

**ORIGINAL**

RESOLUTION 2012 - 04

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, APPROVING  
AGREEMENT FOR PROFESSIONAL ENGINEERING  
SERVICES WITH PACIFIC GROUNDWATER  
(Airport Consultant Services)**

**WHEREAS**, the City of Sunnyside has previously solicited proposals from qualified persons and firms for consulting and engineering services for remediation of environmental contamination at the Sunnyside Municipal Airport; and

**WHEREAS**, the City Council finds and determines that the firm of Pacific Groundwater is the most qualified professional engineering firm to provide such services; and

**WHEREAS**, the City Council finds and determines that a professional services agreement for such scope of work, as set forth in plans and specifications for such project, should be approved; and

**WHEREAS**, the City Council finds and determines that such approval is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:**

**SECTION 1.** That the agreement for professional engineering and consulting services for the Sunnyside Airport Environmental Remediation with Pacific Groundwater Group, which agreement is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved; and the City Manager is hereby authorized to execute and administer such agreement for and on behalf of the City of Sunnyside.

**SECTION 2.** This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

**PASSED** this 9<sup>th</sup> day of January, 2012.

  
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MIKE FARMER, MAYOR

**ATTEST:**

  
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DELILAH SAENZ, CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
JEFF SLOTHOWER, CITY ATTORNEY

# PACIFIC groundwater GROUP

November 30, 2011

Mr. Mark Gervasi  
City of Sunnyside  
818 E. Edison Ave.  
Sunnyside, WA 98944

**RE: Sunnyside Municipal Airport Environmental Investigation  
Sunnyside, Washington**

Dear Mr. Gervasi:

Per your request, Pacific Groundwater Group (PGG) is pleased to present this scope of work to assist the City of Sunnyside in preparing a remedial action grant and agreed order for environmental investigation of pesticide contamination at the Sunnyside Municipal Airport in Sunnyside, Washington.

## **Background**

The Sunnyside Municipal Airport serves the City of Sunnyside and surrounding agricultural areas. The subject area at the airport has been used for crop duster operations including tank filling and aircraft spray down since the 1940s. Don Padelford, a neighbor of the airport, reported historic releases of pesticide to soil in the area of historic spray operations to the Department of Ecology in 2008.

Ecology followed up on the report with a series of interviews that suggested the initial report was credible. Ecology then continued their preliminary site investigation with soil sampling in October 2010. The soil samples confirmed the presence of pesticides in exceedance of MTCA Method B cleanup levels at 3 of 4 locations. Ecology added the subject area to the confirmed and suspected contaminated sites list (CSCSL) upon receipt of the laboratory data. Ecology has not issued a formal site hazard assessment or site ranking.

Initial conversations with Ecology indicate that the preliminary contaminants of concern for the site are:

- chlorinated herbicides
- chlorinated pesticides
- organophosphate pesticides

The list of analytes may be reduced as more data is collected and analyte groups are demonstrated to either have a clear correlation with other analyte groups or are at sufficiently low concentrations. This scope of work does not include soil or groundwater sampling.

## **Scope of Work- Agreed Order**

### **Task 1 – Project Management**

- This task includes general project management and communication with Sunnyside regarding project progress and miscellaneous details.

### **Task 2 – Grant Application Support**

- PGG will interview local operators with knowledge of site activities. The purpose of the interviews will be to locate areas of known pesticide use, documenting site history.
- PGG will communicate with the City and Department of Ecology to begin the grant application process. This task provides technical assistance in preparing the grant and supporting Agreed Order documents. Final approval and submission of Agreed Order documents would be the responsibility of City of Sunnyside legal counsel.
- PGG will prepare grant application materials in coordination with City legal counsel using Ecology templates.

## **Summary**

The intent of this scope of work is to move the site directly into the Oversight Remedial Action Grant (ORAG) process with Ecology. The ORAG provides matching funds from Ecology contingent on entering into an Agreed Order to address contamination and fulfill the other legal and documentation requirements of the grant program. Ecology would have to agree to enter into this program with the City. The timing of matching funds would depend on Ecology's priorities and its funding cycle from the State Legislature. The scope of work includes gathering information in support of a grant application and grant application support in coordination with City legal counsel. Note that this option does not include any field investigation or remediation beyond a possible site walk and interview with persons with knowledge of the site to develop a preliminary conceptual model of the nature of releases and extent of contamination for the site. This information will provide the basis for the sampling plan to be included in the ORAG application.

## **Cost Estimate**

The cost estimate to implement this scope of work is estimated to be \$20,660. The work will be billed on a time and materials basis. Billing rates are set forth in the attached 2011 Pacific Groundwater Group Terms and Conditions.

## **Schedule**

PGG can begin work upon authorization by you with a flexible schedule to meet the goals of the City of Sunnyside.

## **Terms and Conditions**

Costs will be invoiced monthly on a time and materials basis in accordance with the attached terms, conditions, and cost estimate. In the event that unexpected conditions are encountered that appear to require additional work, PGG will bring them to your attention and seek your approval for any added expenditure. The terms and conditions of the fee schedule are

**EXHIBIT "A"**

incorporated into our agreement with you and by your authorization to proceed, you are accepting those terms and conditions.

Our professional services will be performed, our findings obtained, and our report prepared in accordance with generally accepted environmental practices. This warranty is in lieu of all other warranties, express or implied.

Thank you for this opportunity. We look forward to working closely with you as the project evolves. Please feel free to contact us at (206) 329-0141 if you have questions or require additional information. We look forward to hearing from you.

Respectfully submitted,  
**Pacific Groundwater Group**

**APPROVED:**



**Charles Ellingson, LHG**  
Principal Hydrogeologist

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**Signature**

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**Date**

**Attached:**

Attachment A Cost Estimates for Pesticide Investigation Agreed Order Support  
Pacific Groundwater Group Terms and Conditions

EXHIBIT "A"

**Attachment A. Cost Estimates for Pesticide Investigation Agreed Order Support**

Sunnyside Municipal Airport  
Sunnyside, Washington

ESTIMATED HOURS										
PACIFIC GROUNDWATER GROUP TASKS/SUBTASKS	Support \$55	Technical \$100	Senior Staff \$110	Principal \$150	Labor Cost	Direct Costs	Subcontract Cost	Subtask Cost	TASK COST	
<b>1 Project Management</b>										
Initial communication with Ecology and Sunnyside General PM	5		5	5	\$1,300 \$1,575	Travel \$ - Phone/misc \$ 50		\$1,300 \$1,625	\$2,925	
<b>2 Grant Application Support</b>										
Review Site History/Site Walk			5	1	\$700	Travel \$ 300		\$1,000	\$17,700	
Prepare Sampling Plan			10	5	\$1,850			\$1,850		
Prepare Investigation/Remediation Budget		5	15	5	\$2,900			\$2,900		
Prepare DRAFT Grant Application		5	20	5	\$3,450			\$3,450		
Finalize and Submit Grant Application		5	5	5	\$1,800			\$1,800		
Assist Legal Counsel with Agreed Order			20	30	\$6,700			\$6,700		
<b>TOTAL HOUR ESTIMATES</b>	5	15	85	61						
<b>SUBTOTAL DOLLARS</b>	\$275	\$1,500	\$9,350	\$9,150		\$350		\$20,625	\$20,625	
<b>SUBCONTRACTOR MARKUP (10%) on direct costs</b>						\$35		\$0	\$35	
<b>ESTIMATED TOTAL COST</b>									\$20,660	

September 7, 2011

**EXHIBIT "A"**  
**2011 PACIFIC GROUNDWATER GROUP TERMS AND CONDITIONS**

**SCHEDULE OF CHARGES.** The schedule establishing fees for Pacific Groundwater Group's services is presented below. A new schedule is issued at the beginning of each year or when otherwise dictated by inflationary changes. Unless other arrangements have been made, charges for all work, including continuing projects initiated in the prior year, will be based on the latest SCHEDULE OF CHARGES in the latest PACIFIC GROUNDWATER GROUP TERMS AND CONDITIONS.

<b>Principal Technical Services</b>	<b>\$150/hr.</b>	<b>Travel &amp; Sustenance</b>	<b>Cost plus 10%</b>
<b>Senior Technical Services</b>	<b>\$90 to \$125/hr</b>	<b>Subcontract and Direct Expense</b>	<b>Cost plus 10%</b>
<b>Associate Technical Services</b>	<b>\$130/hr.</b>	<b>Long Distance and Cellular Phone Expenses</b>	<b>Cost plus 10%</b>
<b>Staff Technical Services</b>	<b>\$85 to \$95/hr.</b>	<b>Xerox &amp; Oversize Copies</b>	<b>\$0.15/copy &amp; \$1/sq. ft</b>
<b>Technical Support Services</b>	<b>\$55/hr.</b>	<b>Automobile Mileage</b>	<b>Federal mileage + \$0.05</b>
<b>Legal Support (Preparation, Deposition, Testimony, Travel )</b>	<b>\$200/hr.</b>	<b>Truck Mileage</b>	<b>Federal mileage + \$0.10</b>

