

ORIGINAL

RESOLUTION 2011 - 76

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, APPROVING
AN AGREEMENT WITH CH2M HILL FOR ENGINEERING SERVICES
(Waste Water Treatment Plant Temperature Reduction Study)**

WHEREAS, the City of Sunnyside owns and operates a Waste Water Treatment Plant (WWTP) to treat municipal sewage for the residents of the City of Sunnyside; and

WHEREAS, the Department of Ecology is authorized by the State of Washington and the United States Environmental Protection Agency to issue and monitor the National Pollutant Discharge Elimination System (NPDES) Permit for the operations of the WWTP; and

WHEREAS, the NPDES Permit #WA-002-099-1 section S12 states that the City of Sunnyside shall submit a Temperature Reduction Study to identify best management practices and low cost technology suitable for the WWTP; and

WHEREAS, the City of Sunnyside having previously contracted with CH2M Hill to design the plant and to provide on-going services for the operations of the WWTP; and

WHEREAS, the City has requested and received a scope of work that will satisfy the requirements of the NPDES Permit # WA-002-099-1 and a Standard Agreement for Professional Services for the amount of \$36,562 for such work; and

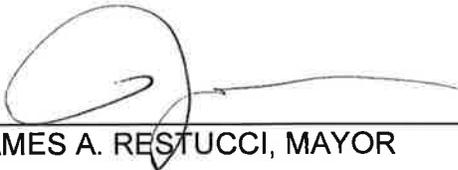
WHEREAS, the City of Sunnyside City Council finds and determines that approval of such contract for services is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

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

Section 1. That the Standard Agreement for Professional Services in the amount of \$36,562, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved; and the City Manager is hereby authorized to execute 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 14th day of November, 2011.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CITY CLERK

APPROVED AS TO FORM:



MENKE JACKSON BEYER EHLIS & HARPER, LLP
Attorneys for the City of Sunnyside

EXHIBIT "A"



STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

CH2M HILL'S OFFICE ADDRESS: 295 Bradley Blvd, Suite 300, Richland, WA 99352

PROJECT NAME: Temperature Reduction Study

CLIENT: City of Sunnyside

CLIENT'S ADDRESS: 818 E. Edison Avenue, Sunnyside, WA 98944

CLIENT requests and authorizes CH2M HILL Engineers, Inc. (hereinafter "CH2M HILL") to perform the following Services:

Scope of Services

CH2M HILL will perform the services as outlined in Attachment A.

Compensation

Compensation by CLIENT to CH2M HILL will be on a time and materials plus reimbursable expenses basis with a total cost not to exceed \$36,562 (Thirty Six Thousand Five Hundred Sixty Two Dollars).

Schedule

The scope of services will start on Notice to Proceed (NTP) with a completion date of November 15, 2011. This schedule is contingent upon timely NTP (on or before August 31, 2011), receipt of information and comments from CLIENT and others and provided the meetings occur as outlined in Attachment A.

Other Terms

Services covered by this AGREEMENT will be performed in accordance with the Provisions and any attachments or schedules. This AGREEMENT supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

CLIENT:

Signature _____

Name (printed) Mark J. Gervasi

Title City Manager

Date _____

CH2M HILL Engineers, Inc.:

Signature 

Name (printed) Thomas J. Helgeson, P.E.

Title Vice President and Area Manager

Date 8-5-2012

EXHIBIT "A"
PROVISIONS

1. Authorization to Proceed

Execution of this AGREEMENT by CLIENT will be authorization for CH2M HILL to proceed with the Services, unless otherwise provided for in this AGREEMENT.

2. Salary Costs

CH2M HILL's and its affiliated companies' Salary Costs, when the basis of compensation, are the amount of wages or salaries paid CH2M HILL employees for work directly performed on the Project plus a percentage applied to all such wages or salaries to cover all payroll-related taxes, payments, premiums, and benefits.

