

## EXHIBIT A

## AGREEMENT FOR SERVICES

This Agreement for Services (Agreement) is between the CITY OF PORTLAND, OREGON (City) and Sweet-Edwards/EMCON, INC.

## RECITALS:

1. Federal and State Regulations require that we modernize or decommission our underground fossil fuel tanks and refueling facilities or be subject to fines and penalties.
2. The Underground Storage Tank Study Committee assembled by the Bureau of Risk Management recommended that the City consolidate its refueling activities to six sites and decommission all other fossil fuel underground storage tanks.
3. Sweet Edwards/EMCON, INC. has been selected to be the consultants to decommission tanks, not upgraded, at the City's six consolidated refueling sites. The consultants were selected in accordance with Section 5.68 of the Code of The City of Portland.

## AGREEMENT:

## 1. SCOPE OF CONTRACTOR SERVICES

- A. The Contractor shall provide the services specifically to the Bureau of General Services. The Contractor shall provide to the City those services set out in Exhibit A hereto.
- B. The Contractor shall provide the services set out in Subsection A above in accordance with the schedule set out in Exhibit C hereto.

## 2. SCOPE OF CITY SERVICES

- A: To assist the Contractor in carrying out her/his obligations hereunder, the City shall perform the services set out in Exhibit B hereto.
- B. The City shall perform the services set out in Subsection A above in accordance with the schedule set out in Exhibit C hereto.

## 3. COMPENSATION

The City shall pay the Contractor for work performed under this Agreement after the effective date as set out in

Exhibit D hereto. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to perform the work and services.

4. BILLING & PAYMENT PROCEDURE

The Contractor's billing and City's payment procedures shall be as set out in Exhibit E hereto.

5. EFFECTIVE AND TERMINATION DATES

This Agreement shall be effective as of the date stated in a Notice to Proceed and shall terminate in accordance with the schedule set out in Exhibit C hereto; however, in no event shall the contract extend beyond 07/31/93.

6. EARLY TERMINATION OF AGREEMENT

- A. The City and Contractor, by mutual written agreement, may terminate this Agreement at any time.
- B. The City, on 30 days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.
- C. Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within 15 days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

7. PAYMENT ON EARLY TERMINATION

- A. In the event of termination under Subsection 6 A or B Early Termination of Agreement, hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.
- B. In the event of termination under Subsection 6 C, Early Termination of Agreement, hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in Subsection A of this Section.
- C. In the event of termination under Subsection 6 C, Early Termination of Agreement, hereof, by the City due to a breach by the Contractor, then the City shall pay the

Contractor as provided in Subsection A of this Section, subject to set off of excess costs, provided for in Section 8 A, Remedies.

- D. In the event of early termination all Contractor's work products will become and remain property of the City.

#### 8. REMEDIES

- A. In the event of termination under subsection 6 C, Early Termination of Agreement, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself or by agreement with another contractor, or by a combination thereof. In the event the cost of completing the work exceeds the amount actually paid to the Contractor hereunder plus the remaining unpaid balance of the compensation provided under Section 3, Compensation, hereof, then the contractor shall pay to the City the amount of the excess.
- B. The remedies provided to the City under Sections 6 Early Termination of Agreement and 8 Remedies, hereof, for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.
- C. In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and, receipt of payment as provided in Sections 6 C, Early Termination of Agreement, and 7 B, Payment on Early Termination, hereof.

#### 9. CITY PROJECT MANAGER

- A. The City Project Manager shall be Mary Ann Huff, Project Engineer, or such other person(s) as shall be designated in writing by the Director of the Bureau of General Services.
- B. The Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein, and to carry out any other City actions referred to herein.

#### 10. COMPLIANCE WITH LAWS

- A. In connection with its activities under this Agreement, the Contractor shall comply with all applicable federal, state, and local laws and regulations.

- B. Contractor agrees that he has certified with the City's EEO Certification process.

#### 11. OREGON LAW AND FORUM

- A. This Agreement shall be construed according to the law of the State of Oregon.
- B. Any litigation between the City and the Contractor arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

#### 12A. CLAIMS MADE COVERAGE

As respects Contractor's "claims made coverage" for its commercial general liability insurance for policy number NG2015127 written with Planet Insurance Company, (such policy expiring 08/24/91), Contractor shall maintain continuity of insurance coverage during the term of its contract with the City of Portland. If Contractor's insurance, under policy number NG2015127, should be canceled or not renewed with Planet Insurance Company at any time within 5 years after the expiration of its contract with the City of Portland, Contractor shall purchase Supplemental Extended Reporting Provision as provided by CGL Form No. CG00020286. If the Supplemental Extended Reporting Provision is not purchased, then Contractor shall purchase retroactive coverage on the new insurance policy with the new insurance carrier to cover the inception date of the contract with the City of Portland or Contractor shall post a General Letter of Credit naming the City of Portland as beneficiary in an amount not less than the minimum insurance amounts required by this agreement for a period up to five (5) years after the expiration of this Agreement.

As respects Contractor's "claims made coverage" for its professional liability insurance for policy number NG1259428 written with Reliance Insurance Company, (such policy expiring 05/15/91), Contractor shall maintain continuity of insurance coverage during the term of its contract with the City of Portland. If Contractor's insurance under policy number NG1259428 should be canceled or not renewed with Reliance Insurance Company at any time within one year after the expiration of its contract with the City of Portland, Contractor shall purchase Optional Extended Discovery as provided by Form CEL-1(9/89). If Optional Extended Discovery is not purchased, then Contractor shall purchase Retroactive Coverage on the new insurance policy with the

new insurance carrier to cover the inception date of the contract with the City of Portland or Contractor shall post a general Letter of Credit naming the City as beneficiary in an amount not less than the minimum insurance amounts required by this Agreement for a period up to one year after the expiration of this Agreement.

12B. INDEMNIFICATION FOR PUBLIC LIABILITY AND PROPERTY DAMAGE

The Consultant shall hold harmless, defend, and indemnify the City of Portland, its officers, agents and employees against all claims, demands, actions, or suits (including all attorney fees and costs) brought against any of them to the extent such are caused by the negligent or willful act of the Consultant or any sub-consultant.

12C. INDEMNIFICATION FOR PROFESSIONAL LIABILITY

The Consultant shall hold harmless, defend, and indemnify the City of Portland, its officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them to the extent such are the result of the Consultant's or any sub-consultant's negligence.

12D. INDEMNIFICATION FOR CONTRIBUTION TO OR EXACERBATION OF EXISTING POLLUTION CONDITIONS

If the Consultant in any way contributes to or exacerbates the pollution conditions that are existing at the site prior to the commencement of work, the Consultant shall hold harmless, defend and indemnify the City of Portland, its officers, agents and employees for any claim, demand, action or suit (including any attorney fees and costs) brought against any of them to the extent such pollution is newly caused or created by the active negligence or willful misconduct of Consultant. Except for such contribution or exacerbation, it is expressly understood between the parties that the Consultant shall not have any responsibility for any claim, demand, action or suit (including any attorney fees and costs) brought against the City of Portland, its officers, agents or employees which arise out of the pollution conditions that are existing at the site prior to the commencement of work.

12E. LIMITATION OF LIABILITY

1. The Consultants liability to the City of Portland, its officers, agents or employees for public liability and property damage shall not exceed \$1,000,000.

2. The Consultants liability to the City of Portland, its officers, agents or employees for professional errors and omissions liability shall not exceed \$1,000,000.
3. The Consultants liability to the City of Portland, its officers, agents or employees for any contribution or exacerbation to the pollution conditions that are existing at the site prior to the commencement of work shall not exceed \$1,000,000.

#### 12F. OTHER PROVISIONS

1. "Pollution condition(s) shall mean: The existence of any hazardous substance as defined in the Comprehensive Environmental Response Compensation and Liability Act at 42 U.S.C.A. § 9601 (14) or the existence of any petroleum product.
2. "Site" shall mean: The locations designated in writing by the City Project Manager.
3. The contractual provisions in this section in no way affect the rights or duties the City or Consultant may have under any local, state or federal law or regulation.

#### 13. LIABILITY FOR PUBLIC LIABILITY AND PROPERTY DAMAGE

- A. The Contractor shall maintain public liability and property damage insurance that protects the Contractor and the City and its officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from the Contractor's work under this Agreement. The insurance shall provide coverage for not less than \$200,000 for personal injury to each person; \$500,000 for each occurrence; and \$500,000 for each occurrence involving property damages; or a single limit policy of not less than \$500,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the Agreement.

The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been

issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insurers on the policy. The insurance shall provide that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the City Auditor. If the insurance is canceled or terminated prior to completion of the contract, Contractor shall provide a new policy with the same terms. Contractor agrees to maintain continuous uninterrupted coverage for the duration of the contract. The insurance shall include coverage for any damage or injuries arising out of the use of automobiles or other motor vehicles by the Contractor.

- B. The Contractor shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required under subsection A. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Agreement by the City.

#### 14. WORKERS' COMPENSATION INSURANCE

- A. The Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers's Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Contract as Exhibit I, if applicable, and shall be incorporated herein and made a term and part of this Contract. The Contractor further agrees to maintain workers' compensation insurance coverage for the duration of this Contract.
- B. In the event the Contractor's workers' compensation insurance coverage is due to expire during the term of this Contract, the Contractor agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and the Contractor agrees to provide the City of Portland such further certification of workers' compensation insurance as renewals of said insurance occur.
- C. The Contractor agrees to accurately complete the City of Portland's Workers' Compensation Insurance

Questionnaire for Workers' Compensation insurance and Qualification as an Independent Contractor prior to commencing work under this Agreement. Questionnaire is attached to this Agreement as Exhibit F and shall remain attached to this Agreement and become a part thereof as if fully copied herein. Any misrepresentation of information on the Questionnaire by the Contractor shall constitute a breach of this Contract. In the event of breach pursuant to this subsection, City may terminate the Contract immediately and the notice requirement contained in subsection 6 (c), EARLY TERMINATION OF AGREEMENT, hereof shall not apply.

#### 15. SUBCONTRACTING

The Contractor and its primary sub-consultant shall not subcontract its work under this Agreement, in whole or in part, without the written approval of the City. The Contractor shall require any approved sub-contractor to agree, as to the portion sub-contracted, to fulfill all obligations of the Contractor as specified in this Agreement. Notwithstanding City approval of a sub-contractor, the Contractor shall remain obligated for full performance hereunder and the City shall incur no obligation other than its obligations to the Contractor hereunder. Contractor agrees that if sub-contractors are employed in the performance of this Agreement, Contractor and its sub-contractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

#### 16. ASSIGNMENT

The Contractor shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the City.

#### 17. INDEPENDENT CONTRACTOR STATUS

- A. The Contractor is engaged as an independent contractor and will be responsible for any federal, state, and local taxes and fees applicable to payments hereunder.
- B. The Contractor, its subcontractors, and their employees, are not employees of the City and are not eligible for any benefits through the City, including without limitation federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

#### 18. ARBITRATION



- A. Any dispute under this Agreement which is not settled by mutual agreement of the City and the Contractor within 60 (sixty) days of notification in writing by either party shall be submitted to an arbitration panel. The panel shall be composed of three (3) persons, one of whom shall be appointed by the Contractor, one of whom shall be appointed by the City, and one of whom shall be appointed by the two arbitrators appointed by the City and the Contractor. In the event the two cannot agree on the third arbitrator, then the third shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrators shall be selected within thirty (30) days of the expiration of the sixty (60) day period. The arbitration shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as is reasonably possible. The City and the Contractor shall agree on the rules governing the arbitration (including appropriation of costs), or, if the City and the Contractor cannot agree on rules, the arbitrators shall adopt rules consistent with this section. The arbitrators shall render their decision within forty-five (45) days of their first meeting with the City and the Contractor. Insofar as the City and the Contractor legally may do so, they shall be bound by the decision of the panel.
- B. Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of the dispute, and City shall make payments as required by the Agreement for undisputed portions of the work.
- C. The prevailing party in the arbitration shall be entitled to recover its/his/her costs incurred in the arbitration.

#### 19. PROFESSIONAL LIABILITY INSURANCE

- A. Contractor shall maintain professional liability insurance which shall provide coverage in the amount of \$500,000.00 to protect Contractor from any and all claims, demands, actions, and suits for malpractice arising from the Contractor's work under this Agreement. The insurance shall provide that the insurance shall not terminate or be canceled without sixty (60) days written notice first being given to the City Auditor.

- B. Contractor shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required under subsection (a). The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain professional liability insurance shall be cause for immediate termination of this Agreement by the City.

## 20. FUNDS

City certifies that sufficient funds are available and authorized for expenditure to finance the cost of this contract.

## 21. BUSINESS LICENSE

Unless exempt under PCC 7.06.010, Contractor shall obtain a City of Portland business license prior to beginning work under this Agreement as required by PCC 7.06.010. Contractor shall provide a business license number in the space provided at the end of this Agreement.


## 22. COMMENCEMENT OF WORK

Contractor agrees that work being done pursuant to this Contract will not be commenced until after:

- A. Workers' compensation insurance is obtained as outlined in Section 14, Worker's Compensation Insurance; and,
- B. This Agreement is fully executed by the parties and approved by the City Attorney's Office; and
- C. The effective date of this agreement is specified in SECTION 5. EFFECTIVE AND TERMINATION DATES.

## CONTRACTOR:

Sweet-Edwards/EMCON, INC.  
PO BOX 1648  
TUALATIN, OR 97062  
503/624-7200

  
(Signature)

Name: John E. Edwards

Title: S.V. President

Date: 3/7/91

Business License No. 1235-91

Tax I.D. No. 91-1081 245

## CITY OF PORTLAND

\_\_\_\_\_  
(Signature)

Name: Mary Ann Huff

Title: Project Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: David O. Kish

Title: Director, Bureau of  
General Services

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Bud Clark

Title: Mayor, City of  
Portland, Oregon

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
DEPUTY CITY ATTORNEY

## EXHIBIT A

## SCOPE OF CONTRACTOR SERVICES

## 1. GENERAL SERVICES

The Contractor shall provide the following general services:

Provide basic engineering and environmental services for decommissioning underground storage tanks and decontaminating those sites to DEQ and EPA criteria. The Consultant shall issue specifications that meet all known DEQ and EPA criteria, and site observation for compliance of the work to the technical specifications and environmental standards defined by the contractors services.

Contractor shall also comply with all Building Code, Zoning Code, and other applicable governmental rules, regulations and ordinances.

TASK 1

Remove tanks at sites approved in FY 90/91 budget as noted in the attached Proposal letter, EXHIBIT A-1 (3 pages).

TASK 2

Removal of tanks scheduled in the FY 91/92 budget to be negotiated after Council approves the 91/92 budget.

**Sweet-Edwards/EMCON, Inc.**

P.O. Box 1648  
Tualatin, Oregon 97062  
(503) 624-7200  
FAX (503) 620-7658

November 1, 1990  
Project P036.03

Mary Ann Huff, P.E.  
City of Portland General Services  
1120 SW Fifth Avenue, Room 1204  
Portland, Oregon 97204

Re: Cost Estimate for Bid Specification Preparation and Underground  
Storage Tank (UST) Decommissioning Environmental Services

Dear Mary:

Sweet-Edwards/EMCON, Inc. (SE/E) is pleased to submit this cost estimate to prepare bid specifications and to provide UST decommissioning environmental services to the City of Portland (City) for the following four projects located at four separate sites:

- Tank Removal - Purchasing
- Tank Removal - Communication Services
- Tank Removal - Auditing
- Tank Removal - 55th and Sandy

The specific work tasks for each site are described below.

## **SCOPE OF WORK**

### **Task 1 - Site Reconnaissance**

An SE/E project engineer or geologist will visit the site to observe current site conditions. Facility drawings will be field verified, and a scale map of pertinent facilities generated. This map and field data will be utilized to develop bid specifications for each facility.

Mary Ann Huff, P.E.  
November 1, 1990  
Page 2

Project P036.03

### **Task 2 - Bid Specification Preparation**

Data from Task 1, and additional information or standard formats provided by the City, will be integrated into individual bid documents for each of the four sites. These documents will be specifically for decommissioning the USTs at each site according to all relevant federal, state, and city regulations. Although they will be prepared assuming each site is free of hydrocarbon contamination, they will also specify the bidding contractor must be able to provide remediation construction services as directed by the City and the City's engineer (SE/E), in the event that contamination is discovered during the actual UST decommissioning process.

### **Task 3 - Contractor Bid Evaluation**

SE/E will assist City staff in evaluating contractor bids to decommission USTs at each site. Bids will be evaluated for conformity to bid specifications.

### **Task 4 - UST Decommissioning Observation and Documentation**

SE/E will coordinate with the contractor selected by the City for all field work activities associated with decommissioning the subject USTs. Appropriate soil samples will be collected during the decommissioning as required by the Oregon Numerical Soil Clean Up Matrix. It is assumed that neither hydrocarbon contamination nor ground water will be encountered during decommissioning. In the event that they are encountered during decommissioning, the City's project engineer will be immediately notified and apprised of the site conditions and germane regulations. SE/E can then provide any additional required engineering services on a time-and-expenses basis pending the City's authorization.

### **Task 5 - Decommissioning Report Preparation**

Upon completion of decommissioning activities, a final report summarizing all field work, laboratory analyses, and a comparison to regulatory standards will be prepared. This report will be suitable for submission to the Oregon Department of Environmental Quality.

Mary Ann Huff, P.E.  
November 1, 1990  
Page 3

Project P036.03

## BUDGET

SE/E bills on a time-and-expenses basis consistent with the attached Schedule of Fees. Our estimated budget for this project is \$5,104 per site (total \$20,416) as detailed on Table 1. It assumes neither hydrocarbon contamination or ground water is encountered during the decommissioning process. This cost estimate is our maximum anticipated cost for completing the project and will not be exceeded without your prior approval.

## SCHEDULE

SE/E will begin the above services within 1 week following signed authorization to proceed. A final decommissioning report will be submitted within 3 weeks of either completion of field work or SE/E's receipt of all analytical results, whichever is later. Please indicate your approval of this proposal by signing below and returning this copy with all attachments.

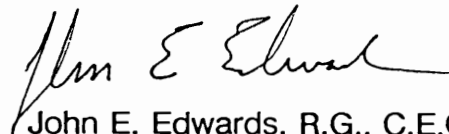
Thank you for considering SE/E for this project. We look forward to working with you. If you have any questions, please call us at (503) 624-7200.

Sincerely,

Sweet-Edwards/EMCON, Inc.



Robert Dixon, P.E.  
Supervising Engineer



John E. Edwards, R.G., C.E.G.  
Sr. Vice President/Branch Manager

Attachments: Schedule of Fees  
General Terms and Conditions

**THE ABOVE PROPOSAL, INCLUDING ALL ATTACHMENTS, HAS BEEN READ AND UNDERSTOOD AND IS HEREBY AGREED TO AND ACCEPTED. IT IS AGREED THAT THE ATTACHED "SCHEDULE OF FEES," "GENERAL TERMS AND CONDITIONS" (WHICH CONTAINS A**

## EXHIBIT B

## SCOPE OF CITY SERVICES

The City shall assist the Contractor in carrying out its obligations under the Agreement by providing the following specific services:

1. Provide the Contractor with access to the site.
2. Provide the Contractor with all available drawings and written information.
3. Provide a Project Manager for the Contractor to be responsible to.
4. Provide timely review of Contractor's work.
5. Provide a specification boilerplate and general requirements section, to be included with the Contractor's technical specifications.
6. Prepare prints from Contractor's completed construction documents for bid purposes.
7. Advertise for bids, issue Addendums as necessary, and receive bids.
8. Enter into contract with acceptable bidder.
9. Issue Proceed Order to Building Contractor.
10. Attend pre-construction and weekly construction meetings.
11. Review and process both Contractor's and Building Contractor's payment request.
12. Process all necessary documentation such as ordinances, Reports to Council, and Change Orders.



## EXHIBIT C

## SCHEDULE

The Contractor and the City shall provide the services set out in Exhibits A and B in accordance with the following schedule:

TASK 1

Contracts for tank removal, budgeted in FY 90/91, to be in place by 04/15/91.

TASK 2

Contracts tank removal budgeted in FY 91/92 to be in place by 04/15/92.

## EXHIBIT D

## CONTRACTOR'S COMPENSATION

The City shall compensate the Contractor per the attached three pages from Sweet-Edwards/EMCON, INC.

Payment shall be made, at the attached rates, according to the following amounts:

(Note: this schedule will be updated as subsequent tasks are negotiated.)

TASK 1	Time and material not to exceed \$5,104/SITE. See attached Proposal, letter D-1.
TASK 2	To be negotiated after Council's Authorization to Proceed is obtained.

**COST ESTIMATE<sup>1</sup>**

**City of Portland**  
**Bid Specifications and UST Decommissioning Environmental Services**

October 1990

Task	Sweet-Edwards/EMCON			Subcontractor
	Hours	Labor	Direct Cost	
1. Site Reconnaissance	5	\$ 325	\$ 40	300 <sup>3</sup> (Lab)
2. Bid Specification Preparation	15	1,050	100	
3. Contractor Bid Evaluation	4	260	-0-	
4. UST Decommissioning Observation and Documentation <sup>2</sup>	16	1,024	150	
5. Decommissioning Report Preparation	25	1,775	80	
Subtotal:	65	\$4,434	\$370	\$300
TOTAL ESTIMATED BUDGET PER SITE: <b><u>\$5,104</u></b>				
Notes: <sup>1</sup> Does not include cost of UST removal contractor (to be contracted directly by the City). <sup>2</sup> Assumes two 8-hour days of field work, two USTs per site. <sup>3</sup> Assumes four rush samples for TPH by Method 418.1.				



# Sweet-Edwards/EMCON, Inc.

P.O. Box 1648  
Tualatin, Oregon 97062  
(503) 624-7200  
FAX (503) 620-7658

EXHIBIT D-2

## SCHEDULE OF FEES

### 1. SERVICE OF PERSONNEL RATE PER HOUR

#### Professional:

Regional/Branch Manager	\$80.00 - \$110.00
Executive Manager/Project Manager	70.00 - 95.00
Senior Engineer/Geologist/Chemist	60.00 - 75.00
Project Engineer/Geologist/Chemist	60.00 - 70.00
Staff Engineer/Geologist/Chemist	40.00 - 69.00
Certified Indust. Hygienist/Indust. Hygienist	50.00 - 75.00

#### Technical:

Engineer/Geology Technician	35.00 - 55.00
Industrial Hygiene/Field Technician	30.00 - 50.00
Drafting	35.00 - 55.00
Technical Writer	35.00 - 50.00

#### Administrative:

Contract Administrator	35.00 - 50.00
Word Processor/Clerical	25.00 - 40.00

Notes: A. Travel time after 50 miles or 1 hour per trip at 50% of above.  
B. Expert testimony in deposition/trial at 150% of above rates.

### 2. DIRECT EXPENSES

Actual direct expenses associated with performing services such as: fares on public carriers, rented vehicles, meals, lodging, long distance communications, special supplies, computer service costs, reproduction and expendable materials at cost plus 10%.

Mileage of Consultant and employee owned vehicle at \$0.38/mile.

Use of Consultant owned microprocessors: word processing, \$7.50/hour; data entry, \$15.00/hour; computations/modeling, \$20.00/hour.

### 3. SUBCONTRACTS AND EQUIPMENT RENTAL

Subcontract services and equipment rentals at cost plus 15%.

### 4. SPECIAL EQUIPMENT

Rates for Consultant owned equipment at a fixed daily, weekly or monthly rate per "Standard Equipment Rates" on the reverse.

### 5. RATE CHANGES

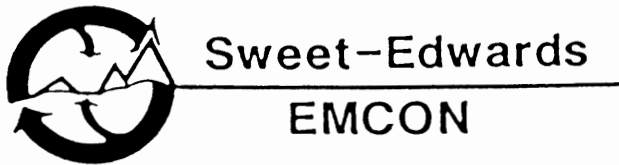
Schedule of Fees and Standard Equipment Rates subject to change without notice.

### 6. PAYMENT

Monthly invoices are to be paid within 30 days from the invoice date. Interest on late payments will be at 18% per annum.

**SWEET-EDWARDS/EMCON, INC.  
STANDARD EQUIPMENT RATES**

1. SAFETY EQUIPMENT:	RATE
Level of Protection:	
"D" - Gloves, hard hat, eye protection, & disposable suit	\$ 20.00/day
"C2" - Above plus respirator	40.00/day
"C1" - Above plus chemical suit	80.00/day
"B" - Above plus SCBA	125.00/day
Explosive meter (O <sub>2</sub> def., toxic, combust.)	100.00/wk.
Gas Tech NP204	15.00/day
Gas Tech 1939-OX	30.00/day
Photovac meter	50.00/day
OVA-88	60.00/day
Combustible gas/O <sub>2</sub> meter	30.00/day
2. MONITORING AND SAMPLING EQUIPMENT:	
Peristaltic pump	30.00/day
Large peristaltic pump and generator	50.00/day
Centrifugal pump for pore volume removal	25.00/day
Submersible (4-in.) pump with generator for pore volume removal	50.00/day
Middleberg pump (e.g. Well Wizard)	50.00/day
Draeger/Sensidyne pump (doesn't include tubes)	15.00/day
Stainless steel or Teflon bailer	10.00/day
Bailing reel and tripod	15.00/day
Electric depth probe (e.g. Actat)	10.00/day
Field gas chromatograph w/back flush	1,000.00/mo.
Field lab trailer	500.00/mo.
Conductivity meter (e.g. Chemtrix, Cole Parmer)	10.00/day
Data logger/transducer	100.00/day
Transducer with cable (assumes reusable)	50.00/day
Current meter (e.g. Swoffer)	50.00/day
pH meter (e.g. Yokogawa, Beckman)	20.00/day
Continuous recorder with security casing	40.00/mo.
Hand auger	10.00/day
Motor blower	100.00/day
Regenerative blowers	25.00/day
Magnehelic gauge	10.00/day
Van gas chromatograph	175.00/day
Van - tools - generator set	100.00/day
Moisture density gauge (nuclear gauge)	20.00/day
Tensiometer	20.00/day
Soils lab (field)	25.00/day
Soils equipment	5.00/day
35mm camera	5.00/day
3. DRILLING EQUIPMENT:	
Rates for company owned drilling services may be on a per-foot or time-and-materials basis as project conditions and/or client needs dictate.	



## GENERAL TERMS AND CONDITIONS

**WARRANTY.** Sweet-Edwards/EMCON (SE/E) provides services in accordance with generally accepted professional practices in its fields of specialty. No other warranty or representation, either express or implied, is included or intended as part of its services, proposals, agreements, or reports.

**SCOPE AND EXECUTION OF SERVICES.** SE/E will diligently proceed with the agreed scope of services and will provide such services in a timely manner. However, the time required for completion of services may vary due to conditions unknown to or beyond the control of SE/E. SE/E makes no warranties regarding the time of completion of its duties under this contract, and will not be responsible for any damages, consequential or otherwise, caused by delay in the completion of its services.

In the event that the Client requests termination of services prior to completion, SE/E reserves the right to complete such analyses and records as may be necessary to place its files in order and, where considered necessary to protect its professional reputation, to complete a report on the work performed to date of termination. A termination charge of up to 30 percent of charges incurred to date of notice of termination by the Client may be made at the discretion of SE/E.

**TERMS OF PAYMENT.** Invoices will be submitted monthly and shall be due and payable upon receipt. A late payment charge of 1-1/2 percent per month will be payable on any amount not paid within 30 days of invoice date, payment thereafter to be applied first to accrued late payment charges and then to the principal unpaid amount. SE/E may, at its option, withhold delivery of reports and any other data pending receipt of payment for all services rendered.

**SAMPLES.** SE/E will provide temporary storage of soil, rock, water, and other samples needed for analysis for up to 90 days. Client will remain responsible for long-term storage (if any) and disposal of its samples.

**RIGHT OF ENTRY.** Client will furnish right of entry for SE/E to make borings, take samples and/or perform necessary work within the boundaries of the work area. SE/E will operate with reasonable care to minimize damage to property; however, some damage is frequently unavoidable and the cost of repair or remedy of such damage is not included in SE/E's fee unless otherwise stated.

**SUBSURFACE OBSTRUCTIONS.** Client shall be responsible for designating the location of all utility lines and other subsurface obstructions within the boundaries of the work area. SE/E may assist Client in obtaining locator services to help Client in making such identification; Client will indemnify and hold SE/E harmless against any damages, loss or liability arising out of or connected with the accuracy or inaccuracy of underground obstruction identification, excepting that which arises from the active

**LIMITATION OF LIABILITY.** To the fullest extent permitted by law, Client agrees to limit the liability of SE/E, its officers, shareholders and employees, for any acts, errors or omissions or breaches of contract to \$50,000 or the amount of SE/E's fee, whichever is greater. In no event shall SE/E be liable for any indirect, special or consequential loss or damage, and Client shall indemnify and hold SE/E harmless against any such loss or damage or liability.

**INDEMNIFICATION.** Subject to the limitation of liability above and the second sentence hereof, each party shall indemnify the other from third-party claims arising out of the negligence of the indemnifying party to the extent that such loss or expense is caused by that party's negligence. In addition, Client agrees to indemnify, defend and hold SE/E harmless from any loss, cost, damage or expense (including attorneys' fees), arising out of or in connection with SE/E's performance for any resulting environmental pollution or contamination except to the extent such pollution or contamination is newly caused or created by the active negligence or willful misconduct of SE/E.

**JOB SITE.** Where the scope of services calls for construction related activities, Client agrees that the construction contractor will be required by Client to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of persons and property. Client further agrees to defend, indemnify and hold SE/E harmless from any and all liability in connection with the performance of construction-related services on this project, excepting liability arising directly from the sole professional negligence of SE/E.

**NO THIRD PARTY BENEFICIARIES.** There are no third party beneficiaries of this agreement between Client and SE/E and no third party shall be entitled to rely upon any work performed or reports prepared by SE/E hereunder for any purpose whatsoever. Client shall indemnify and hold SE/E harmless against any liability to any third party for any loss, expenses, or damages arising out of or in connection with reliance by any such third party on any work performed or reports issued by SE/E hereunder.

**DISPUTES.** Any controversy, claim or dispute shall be construed and enforced in accordance with the laws of the state from which SE/E's services are procured. In any legal or arbitration proceedings brought by either party to enforce or interpret any of the terms or conditions of this Agreement, including the collection of any payments due hereunder, the prevailing party shall be entitled to recover all reasonable costs incurred in defense of the claim, including staff time at current billing rates, court costs, attorneys' fees, and other claim-related expenses.

**OTHER.** If SE/E is requested to respond to any mandatory orders for the production of documents or witnesses on Client's behalf regarding work performed by SE/E, Client agrees to pay all costs incurred by SE/E not reimbursed by others in responding to such order, including staff time at current billing rates and reproduction expenses.

These General Terms and conditions shall be used in combination with a Professional Service Agreement, proposal, purchase order or contract. These combined documents shall be the entire Agreement and shall supersede any other agreement between Client and SE/E relating to such matter. In case of conflict or inconsistency between these General Terms and Conditions and any other contract documents (excepting payment provisions), these General Terms and Conditions shall control. If any provisions of the separate or combined documents are legally unenforceable, the document(s) shall remain in effect to the extent permitted by law.

## EXHIBIT E

## BILLING AND PAYMENT PROCEDURE

On or within five (5) days of the 1st day of each month, the Contractor shall submit to the City a bill for work performed by the Contractor since the preceding billing date. The bill shall set out the amount claimed by hours worked. Within 15 days after receipt of the bill, provided the Project Manager has certified the payment as due, the City will pay the amount certified to the Contractor. The Project Manager's certification of a payment as due, shall not prevent the Project Manager from later determining that the certification was in error.

Compensation shall not be due the Contractor by the City until and unless it has submitted to the City a request which:

1. States that all work has been performed pursuant to this Agreement, and
2. Sets forth the work accomplished and allocates costs claimed to each element of the work.



## EXHIBIT F

CITY OF PORTLAND, OREGON  
 QUESTIONNAIRE FOR WORKERS' COMPENSATION INSURANCE  
 AND FOR QUALIFICATION AS AN INDEPENDENT  
 CONTRACTOR UNDER ORS CHAPTER 762

(To be completed by contractor's representative  
 and attached to each contract, purchase order,  
 etc., requiring the performance of labor.)

- 1) Contractor's Name \_\_\_\_\_
- 2) Contract Number or Description \_\_\_\_\_
- 3) The nature of Contractor's business is \_\_\_\_\_  
 \_\_\_\_\_
- 4) Is Contractor provided any assistance whatsoever in the  
 performance of its business? (For example: volunteer,  
 secretarial, family or bookkeeping help.)  
 Yes \_\_\_\_\_ No \_\_\_\_\_
- 5) Will Contractor use employees or subcontractors in the  
 performance of this contract?  
 Yes \_\_\_\_\_ No \_\_\_\_\_
- 6) If contractor currently uses the assistance of employees,  
 subcontractors, family members, or any other people, or  
 plans for such assistance in the performance of this  
 contract, please provide the name of Contractor's workers'  
 compensation insurance carrier in the space provided, and  
 attach sufficient proof of workers' compensation insurance  
 coverage to this questionnaire.  
 \_\_\_\_\_  
 \_\_\_\_\_

(Contractor need not complete the remainder of the  
 questionnaire if sufficient proof of workers'  
 compensation insurance is provided. Contractor must  
 complete the remainder of the questionnaire if  
 sufficient proof of workers' compensation insurance is  
not provided.)

- 7) If Contractor does not use the assistance of others at the  
 time this contract is let, and if Contractor will not use  
 the assistance of others in the performance of this  
 contract, please circle the category which describes the  
 contractor's business:
  - a. Contractor's business is organized as a sole  
 proprietorship (all work will be performed by the

individual contractor without the assistance of others - no employees or subcontractors).

- b. Contractor's business is organized as a partnership not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property (all work will be performed by the partners themselves without the assistance of others - no employees or subcontractors).
- c. Contractor's business is organized as a corporation (all work will be performed by corporate officers who are also directors of the corporation who have a substantial ownership interest in the corporation).
- d. Other - describe \_\_\_\_\_

8) Does Contractor know that it is responsible for providing workers' compensation insurance if the Contractor uses the assistance of others in the performance of its work in any manner, or the Contractor plans to use other individuals to assist in the performance of this contract?

Yes \_\_\_\_\_ No \_\_\_\_\_

9) Is Contractor employed in any other capacity?

Yes \_\_\_\_\_ No \_\_\_\_\_

10) If so, what is that employment? \_\_\_\_\_

11) What tools or equipment will be necessary for performance of work under this contract? \_\_\_\_\_

12) Who will furnish these tools or equipment? \_\_\_\_\_

13) Did Contractor perform labor or services as an independent contractor last year?

Yes \_\_\_\_\_ No \_\_\_\_\_

14) If so, did Contractor file federal and state income tax returns in the name of the business or a business Schedule C as part of contractor's personal income tax return for last year?

Yes \_\_\_\_\_ No \_\_\_\_\_

15) Where are Contractor's labor or services primarily carried out? \_\_\_\_\_

- 16) If Contractor is an individual, at what address does Contractor reside? \_\_\_\_\_  
\_\_\_\_\_
- 17) If Contractor is a partnership or corporation, where is the residence of the individual who will perform the labor or services under the contract? \_\_\_\_\_  
\_\_\_\_\_
- 18) To what trade associations does Contractor belong? \_\_\_\_\_  
\_\_\_\_\_
- 19) Name any commercial advertising Contractor has purchased recently (for example, yellow page listings, newspaper advertising, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 20) Does Contractor distribute business cards?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- 21) What is Contractor's business telephone number? \_\_\_\_\_  
\_\_\_\_\_
- 22) Under what name is this number listed in the telephone book? \_\_\_\_\_  
\_\_\_\_\_
- 23) What is Contractor's residential telephone number (or the residential telephone number of the individual who is performing services for Contractor)? \_\_\_\_\_  
\_\_\_\_\_
- 24) Under what name is this number listed in the telephone book? \_\_\_\_\_  
\_\_\_\_\_
- 25) List all persons or entities for whom Contractor has performed labor or services as an independent contractor within the previous 12-month period and the duration of all such contracts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 26) Has Contractor performed all such labor or services described in question 20 above pursuant to written contracts?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- 27) Does Contractor carry errors and omission insurance?  
Yes \_\_\_\_\_ No \_\_\_\_\_

- 28) Does Contractor carry liability insurance?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- 29) Are performance bonds guaranteeing Contractor's work  
currently in effect?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- 30) City Project Manager \_\_\_\_\_  
Mary Ann Huff  
(Name and Title)

THE CONTRACTOR CERTIFIES THAT THE INFORMATION THAT IS  
SUPPLIED IN THIS QUESTIONNAIRE IS TRUE AND ACCURATE. ANY  
MISREPRESENTATION OF INFORMATION IN THIS QUESTIONNAIRE BY  
CONTRACTOR SHALL CONSTITUTE A BREACH OF THE AGREEMENT TO WHICH  
THIS QUESTIONNAIRE IS AN EXHIBIT.

- 31) Contractor's Representative \_\_\_\_\_  
(Signature)
- \_\_\_\_\_
- (Title)
- 32) Date \_\_\_\_\_

**ORDINANCE No. 164245**

- \* Authorize contract with EMCON/Sweet-Edwards for consulting services for the Fuel Management Project, and provide for payment. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Federal and State Regulations require that we modernize or decommission our underground fossil fuel storage tanks (UST) and refueling facilities or be subject to fines and penalties.
2. The Underground Storage Tank Study Committee assembled by the Bureau of Risk Management recommended that the City consolidate its refueling activities to six sites and decommission all other UST's.
3. EMCON/Sweet-Edwards was selected to be the Consultant on the project to decommission tanks for the Bureau of General Services in accordance with Section 5.68 of the Code of The City of Portland.
4. It is recommended that EMCON/Sweet-Edwards be hired for the removal of the underground storage tanks for the proposed fee for time and materials not to exceed \$5,104/site.
5. Funds are available for this approved CIP in the FY 90-91 budget of the Bureau of General Services, Center Code 73220005/Project 1002, 1003, 1004, and 1005.
6. Exhibit A, B, C, D, E, and F (attached) are suitable forms of Agreement for this purpose.

NOW, THEREFORE, the Council directs:

- a. The Auditor and the Mayor are hereby authorized to enter into Agreement with EMCON/Sweet-Edwards for an amount not to exceed \$40,000. Said Agreement is to be substantially in conformance with Exhibit A, B, C, D, E, and F attached to the original hereof.
- b. The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the FY 90-91 budget of the Bureau of General Services, when demand is presented and approved by the proper authorities.

**ORDINANCE No.**

Section 2. The Council declares an emergency exists because a delay in authorizing the Agreement will also delay compliance with DEQ (Department of Environmental Quality) regulations and may expose the City to risk of fines or liability for damages; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

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Passed by the Council, JUN 05 1991

Mayor J.E. Bud Clark  
Mary A. Huff  
May 28, 1991

**BARBARA CLARK**  
Auditor of the City of Portland  
By *Billa Olson* Deputy

Agenda No. **931**

ORDINANCE NO. **164245**

Title

\* Authorize contract with EMCON/Sweet-Edwards for consulting services for the Fuel Management Project, and provide for payment. (Ordinance)

<p style="text-align: center;"><b>INTRODUCED BY</b></p> <p>Mayor J.E. Bud Clark</p> <p style="text-align: center;"><b>NOTED BY COMMISSIONER</b></p> <p>Affairs</p> <p>Finance and Administration <i>J.E. Bud Clark</i></p> <p>Safety</p> <p>Utilities</p> <p>Works</p> <p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: General Services</p> <p>Prepared by      Date Mary A. Huff      May 28, 1991</p> <p>Budget Impact Review: ___ Completed      ___ Not Required</p> <p>Bureau Head: David O. Kish <i>DOK</i></p>	<p>Filed: <b>MAY 30 1991</b></p> <p style="text-align: right;">Barbara Clark Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>For Meeting of:</p> <p>Action Taken:</p> <p>___ Amended</p> <p>___ Passed to Second Reading _____</p> <p>___ Continued to:</p>
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AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
			YEAS	NAYS
Consent <i>X</i> Regular	Blumenauer	Blumenauer	✓	
<i>X</i> NOTED BY	Bogle	Bogle	✓	
City Attorney	Kafoury	Kafoury	✓	
City Auditor	Lindberg	Lindberg	✓	
City Engineer	Clark	Clark	✓	