**PAYMENT, INTEREST, COLLECTION.** Invoices will be submitted once per month for service expenses rendered during the prior month. Payment will be due within thirty (30) days of the invoice date. Interest will be added to accounts in arrears at the rate of one and one-half percent (1 - 1/2%) of the average for each month of delinquency not to exceed the maximum annual percentage rate allowed by law. All expenses incurred for liening or collecting any delinquent amount, including but not limited to reasonable attorney fees, witness fees, reasonable charges at current billing rates for the time devoted by the Pacific Groundwater Group's personnel, document duplication, organization and storage costs, taxable court costs, travel and subsistence, shall be paid to the Pacific Groundwater Group in addition to the delinquent amount. If at any time, present or future, the State, County, City or Municipality assesses a sales, use, or ad valorem tax upon Pacific Groundwater Group for any of the services, supplies, testing or other work performed by Pacific Groundwater Group and/or its subcontractors under this contract, the client agrees to pay such taxes in addition to, and hold Pacific Groundwater Group harmless from such, or should Pacific Groundwater Group elect to pay such taxes directly, the client agrees to reimburse and indemnify Pacific Groundwater Group in full.

**TERMINATION.** In the event the client requests termination of the work prior to completion, Pacific Groundwater Group will be paid for all work performed up to the notice of termination and for all expenses incurred or committed to that cannot be canceled. Pacific Groundwater Group also has the right to complete, at the client's expense, the analysis and records necessary to so order the work as to protect our professional reputation. A termination charge may also be made to cover the preparation and administrative costs related to the work. Charges will include all reasonable expenses incurred, and time for Pacific Groundwater Group's personnel, charged at the current rates.

**CLIENT FURNISHED INFORMATION.** The client is responsible to provide, by map or drawing, a description of the property, its location and the location of any buried structures or utilities. Pacific Groundwater Group will not be held liable for damage or injury to subterranean structures (pipes, tanks, telephone cables, etc.), nor to injury to persons arising from damage to subterranean structures, which are not called to our attention and correctly shown on the plans furnished to Pacific Groundwater Group in connection with the work performed by Pacific Groundwater Group. The client agrees to indemnify and hold harmless Pacific Groundwater Group for any and all incorrect or omitted location information to the extent and terms provided in the paragraph entitled "INDEMNIFICATION."

**RIGHT OF ENTRY.** Unless otherwise agreed, Pacific Groundwater Group will be furnished right-of-entry on the land to make planned borings, surveys and other explorations. Pacific Groundwater Group will take reasonable precautions to minimize damage from use of equipment, but have not included in our fee the cost of restoration of damage which may result from work as outlined in this contract. If Pacific Groundwater Group is required to restore the property to its former condition, the cost of such restoration will be estimated. The additional sum will be agreed upon in writing between Pacific Groundwater Group and the client, and added to the original fee.

**SAMPLE RETENTION.** Due to the expense of storage costs and limited storage life of samples, Pacific Groundwater Group will discard samples sixty (60) days after submission of the report unless arrangements are made for repackaging and storage fees. Alternatively, at the client's request, the samples will be delivered to the client at the client's expense. All samples containing hazardous materials will be returned to the client, at the client's expense, subsequent to use.

**OWNERSHIP OF DOCUMENTS.** Any documentary report or tangible item developed and furnished under this agreement is intended solely for the purpose of communicating and transferring tangible information relating to professional services. All designs, drawings, specifications, notes, data samples, materials, report reproductions, and other works developed by Pacific Groundwater Group, are instruments of service and, as such, remain the property of Pacific Groundwater Group. The client agrees to hold harmless and indemnify Pacific Groundwater Group against all claims, demands, losses, penalties, or damages, including reasonable attorney's fees, arising use of these documents on extensions of this project or any other project without the written permission of Pacific Groundwater Group.