3. Per Diem Rates

CH2M HILL's and its affiliated companies' Per Diem Rates, when the basis of compensation, are those hourly or daily rates charged for work performed on the Project by CH2M HILL employees. These rates are contained in the COMPENSATION section on Page 1 and are subject to a 4% annual calendar year escalation/adjustment.

4. Subcontracts and Direct Expenses

When Services are performed on a cost reimbursement basis, a markup of 0 percent will be applied to subcontracts and outside services and a markup of 0 percent will be applied to Direct Expenses. For purposes of this AGREEMENT, Direct Expenses are defined to include those necessary costs and charges incurred for the Project including, but not limited to: (1) the direct costs of transportation, meals, lodging, shipping, equipment and supplies; (2) CH2M HILL's current standard rate charges for direct use of CH2M HILL's vehicles, laboratory test and analysis, and certain field equipment; and (3) CH2M HILL's standard project charges for computing systems, and health and safety requirements of OSHA.

All sales, use, value added, business transfer, gross receipts, or other similar taxes will be added to CH2M HILL's compensation when invoicing CLIENT.

5. Cost Opinions

Any cost opinions or Project economic evaluations provided by CH2M HILL will be on a basis of experience and judgment, but, since CH2M HILL has no control over market conditions or bidding procedures, CH2M HILL cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions.

6. Standard of Care

The standard of care applicable to CH2M HILL's services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time CH2M HILL's services are performed. CH2M HILL will re-perform any services not meeting this standard without additional compensation.

7. Termination

This AGREEMENT may be terminated for convenience on 30 days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter. On termination, CH2M HILL will be paid for all authorized work performed up to the termination date plus termination expenses, such as, but not limited to, reassignment of personnel, subcontract termination costs, and related closeout costs.

8. Payment to CH2M HILL

Monthly invoices will be issued by CH2M HILL for all Services performed under this AGREEMENT. CLIENT shall pay each invoice within 30 days. Interest at a rate of 1-1/2 percent per month will be charged on all past-due amounts.

In the event of a disputed billing, only that disputed portion will be withheld from payment, and the undisputed portion will be paid. CLIENT will exercise reasonableness in disputing any bill or

portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

9. Limitation of Liability

CH2M HILL's liability for CLIENT's damages will, in the aggregate, not exceed \$100,000. This Provision takes precedence over any conflicting Provision of this AGREEMENT or any document incorporated into it or referenced by it. In no event shall CH2M HILL, its affiliated corporations, officers, employees, or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, including but not limited to loss of revenue or profits, suffered or incurred by CLIENT or any of its agents, including other contractors engaged at the project site, as a result of this Agreement or CH2M HILL's performance or non-performance of services pursuant to this Agreement.

Limitations of liability provided herein will apply whether CH2M HILL's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include CH2M HILL's officers, affiliated corporations, employees, and subcontractors.

10. Severability and Survival

If any of the provisions contained in this AGREEMENT are held illegal, invalid or unenforceable, the other provisions shall remain in full effect. Limitations of liability shall survive termination of this AGREEMENT for any cause.

11. No Third Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than CLIENT and CH2M HILL and has no third party beneficiaries except as provided in Provision 10.

12. Materials and Samples

Any items, substances, materials, or samples removed from the Project site for testing, analysis, or other evaluation will be returned to the Project site unless agreed to otherwise. CLIENT recognizes and agrees that CH2M HILL is acting as a bailee and at no time assumes title to said items, substances, materials, or samples. CLIENT recognizes that CH2M HILL assumes no risk and/or liability for a waste or hazardous waste site originated by other than CH2M HILL.

13. Assignments

Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable.

14. Integration

This AGREEMENT incorporates all previous communications and negotiations and constitutes the entire agreement of the parties. If CLIENT issues a Purchase Order in conjunction with performance of the Services, general or standard terms and conditions on the Purchase Order do not apply to this AGREEMENT.

15. Force Majeure

If performance of the Services is affected by causes beyond CH2M HILL's reasonable control, project schedule and compensation shall be equitably adjusted.

16. Dispute Resolution

The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.

17. Changes

CLIENT may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect CH2M HILL's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT.