

**ORPHAN SITE CLEANUP ACCOUNT PROGRAM
CLEANUP GRANT AGREEMENT
BETWEEN THE
STATE WATER RESOURCES CONTROL BOARD
AND
CITY OF SACRAMENTO**

AGREEMENT NO. 06-050-550-0

This Grant Agreement is made between the State of California acting by and through the State Water Resources Control Board, hereafter referred to as the "State Water Board", and City of Sacramento, hereafter referred to as the "Grantee".

WHEREAS:

1. The following provision(s) authorize the State Water Board to enter into this type of Grant Agreement:

Assembly Bill 1906 (Lowenthal) established the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount (Subaccount) within the Underground Storage Tank Cleanup Fund. (See Health and Safety Code, section 25299.50.2.) Assembly Bill 1906 provides that \$10,000,000 per year for 2005, 2006, and 2007 shall be transferred from the Fund to the Subaccount to address petroleum contamination from USTs at sites that qualify as brownfields. The State Water Board promulgated regulations to implement this program and they are contained in Title 23 of the California Code of Regulations, Chapter 18, Article 7 (OSCA regulations). The Grantee has satisfied applicable eligibility requirements contained in the Health and Safety Code section 25299.50.2 and the OSCA regulations.

2. The Grantee has applied for a cleanup grant and has been determined by the State Water Board to be eligible for a cleanup grant pursuant to applicable State laws and regulations. Pursuant to applicable OSCA regulations, the Grantee may obtain a cleanup grant for reasonable and necessary costs of response actions incurred on or after January 1, 2005; and
3. The State Water Board has authorized grant funding for the Remediation Project hereafter described.

NOW, THEREFORE, it is agreed as follows:

1. The Remediation Project generally consists of response actions incurred on and after January 1, 2005 that carry out cleanup activities and include, but are not limited to, implementing a corrective action plan and verification monitoring for an unauthorized release from a petroleum underground storage tank at 918 Del Paso Road, Sacramento, California, for the benefit of the Grantee.

The Project Representatives during the term of this Agreement will be:

Direct all inquiries to:

Grantee: City of Sacramento	State Water Resources Control Board Division of Financial Assistance
Contact: Chein Kao	Contact: Pat Preslar, Grant Manager
Address: 5730 24 th Street, Bldg. #4 Sacramento, CA 95822	Address: P. O. Box 944212 Sacramento, CA 94244-2120
Phone: (916) 808-8430	Phone: 916-341-5756
Fax: (916) 808-8337	Fax: 916-341-5806
e-mail: ckao@cityofsacramento.org	e-mail: ppreslar@waterboards.ca.gov

Each party may change its Project Representative upon written notice to the other party.

EXHIBIT A
SCOPE OF WORK

BACKGROUND:

In June 2003, the City of Sacramento purchased the property at 918 Del Paso Road for use as a North Area Corporation Yard for City operations. The property was formerly owned by Consolidated Freightways, a trucking company. Six underground storage tanks used to store fuel, oil, waste oil, and antifreeze existed on the site. There was known underground contamination at the fuel site from a documented diesel fuel release in 1987.

The City of Sacramento did not fill or use any of the underground storage tanks from date of purchase. In December, 2004 the City contracted with Blymyer Engineers, Inc. to resume monitoring of ground water and to provide specification and scope for development of a final remediation plan. The first Quarterly Monitoring report was submitted in March 2005.

On October 7, 2005 three underground storage tanks were removed. Diesel contamination under tanks, dispensers, piping and in backfill (pea gravel) was detected. Pea gravel was removed and disposed of. Site remains open.

On October 17, 2005, three additional underground storage tanks were removed. Ethylene glycol and waste motor oil contamination was detected under the tanks. Tank pit was over-excavated and re-sampled. Samples indicated no contamination. Pit was filled with clean fill and paved over. On November 21, 2005, a Notification of Unauthorized Release/Contamination Site Report for waste oil and ethylene glycol was filed with Sacramento County Environmental Management Division.

WORK TO BE PERFORMED BY GRANTEE:

Grantee shall conduct response actions located at 918 Del Paso Road, Sacramento, California.

The Grantee shall be responsible for the performance of the work as described herein.

- a) The Grantee shall immediately notify the State Water Board Grant Manager and propose an amendment agreement in the event that, for reasons beyond the reasonable control of the grantee or reasons that cannot be anticipated at the execution of the agreement, the response action exceeds the scope or budget of the agreement or it becomes apparent that the grantee will be unable to complete the work. The proposed amendment must include the following:
 - 1) Justification for amendment;
 - 2) A description of the additional services required to complete the Scope of Work.

