

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE September 23, 2008

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Enter into Agreement with ATC Associates, for Soil and Groundwater Investigation and Clean-Up, at 402 Downey Avenue, Modesto

STAFF RECOMMENDATIONS:

1. Approve the Master Agreement with ATC Associates, for the investigation and clean-up of contaminated property located at 402 Downey Avenue, Modesto, at a cost not to exceed \$199,605 for Fiscal Years 2008-2009, 2009-2010, and 2010-2011.
2. Authorize the Director of the Department of Environmental Resources, or her designee, to sign Master Agreement number A081908.
3. Authorize the Director of the Department of Environmental Resources, or her designee, to sign Project Authorization number 008-01-SMG.

(Continued on next page)

FISCAL IMPACT:

Funds are available from within the Department of Environmental Resources' (Department) main budget to fund site clean-up activities. The State Water Resources Control Board (SWRCB) will reimburse the Department for all work completed as part of this contract with monies allocated from the Emergency, Abandoned, and Recalcitrant Site Account. The site located at 402 Downey Avenue, Modesto, is currently under a Letter of Award Agreement with the SWRCB for up to \$1,050,000. If necessary, this Award can be amended for up to the maximum of \$1,500,000. To date approximately \$747,582 has been spent on this project.

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2008-669

On motion of Supervisor O'Brien, Seconded by Supervisor Grover
and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, and Vice-Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: Mayfield

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

STAFF RECOMMENDATIONS: (Continued)

4. Authorize the Director of Environmental Resources, or her designee, to sign additional individual Project Authorizations during Fiscal Years 2008-2009, 2009-2010, and 2010-2011, up to \$100,000, but not to exceed the total contract amount of \$199,605.
5. Authorize the Director of the Department of Environmental Resources, or her designee, to sign amendments to the contract for an overall total not to exceed \$229,546, which includes contingency funding of up to \$26,035, which is equal to a maximum of 15% of the total contract amount.

FISCAL IMPACT: (Continued)

The total expenditures under this Master Agreement shall not exceed \$199,605. This total equals \$173,570 which is the sum of Tasks 1-3 in the contractor's proposal that are covered by the Project Authorization, plus the cost of contingency Tasks 4-9 which are estimated to be necessary in order to fully remediate and close the site, plus a maximum of 15% in allowable contract changes. Also, an additional 15%, or \$26,035, is requested for contract amendments should additional areas of contamination not previously known arise. If contract amendments are necessary, the overall contract total will not exceed \$229,546 which would bring the total costs for this site to \$977,128 which is within the State's existing Award Agreement.

DISCUSSION:

Chapter 6.75 of the California Health and Safety Code authorizes the State Water Resources Control Board (SWRCB) to provide Underground Storage Tank (UST) Clean-up Funds to Regional Water Quality Control Boards (RWQCB) and local UST agencies for emergency, abandoned and recalcitrant owner situations. The money is dispensed through the Emergency, Abandoned, and Recalcitrant (EAR) Site Account. These funds allow the RWQCB or a local agency to hire a contractor to do investigations and remedial work at sites.

On January 5, 1999, the Board of Supervisors authorized the Director of the Department of Environmental Resources (Department) to enter into a contract with the SWRCB for the clean-up of soil and groundwater contamination at 402 Downey Avenue, Modesto. The SWRCB Letter of Award currently authorizes \$1,050,000 for costs incurred during the clean-up process. The site is eligible for up to a maximum of \$1,500,000.

As part of the Board's Well Planned Infrastructure System priority, a goal was established to ensure reliable water sources for both quality and quantity. One of the expected outcomes for Fiscal Year 2008-2009 is to close 7% of identified urban pollution sites. The subject site of this environmental clean-up, 402 Downey Avenue, Modesto, is one of these identified urban pollution sites.

The previous Master Agreement for clean-up services at this site expired in August 2008. Given that, the Department, in partnership with the General Services Agency (GSA) Purchasing Division, issued a Request for Proposal (RFP) on June 22, 2008, for environmental consulting services related to site assessment, groundwater monitoring and operation of the remediation system at 402 Downey Avenue, Modesto. The RFP period closed on July 22, 2008, and the GSA Purchasing Division conducted the opening of the proposals on the closing date.

There are several environmental consulting firms that specialize in the assessment and clean-up of petroleum hydrocarbon contaminated properties and five (5) companies submitted proposals for review. A total of four (4) evaluators from the Department reviewed and analyzed the proposals and ATC Associates was determined to be the most knowledgeable and cost effective consultant for this site based on project understanding and the timeline to perform necessary tasks in order to propose this site for closure.

Petroleum hydrocarbon constituents associated with the former USTs at this site significantly contaminated the soil and groundwater. ATC Associates has been the consultant for this site since 2001, and has performed the majority of the investigation work as well as the design and installation of the remediation system. The system consists of ozone sparging for groundwater and vapor extraction for soil, and has been in operation for two (2) years. Analytical data indicates that the remediation system has been successful in reducing the concentrations of contaminants both in soil and groundwater. This agreement allows the Department to continue to operate the remediation system, perform quarterly groundwater monitoring, and do additional site investigation that is required in order to submit a request for closure to the RWQCB. The award of this contract should enable the Department to complete the necessary assessment and reporting requirements to close the site within the next three (3) years.

The proposal from ATC was based on analytical data obtained thus far in the site investigation. The proposal includes Tasks 1-3 that are necessary for remediation and are covered by the Project Authorization, plus contingency Tasks 4-9 which are estimated to be necessary in order to fully remediate and close the site. A list of these itemized Tasks is included as Attachment "A." Staff is recommending a maximum of 15% in allowable contract changes and an additional 15% for contract amendments should additional areas of contamination not previously known arise. The proposed Project Authorization includes operation and maintenance costs for the ozone sparge groundwater remediation system, groundwater monitoring for a 12-month period, and operation of the soil vapor extraction system for six (6) months.

POLICY ISSUE:

The Board of Supervisors should determine if entering into Agreement with ATC Associates, for soil and groundwater investigation and clean-up at 402 Downey Avenue, Modesto, is consistent with the Board's priorities of a safe community, a healthy community, and a well-planned infrastructure system. This contract will assist the Department in meeting the Board priority of closing 7% of identified urban pollution sites this year.

Approval to Enter into Agreement with ATC Associates, for Soil and Groundwater Investigation and Clean-Up, at 402 Downey Avenue, Modesto
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STAFFING IMPACTS:

There are no staffing impacts associated with this item.

ATC (RFP 08-30-TRS) PROJECT

TASK 1 GROUND WATER MONITORING AND REPORTING (4 Quarterly Events)				
TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	12	\$ 95.00	hr	\$ 1,140.00
Senior Engineer / Geologist	16	\$ 75.00	hr	\$ 1,200.00
Staff Geologist	48	\$ 55.00	hr	\$ 2,640.00
Draftsman	6	\$ 55.00	hr	\$ 330.00
Technician	64	\$ 50.00	hr	\$ 3,200.00
Clerical	8	\$ 45.00	hr	\$ 360.00
<i>(Subcontractor)</i>				
Drum Disposal	12	\$ 110.00	ea	\$ 1,320.00
<i>(Equipment)</i>				
Truck	4	\$ 50.00	day	\$ 200.00
<i>(Instruments)</i>				
pH/temp/cond meter, WLP, bailers, pumps	4	\$ 250.00	day	\$ 1,000.00
<i>(Laboratory Analysis)</i>				
TPHg/BTEX/Oxy genates	40	\$ 135.00	ea	\$ 5,400.00
SUBTOTAL				\$ 16,790.00

TASK 2 REMEDIATION SYSTEM ROUTINE O & M OF THE OZONE SPARGE /OXYGEN BOOSTER SYSTEM (12 MONTHS)				
TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	24	\$ 95.00	hr	\$ 2,280.00
Senior Engineer / Geologist	24	\$ 75.00	hr	\$ 1,800.00
Technician	85	\$ 50.00	hr	\$ 4,250.00
<i>(Equipment)</i>				
Truck	12	\$ 50.00	day	\$ 600.00
Ozone Sparge System (no fee for use of ATC owned system)	0	\$ -	day	\$ -
<i>Energy Cost</i>				
Electricity	0	\$ -	day	\$ 27,500.00
SUBTOTAL				\$ 36,430.00

TASK 3 OPERATION OF SOIL VAPOR EXTRACTION SYSTEM (12 MONTHS)

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	12	\$ 95.00	hr	\$ 1,140.00
Senior Engineer / Geologist	0	\$ 75.00	hr	\$ -
Technician	42	\$ 50.00	hr	\$ 2,100.00
<i>(Equipment)</i>				
Truck	12	\$ 50.00	day	\$ 600.00
PID	12	\$ 100.00	day	\$ 1,200.00
<i>Energy Cost</i>				
Electricity, gas	0	\$ -	day	\$ 10,080.00
SUBTOTAL				\$ 15,120.00