**INSURANCE.** Pacific Groundwater Group maintains Worker's Compensation for its employees as required by State law. Pacific Groundwater Group is protected by Public Liability Insurance to a maximum of \$1,000,000 combined single limits, for bodily injury and property damage liability, and will furnish certificates thereof upon request. Within the limits of said insurance, Pacific Groundwater Group agrees to hold the client harmless from and against loss, damage, injury or liability arising directly from negligent acts committed by Pacific Groundwater Group, its employees, agents, subcontractors and subcontractors' employees and agents.

**INDEMNIFICATION.** To the fullest extent permitted by law, the client agrees to defend, indemnify and hold Pacific Groundwater Group, including but not limited to Pacific Groundwater Group's agents, employees, subcontractors and subcontractors' employees, agents and subcontractors, harmless from and against any and all claims, associated defense costs (including reasonable attorney's fees) damages and other liabilities arising out of or in any way related to Pacific Groundwater Group's work on the project. The client shall indemnify Pacific Groundwater Group against liability for damages caused by or resulting from the concurrent negligence of (a) the client, its agents, employees, subcontractors and subcontractors' employees, agents and subcontractors, and (b) Pacific Groundwater Group, and its agents, employees, subcontractors and subcontractors' employees, agents only to the extent of the client's negligence or the negligence of the clients' agents, employees, subcontractors and subcontractors' employees, agents and subcontractors.

**LIMITATION OF LIABILITY.** With the exception of claims covered by Pacific Groundwater Group's insurance, as provided in the paragraph entitled "INSURANCE" above, and notwithstanding any other term or condition hereof to the contrary, Pacific Groundwater Group's liability under this contract shall, under no circumstances exceed \$50,000 or the total of the fees paid by the Client to Pacific Groundwater Group under the attached scope of work and contract, whichever is greater.

**STANDARD OF CARE.** Pacific Groundwater Group agrees to provide the client, for its sole benefit and exclusive use, the consulting services set forth in Pacific Groundwater Group's attached proposal. Pacific Groundwater Group's services shall be performed in accordance with generally accepted practices in the same or similar localities, related to the nature of the work accomplished, at the time the services are performed.

**HAZARDOUS SUBSTANCES AND CONDITIONS.** The client recognizes that Pacific Groundwater Group's services do not include generating, storing, transporting, or disposing of substances considered to be hazardous and requiring permits under Federal, State or local environmental laws. The client warrants that if it knows or suspects that hazardous substances may exist on the property, the client has so informed Pacific Groundwater Group.

**UNFORESEEN OCCURRENCES.** If any unforeseen conditions or occurrences, including but not limited to hazardous substances or pollutants, are encountered which, in Pacific Groundwater Group's sole judgment, significantly affect the recommended scope of work, Pacific Groundwater Group will promptly notify the client. After such notification, Pacific Groundwater Group will complete its original scope of work, if appropriate, or agree with the client to modify the agreement, or to terminate the work pursuant to the termination clause listed above.

**SUBSURFACE RISKS AND SITE DAMAGE.** The client recognizes that special risks occur and "guarantees" cannot be expected whenever professional consulting services are applied in evaluating subsurface conditions. Pacific Groundwater Group cannot eliminate these risks altogether, but can apply professional techniques to reduce the risks to a level considered tolerable and the client agrees to accept that level of risk. The client recognizes that the use of exploration and test equipment may unavoidably damage or alter the property surface or subsurface and the client agrees to assume responsibility for such unavoidable damages or alterations. Further, the client assumes responsibility for personal or property damage due to interference with subterranean structures, including but not limited to subsurface pipes, tanks and utility lines, that are not called to Pacific Groundwater Group's attention in writing or correctly as shown on plans provided by the client.

**INTERPRETATIONS AND TIME BAR TO LEGAL ACTION.** Interpretations and enforcement of this agreement shall be governed by the laws of the State of Washington. All legal actions by either party to this contract against the other, related to this agreement or any addendum to it, shall be barred after two years have passed from the time the claimant knew or should have known of its claim, and under no circumstances shall be initiated after four years have passed from the date by which Pacific Groundwater Group completes its services.

**SEVERABILITY AND SURVIVAL.** Any element of this agreement later held to violate a law shall be deemed void and all remaining provisions shall continue in force. However the client and Pacific Groundwater Group will, in good faith, attempt to replace any invalid or unenforceable provision with another provision that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision. All terms and conditions of this agreement allocating liability between the client and Pacific Groundwater Group shall survive the completion of the services hereunder and the termination of this agreement.

**PRECEDENCE.** These terms and conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document, regarding Pacific Groundwater Group's services.