SCOPE OF WORK

Proposed Cleanup Response Work

The proposed work includes several tasks beginning with the preparation of a Request for Proposal (RFP) for the preparation and implementation of a Final Remediation Work Plan. The Regional Water Quality Control Board (RWQCB) has reviewed the draft RFP prior to release. The Work Plan prepared by the selected consultant will incorporate a study of remedial alternatives based on technical and economic feasibility. As part of the Work Plan, a corrective action plan (CAP) will describe in detail how the recommended remedial alternative will be implemented at the site. In addition, the Final Remediation Work Plan will include a Human Health Risk Assessment and a requirement that the analytical and site data be uploaded to the State Water Board GeoTracker database. The resulting recommended

EXHIBIT B

INVOICING AND BUDGET DETAIL

1. INVOICE PACKAGES

- 1.1 No disbursement under this Grant Agreement will be made except upon receipt of an acceptable Standard Form Payment Request (Exhibit E) duly executed by or on behalf of the Grantee. The Grantee's duly authorized representative who has been approved by the State Water Board must execute all Payment Request forms. A Payment Request form must accompany all invoice packages. The invoice packages shall be submitted to the State Water Board's Grant Manager not to exceed one invoice package per month and in the minimum amount of \$5,000. The address for submittal is:

Pat Preslar, Grant Manager
State Water Resources Control Board
Division of Financial Assistance
P. O. Box 944212
Sacramento, CA 94244-2120

- 1.2 Payment of any invoice shall be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice. Invoices received by The State Water Board that are not consistent with the approved format will be cause for an invoice to be disputed. In the event of an invoice dispute, The State Water Board's Grant Manager will notify the Grantee by initiating an "Invoice Dispute Notification" form. Payment will not be made until the dispute is resolved and a corrected invoice submitted. Failure to use the address exactly as provided above may result in return of the invoice to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. All invoices must be approved by the State Water Board's Grant Manager
- 1.3 Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, rules, or regulations, or which may require any rebates to the Federal Government, or any loss of tax-free status on state bonds, pursuant to any Federal statute or regulation.
- 1.4 Grantee shall provide proof of payment to the consultant or contractor for each invoice submitted for payment under this Grant. If the grantee is not able to demonstrate proof of payment, the State Water Board, at its discretion, may issue two-party checks for the payment of costs identified in Exhibit B, Budget (see Exhibit D). The two-party checks will require the endorsement of both Grantee and the company providing the services.
- 1.5 Notwithstanding any other provision of this Agreement, the Grantee agrees that The State Water Board may retain ten percent (10%) of the grant amount specified in this Agreement until "Notice of Completion/Final Inspection" from local regulatory agency of the Project is received.
- 1.6 The invoice shall contain the following information:
- 1.6.1 The word "INVOICE" and a sequential invoice number should appear in a prominent location at the top of the page(s);
 - 1.6.2 Printed name of the consultant or contractor
 - 1.6.3 Business address of the consultant or contractor, including P.O. Box, City, State, and Zip Code;
 - 1.6.4 Printed name of the Grantee;
 - 1.6.5 Business address of the Grantee, including P.O. Box, City, State, and Zip Code;
 - 1.6.6 The date of the invoice;
 - 1.6.7 The number of the Agreement upon which the invoice is based;

Expenses:

Subcontractors:

Sampling contractor (total of 36 existing wells to be sampled)	5,934.00
Sampling contractor - Drums (1 time event) for purging water	966.00
Analytical laboratory (36 samples for TPH- D, 26 for PNA, 27 for MTBE, 13 for oxygenates)	10,597.00
Non-itemized expenses (5.25% of labor)	<u>269.00</u>

Task 1 subtotal (1 event): **22,857.50**

Task 2: Upload existing site data to GeoTracker:

Labor:

50 hrs. @ \$109.25/hr. (GEO III/ES III)	5,462.50
2 hrs. @ \$125.00/hr (Principal)	250.00

Expenses:

Non-itemized expenses (5.25% of labor)	<u>276.00</u>
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Task 2 subtotal: **5,988.50**

Task 3: RFP bid support, pre-proposal site meeting attendance, review proposals, assist in transition to new consultant:

Labor:

50 hrs. @ \$109.25/hr. (GEO III/ES III)	5,462.50
2 hrs. @ \$125.00/hr (Principal)	250.00

Expenses:

Mileage (200 miles @ 0.575/mile)	115.00
Non-itemized expenses (5.25% of labor)	<u>276.00</u>

Task 3 subtotal: **6,103.50**

Task 4: Downgradient grab groundwater sampling for MTBE delineation attempt:

Labor:

Administrative (permitting, health & safety plan, traffic plan, USA, contractor coordination): 28 hrs. @ \$109.25/hr. (GEO III/ES III)	3,059.00
Workplan: 12 hrs. @ \$109.25/hr (GEO III/ES III)	1,311.00
Field Work: 16 hrs. @ \$109.25/hr (GEO III/ES III)	1,748.00

Task 5 subtotal (with contingency expenses)	35,555.00
	=====
Estimated total (without Task 5 contingency expenses)	80,719.00
Contingency expenses (Task 5)	<u>7,906.50</u>
 Total interim action	 88,625.50

Final Remediation Work Plan,

Labor:

Administrative:		
	4 hrs. @ \$109.25/hr. (GEO III/ES III)	437.00
Report:		
	40hrs. @ \$109.25/hr (GEO III/ES III)	4,370.00
	8 hrs. @ \$86.25/hr (CAD Operator)	690.00
	2 hrs. @ \$125.00/hr (Principal)	250.00

subtotal \$ 5,747.00

Final Remediation

Expenses:

Sub-contractor:

Over-excavation & Disposal	7,000 tons x \$67.00/ton	\$ 469,000.00
Demolition of Canopy	Lump Sum	\$ 5,000.00
Demolition of Concrete (Removal & Disposal)	Lump Sum	\$ 18,000.00

Confirmation Sampling & Analysis

Labor:

Administrative:		
	4hrs. @ \$109.25/hr. (GEO III/ES III)	437.00
Report:		
	20 hrs. @ \$109.25/hr (GEO III/ES III)	2,185.00
	4 hrs. @ \$86.25/hr (CAD Operator)	345.00
	2 hrs. @ \$125.00/hr (Principal)	250.00

Expenses:

Subcontractors:

Sampling contractor (approximately 40 samples)	3,250.00
Analytical laboratory (40 samples for TPH-D, MTBE)	6,500.00

Non-itemized expenses (5 25% of labor) 269.00

Sub-Total: **\$10,019.00**

EXHIBIT C
THE STATE WATER BOARD GENERAL CONDITIONS

1. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
2. **APPROVAL:** The Grantee will not proceed with any work on the Project until authorized in writing by The State Water Board.
3. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the consent of The State Water Board.
4. **AUDIT:** Grantee agrees that The State Water Board, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the use of grant funds or performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
5. **CHILD SUPPORT COMPLIANCE ACT:** Grantee acknowledges that it recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
6. **COMPLIANCE WITH LAW, REGULATIONS, ETC :** The Grantee agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements.
7. **COMPUTER SOFTWARE:** The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
8. **DISPUTES:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Grantee shall submit to the Chief of the Division of Financial Assistance a written demand for a final decision. The decision of the Division Chief, or his or her authorized representative, shall be reduced to writing and a copy thereof furnished to the Grantee and to The State Water Board's Executive Director. The decision of the Division Chief shall be final and conclusive unless, within thirty (30) calendar days of the date of the Division decision, The State Water Board's Executive Director receives a written appeal. The Grantee's written appeal shall be fully supported by any factual information Grantee desires to be considered in the decision. The Executive Director's decision shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of The State Water Board, or any official or representative thereof, on any question of law.
9. **DRUG-FREE WORKPLACE REQUIREMENTS:** Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (commencing with Section 8350 of the Government Code) and will provide a drug-free workplace by taking the following actions:

Regulations, Title 2, Section 7285 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this agreement by reference and made a part hereof as if set forth in full.

Grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work at this Project.

17. **NOTICE:** The Grantee shall promptly notify The State Water Board of events or proposed changes that could affect the scope, budget, or work performed under this Agreement. The Grantee agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to The State Water Board, and The State Water Board has given written approval for such change. The Grantee shall notify The State Water Board at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by The State Water Board's representatives. The Grantee shall promptly notify The State Water Board in writing of completion of work on the Project.
18. **OPERATIONS & MAINTENANCE:** The Grantee shall maintain and operate the facility and structures constructed or improved as part of the project throughout the term of this Agreement, consistent with the purposes for which this Grant was made. The Grantee assumes all operations and maintenance costs of the facilities and structures; The State Water Board shall not be liable for any cost of such maintenance, management or operation.
19. **PAYEE DATA RECORD FORM (Std. 204).** The Grantee must complete the Payee Data Record Form.
20. **PERMITS, CONTRACTING, WAIVER, REMEDIES AND DEBARMENT:** The Grantee shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Any contractors, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by The State Water Board's Grant Manager during the performance of this Agreement. Any substitutions in, or additions to, such contractors, associates, or consultants, shall be subject to the prior written approval of The State Water Board's Grant Manager. Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law. The Grantee shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". The Grantee shall not contract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35; Gov. Code § 4477.) The Grantee certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or grantee;
 - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

with the provisions of this Agreement within a reasonable time as established by The State Water Board. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to The State Water Board an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.

27. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
28. **TRAVEL AND PER DIEM:** Grant funds shall not be used for travel and per diem expenses.
29. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement shall continue to have full force and effect and shall not be affected thereby.
30. **UNION ACTIVITIES:** Grantee hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this grant. Grantee certifies that none of the grant funds will be used to assist, promote, or deter union organizing. Grantee shall account for all state funds disbursed by the grant for a specific expenditure, and show those funds were allocated to that expenditure. If Grantee incurs costs or makes expenditures to assist, promote, or deter union organizing, Grantee will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs and Grantee shall provide those records to the Attorney General upon request.
31. **VENUE:** The State Water Board and the Grantee hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.
32. **WITHHOLDING OF GRANT DISBURSEMENTS:** The State Water Board may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.

EXHIBIT D
OSCA GRANT PROGRAM TERMS & CONDITIONS

1. The State Water Board, at its discretion, may issue two-party checks for the payment of response costs as provided in Exhibit B, Budget Item. The two-party checks will require the endorsement of both Grantee and the party providing the response action services. Two-party checks will be issued if Grantee does not submit proof of payment for response cost invoices.
2. The State Water Board's obligation to make a disbursement of proceeds of this Grant to the Grantee is subject to and conditioned upon The State Water Board's receipt of each of the following:
 - a. Copy of executed contract(s) for response work acceptable to the State Water Board. Subcontractor(s) must have current and active license with California State Contractors License Board.
 - b. Copy of permits from regulatory agencies necessary to conduct response actions.
 - c. Copies of invoices as identified in Exhibit B.
 - d. Such other documents, certificates, instruments, opinion or other writings as The State Water Board may reasonably request.
 - e. Submittal of original signed Payment Request Form as identified in Exhibit E.
3. The response costs submitted must be for response work directed by the regulatory agency (Title 23 of the California Code of Regulations, Chapter 18, Article 7 [OSCA regulations], section 2814.25(a)(2).) The State Water Board may pay eligible costs of response actions that are reasonable and necessary. When determining if a response action cost is reasonable, the State Water Board may consider bids or proposals submitted pursuant to OSCA regulations, section 2814.31.
4. In addition to Paragraph 26 of Exhibit C, the State Water Board, at its discretion, may disencumber grant funds or terminate this Grant Agreement if:
 - a. An invoice package seeking payment under the Grant Agreement is not received within six months of the date that the Grant Agreement is executed; or
 - b. The Grantee does not perform response actions or seek payment under this Grant Agreement with due diligence; or
 - c. The Grantee is not in compliance with any applicable requirements contained in Article 7 of chapter 18 or Chapter 16 of Title 23 of the California Code of Regulations or Chapter 6.7 of the Health and Safety Code.
5. During the term of this agreement, the Grantee shall submit by the 15th of the month following the quarterly reporting period (March, July, September, December), a written quarterly progress report to the Grant Manager describing the following:
 - a) The progress accomplished during the reporting period on each project activity and task, as identified in the description of work required;
 - b) Any problems encountered during the reporting period;
 - c) The next quarter's projected work activities, specifying which project activities and tasks are expected to be completed during the next reporting period;
 - d) The expenditures for the reporting period for each project task.

EXHIBIT E - PAYMENT REQUEST
ORPHAN SITE CLEANUP ACCOUNT (OSCA) - ASSESSMENT GRANT

Grant Agreement No. 06-050-550-0

OSCA Site No. B0035

PAYMENT NO.:

GRANTEE: CITY OF SACRAMENTO
ATTN: Attn: Chein Kao
MAILING ADDRESS: 5730 24th Street, Bldg. #4
 Sacramento, CA 95822

OSCA SITE NAME: NORTH AREA CORPORATION YARD
SITE ADDRESS: 918 DEL PASO ROAD
 SACRAMENTO, CA

GRANT AGREEMENT AWARD

AMENDMENT NO.

This Section to be completed by the Grantee:

OSCA COSTS REQUESTED:

I have reviewed and certify the costs for this payment submittal were for response costs incurred at OSCA Site No. B0035 located at site address: 918 Del Paso Road, Sacramento, CA

 GRANTEE SIGNATURE

 DATE

STATE USE ONLY: APPROVED FOR PAYMENT

Approved for payment to date

LESS

Previous payments

Total Amount Due

 Reviewed By:

 Title:

 Date:

 Approved By:

 Title:

 Date: