modify, or renew a contract provided it is the type of contract that requires SUCCESSOR AGENCY approval;
  - 5. Grant SUCCESSOR AGENCY approval to a contract that requires SUCCESSOR AGENCY approval and to which SUCCESSOR AGENCY is a party, or to the specifications for such a contract;
  - 6. Grant SUCCESSOR AGENCY approval to a plan, design, report, study, or similar item;
  - 7. Adopt, or grant SUCCESSOR AGENCY approval of, policies, standards, or guidelines for SUCCESSOR AGENCY, or for any subdivision thereof; or
  
- (B) Serves in a staff capacity with SUCCESSOR AGENCY and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for SUCCESSOR AGENCY that would otherwise be performed by an individual holding a position specified in City of El Cajon’s Conflict of Interest Code.

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<sup>1</sup> The City of El Cajon’s Conflict of Interest Code and the Political Reform Act, which are applicable to the Successor Agency, refer to “consultants,” not “contractors.” The Successor Agency’s professional services agreements might refer to the hired professional as a “contractor,” not a “consultant,” in which case the Conflict of Interest Code may still apply. The Conflict of Interest Code, however, does not cover public works contractors.

**STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC.**  
**As-Needed Groundwater Investigation Services for Park Row**

DISCLOSURE DETERMINATION:

1. CONSULTANT/CONTRACTOR will not be “making a government decision” or “serving in a staff capacity” as defined in Sections A and B above.

No disclosure required.

2. CONSULTANT/CONTRACTOR will be “making a government decision” or “serving in a staff capacity” as defined in Sections A and B above. As a result, CONSULTANT/ CONTRACTOR shall file, with the City Clerk of the City of El Cajon in a timely manner as required by law, a Statement of Economic Interest (Form 700) as required by the City of El Cajon’s Conflict of Interest Code, and the Fair Political Practices Commission, to meet the requirements of the Political Reform Act. \*

Dept. Director  
Signature \_\_\_\_\_

Date \_\_\_\_\_

Name Dirk Epperson, Director Department Public Works

General Legal Counsel Approval of Determination \_\_\_\_\_

Executive Director Approval \_\_\_\_\_

\* CONSULTANT’s disclosure of investments, real property, income, loans, business positions and gifts, shall be limited to those reasonably related to the project for which CONSULTANT has been hired by Successor Agency. The scope of disclosure for CONSULTANT is attached hereto as Exhibit B-1.



**STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC.**  
**As-Needed Groundwater Investigation Services for Park Row**

**CONFLICT OF INTEREST SCOPE OF DISCLOSURE**

(For use in preparing California Form 700)

**Investments:** “Investment” means a financial interest in any business entity engaged in the business of remediation of contaminants, including, but not limited to businesses engaged in soils and groundwater contaminant remediation, transportation of contaminated materials, and any other business entities that could receive a financial benefit arising out of CONSULTANT’s performance under this AGREEMENT.

**Real Property:** “Real property” interests are limited to real property in the City of El Cajon, wherever located.

**Sources of Income:** “Sources of income” means income (including loans, business positions, and gifts) of CONSULTANT, or CONSULTANT's spouse or domestic partner in excess of \$500 or more during the reporting period from sources that are business entities engaged in the business of remediation of contaminants, including, but not limited to businesses engaged in soils and groundwater contaminant remediation, transportation of contaminated materials, and any other business entities that could receive a financial benefit arising out of CONSULTANT’s performance under this AGREEMENT.

**CITY OF EL CAJON  
CITY COUNCIL POLICY**

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**PURPOSE**

To provide a uniform City policy for liability insurance requirements and to establish procedures for its consistent application.

**BACKGROUND**

To help protect the City against liability, all individuals, contractors, agencies and organizations conducting business in association with, on behalf of, or in certain circumstances within the City of El Cajon are required to maintain adequate liability insurance coverage acceptable to the City.

Because of the differing levels of protection needed for various activities conducted within the City, the City has established policy limits and standards which directly relate to the type of activity being conducted.

**POLICY**

All individuals, contractors, agencies, and organizations conducting business either for the City of El Cajon (or the Successor Agency to the El Cajon Redevelopment Agency) or pursuant to an ordinance, resolution, agreement or policy requiring the maintenance of liability insurance shall provide proof of liability insurance in the following amounts and written on an occurrence basis (claims made coverage will be accepted only after verifying that occurrence coverage is not available):

1. A combined single limit policy with aggregate limits in the amount of \$2 million for all construction projects and for carnivals, subdivisions, and pollution coverage subject to section 5.c. under the heading "INSURANCE STANDARDS," with a maximum deductible or self-insurance retention ("SIR") of \$500,000; for policies not having a "combined single limit," minimum limits in amounts as follows:

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Unless staff determines that circumstances (i.e. high risk project, etc.) require the higher limit, the \$2,000,000 limit shall be decreased to \$1,000,000 with a maximum deductible or SIR of \$150,000, when:

**EXHIBIT "C"**

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- a. The public improvements portion of a subdivision project is less than \$50,000; or
  - b. A construction project (in accordance with the Standard Specifications for Public Works Construction—and the Standard Special Provisions, the “Green Book”) is for less than \$50,000.
2. Except as otherwise provided in this policy, a combined single limit policy with aggregate limits in the amount of \$2 million for all others, including, but not limited to, athletic leagues, recreation groups, towing companies and public service agencies; for policies not having a “combined single limit,” minimum limits in amounts as follows:
- Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
3. A combined single limit policy with aggregate limits in the amount of \$250,000 for homeowners insurance or \$500,000 for commercial general liability insurance for small business owners, in either event only where the insurance is required for work in the public right-of-way. “Small business owners” are defined as commercial businesses, or a professional or administrative office uses, where the owners of the business work on-site as their primary calling or vocation, and having no more than two (2) employees not related by blood or marriage.
  4. Selected high-risk activities that would otherwise fall under the criteria for category 2 shall be evaluated by staff on a case-by-case basis to determine whether or not the above limits are sufficient. The imposition of liability limits exceeding \$2 million for such high-risk activities is appealable to the City Council.
  5. \$1,000,000 for taxicab companies.
  6. \$500,000 or actual value, whichever is greater, for “valuable papers” and “in transit” insurance where City records or personal property is being transported or stored outside of City property.

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7. Exceptions to the above limits may be made for non-profit, charitable, political, community and religious organizations.
8. The policy or policies of insurance may be for all operations or activities of the party purchasing the policy or policies provided, however, that the City or the Successor Agency may require a separate policy exclusively for operations of the purchaser where the City Manager, in his or her sole discretion, determines that a single policy would be inadequate to protect the City or Successor Agency in the event of multiple catastrophes.
9. Workers' compensation insurance shall meet the minimum limits required by law.

**INSURANCE STANDARDS**

1. ADMITTED CARRIER / BEST'S RATING A, CLASS VII
  - a. Insurers must be "admitted" carriers pursuant to the provisions of the California Insurance Code and in accordance with all requirements of the State Insurance Commission and must be listed in the:

"OFFICIAL PUBLICATION  
DEPARTMENT OF INSURANCE  
STATE OF CALIFORNIA  
45 Fremont Street  
San Francisco, California 94105

INSURANCE ORGANIZATIONS AUTHORIZED BY THE INSURANCE  
COMMISSION TO TRANSACT BUSINESS OF INSURANCE  
IN THE STATE OF CALIFORNIA DURING  
[the most recent year for which  
the publication is available]."

or

"California Department of Insurance Company Profile."

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- b. Insurers must have a Best's rating of A, Class VII or higher (this rating includes those insurers with a minimum policyholder's surplus of \$50 to \$100 million). Exceptions to the Best's rating may be considered when an insurance carrier meets all other standards and can satisfy surplus amounts equivalent to an A, Class VII rating. An exception to the rating requirement may be made for the California State Compensation Insurance Fund if not rated.

**2. NON-ADMITTED CARRIER / BEST'S RATING A, Class XII**

Exceptions to the "admitted" requirement may be considered when a non-admitted insurance carrier meets all other standards herein and:

- a. is either (i) listed in:

California Department of Insurance  
List of Approved Surplus Line Insurers

**LISTING OF FILINGS**

or (ii) is currently a party to co-operation agreements with foreign insurance regulatory authorities acceptable to the City Manager or City Attorney (for example, for insurers located in the United Kingdom, agreements must be with both the Prudential Regulatory Authority ("PRA") and the Financial Conduct Authority ("FCA"), or such successor authority or authorities of PRA and FCA;

- b. either the carrier or its parent company has a Best's rating of A, Class VII (this rating include those insurers with a minimum policyholder's surplus of \$50 to \$100 million;
- c. has ten years or more experience in the business of insurance; and
- d. if applicable, the reinsurance carrier has a qualified rating.

**3. GENERAL – INSURANCE CERTIFICATES / ADDITIONAL INSURED**

All insurers (including those insuring against pollution or discharges of hazardous materials) must provide certificates of insurance and endorsements evidencing coverage prior to the start of any contract. All certificates or endorsements must include:

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- Name of insurance company issuing each policy.  
All insurers must provide an original endorsement naming the City of El Cajon (and/or the Successor Agency to the El Cajon Redevelopment Agency), and its (their) elected and appointed officials, officers, employees and volunteers (for purposes of this Policy, individually and collectively, the "City Insureds") as additional insureds. This inclusion as additional insureds shall not be required of Workers' Compensation or professional liability policies of insurance, and may be waived for "valuable papers" coverage with the approval of the City Attorney.
- All insurers must provide an original endorsement stating that the insurance coverage shall be primary insurance as respects the City of El Cajon (and/or the Successor Agency to the El Cajon Redevelopment Agency), and its (their) elected and appointed officials, officers, employees and volunteers (for purposes of this Policy, individually and collectively, the "City Insureds. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- Waiver of Subrogation endorsement is required on Workers' Compensation Coverage.
- Address of named insured.
- Description of coverage, including any special coverage required by the contract.
- Policy numbers.
- Policy periods (If claims made basis, must include retroactive date and length of time allowed as extended reporting period).
- Coverage type (occurrence form vs. claims made).
- Authorized signature and date of issuance. An original signature is required: a digital signature is acceptable so long as it complies with the requirements of Government Code §16.5.
- Unless approved by the City Manager or designee, no certificate shall be accepted that qualifies the obligation of the carrier to provide 30 days written notice of cancellation of the policy. With the approval of the City Attorney the obligation to provide notice of cancellation may be reduced to ten (10) days, but only for termination due to the non-payment of any premium.

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**4. PUBLIC WORKS PROJECTS**

In addition to the standards set forth above, insurance policies for public works projects must also meet the following insurance requirements set out in the most recent edition of the Green Book adopted by the City Council:

- a. All insurance certificates shall bear an endorsement or shall have attached a rider whereby it is provided that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, the City shall be notified by certified mail, return receipt requested, giving a sufficient time before the date thereof to comply with any applicable law or statute, but in no event less than thirty (30) days before expiration or cancellation is effective, the provisions of section 3 herein notwithstanding; and
- b. Compliance with Labor Code §§3700 and 3800 relating to Workers' Compensation.
- c. Requirements of the Green Book shall prevail.

**5. PUBLIC RIGHT-OF-WAY**

An applicant for permit(s) to do work within the public right-of-way may establish satisfactory proof of liability insurance in the following manner:

**a. CONTRACTORS**

Contractors must furnish the City with a certificate of liability insurance, which meets the requirements set forth above and any other City requirements contained in this policy.

**b. HOMEOWNERS / PROPERTY OWNERS**

Homeowners/Property owners requesting a permit to do work within City rights-of-way or easements immediately adjacent to their respective owned or occupied property, solely for the owner's personal benefit, shall be required to furnish the City with a copy of their homeowner's/property owner's liability insurance policy, which meets the requirements set forth above, with the minimum limits described in category 3 under the heading "**POLICY**," above. The policy must be effective during the entire period of the proposed work, plus two (2) calendar years, and must provide coverage for claims arising from the work performed, or improvements owned, by the homeowner in the right-of-way or easement. If the encroachment is

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ongoing, annual proof of insurance shall be required. The requirement to name the City as an additional insured, and the requirement for a policy for two (2) additional calendar years, may each be waived by the City Council or the City Manager (or her designee) in cases of extreme hardship, in their discretion.

c. **POLLUTION EXCLUSION**

Applications for the installation of monitoring wells for the evaluation of groundwater pollution or for the discharge of formerly polluted groundwater into the City sewer system must be accompanied by a certificate of liability insurance provided by the property owner. Such liability insurance may not contain a pollution exclusion clause and must explicitly indemnify the City against all hazards which may result from either of these activities, including a worsening of pollution, either within the subsurface adjacent to the original pollution or within the City sewer system.

If the property owner is unable to provide insurance which addresses both general liability and pollution liability, the environmental company or other appropriately qualified entity contracting with the property owner for either monitoring well installation or groundwater pollution remediation, may furnish pollution liability insurance on behalf of the property owner.

Any insurance approved under this subsection c. shall be an occurrence policy, and shall otherwise comply with the provisions of this Policy.

d. **PUBLIC UTILITIES**

This policy as it relates to work in the public rights-of-way shall not be applicable to Cable TV, Helix Water District, Padre Dam Municipal Water District, SBC, San Diego Gas & Electric, or any other public utility.

e. **TRANSPORTATION / OVERSIZE LOADS – PERMITS – See Chapter 10.24 of the El Cajon Municipal Code.**



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**TIME LIMITS / CANCELLATION PROVISIONS**

All liability insurance required pursuant to this policy shall provide coverage for a sufficient time period to protect the City from liability. The insurer is required to provide a minimum of thirty (30) days-notice of cancellation of any policy. With the approval of the City Attorney (except as provided in section 4, herein) this obligation may be reduced to not less than ten (10) days written notice, but only for termination due to the non-payment of any premium. In no event shall a policy be accepted which terminates prior to the completion of the activity to be covered.

In certain circumstances, it may be impracticable to obtain continuing insurance coverage due to the duration of the activity or the cost of premature renewal. Under such circumstances, an exception to the coverage period may be made so long as the policy is renewed or replaced with an acceptable insurance carrier and there is no lapse in coverage. Maintenance of proper insurance coverage is a material term of any contract with the City and failure to maintain or renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

**ALTERNATIVE RISK MANAGEMENT PRACTICES; SELF-INSURANCE; RISK-POOLING**

Alternative risk management practices, such as self-insurance, risk pooling, risk retention groups, and other such programs, will be accepted in lieu of commercial insurance policies provided that the coverage meets the requirements of this Policy. Any such alternative risk management practices must meet the financial strength and surplus requirements reflected by the Best's Ratings required of commercial insurance under this Policy.