TASK 4 VERIFICATION SOIL BORINGS AND REPORT - Contingent Option

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	8	\$ 95.00	hr	\$ 760.00
Senior Engineer / Geologist	14	\$ 75.00	hr	\$ 1,050.00
Staff Geologist	62	\$ 55.00	hr	\$ 3,410.00
Draftsman	6	\$ 55.00	hr	\$ 330.00
Administrator	2	\$ 45.00	hr	\$ 90.00
<i>(Subcontractor)</i>				
Driller Advance six geoprobe borings				\$ 8,200.00
<i>(Equipment)</i>				
Truck	3	\$ 50.00	day	\$ 150.00
<i>(Instruments)</i>				
Photoionization Detector	3	\$ 100.00	day	\$ 300.00
<i>(Laboratory Analysis)</i>				
TPHg/BTEX/Oxy genates	12	\$ 135.00	ea	\$ 1,620.00
SUBTOTAL				\$ 15,910.00

TASK 5 SOIL VAPOR INTRUSION STUDY AND REPORT - CONTINGENT OPTION

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	7	\$ 95.00	hr	\$ 665.00
Senior Engineer / Geologist	12	\$ 75.00	hr	\$ 900.00
Staff Geologist	32	\$ 55.00	hr	\$ 1,760.00
Draftsman	6	\$ 55.00	hr	\$ 330.00
Administrator	2	\$ 45.00	hr	\$ 90.00
<i>(Subcontractor)</i>				
Driller installing 5 vapor points (includes vapor sampling)				\$ 5,500.00
<i>(Equipment)</i>				
Truck	1	\$ 50.00	day	\$ 50.00
<i>(Instruments)</i>				
Photoionization Detector	1	\$ 100.00	day	\$ 100.00
<i>(Laboratory Analysis)</i>				
TPHg/BTEX/Oxy genates	5	\$ 135.00	ea	\$ 675.00
SUBTOTAL				\$ 10,070.00

TASK 6 PROJECT MANAGEMENT AND SCHEDULING (1.5 YEARS)

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Senior Engineer / Geologist	36	\$ 75.00	hr	\$ 2,700.00
Clerical	36	\$ 45.00	hr	\$ 1,620.00
SUBTOTAL	72			\$ 4,320.00

TASK 7 ADDITIONAL HOT SPOT TREATMENT W/HYDROGEN PEROXIDE (2.5)
(Contingent Option)

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	22	\$ 95.00	hr	\$ 2,090.00
Senior Engineer / Geologist	4	\$ 75.00	hr	\$ 300.00
Staff Geologist	33	\$ 55.00	hr	\$ 1,815.00
Technician	173	\$ 50.00	hr	\$ 8,650.00
Clerical	2	\$ 45.00	hr	\$ 90.00
<i>(Equipment)</i>				
Truck	11	\$ 50.00	day	\$ 550.00
Neoprene Apron, Goggles, Face Shield, Wind Sck, Eye Wash	0	\$ -	0	\$ -
Chemical resistant boots	2	\$ 48.00	ea	\$ 96.00
Nitrile Gloves	4	\$ 22.00	dz	\$ 88.00
Hydrogen Peroxide	2450		gal	\$ 19,866.00
<i>(Laboratory Analysis)</i>				
TPHg/BTEX/Oxy genates	6	\$ 135.00	ea	\$ 810.00
SUBTOTAL				\$ 34,355.00

TASK 8 CLOSURE REPORT - (CONTINGENT OPTION)

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	4	\$ 95.00	hr	\$ 380.00
Senior Engineer / Geologist	12	\$ 75.00	hr	\$ 900.00
Staff Geologist	32	\$ 55.00	hr	\$ 1,760.00
Draftsman	6	\$ 55.00	hr	\$ 330.00
Administrator	2	\$ 45.00	hr	\$ 90.00
SUBTOTAL				\$ 3,460.00

TASK 9 MONITORING WELL DECOMMISSIONING (CONTINGENT OPTION)

TITLE	QTY	UNIT PRICE	UNIT OF MEASURE	EXTENDED PRICE
<i>(Professional Services)</i>				
Project Manager	8	\$ 95.00	hr	\$ 760.00
Staff Geologist	72	\$ 55.00	hr	\$ 3,960.00
Administrator	2	\$ 45.00	hr	\$ 90.00
<i>(Subcontractor)</i>				
Driller Pressure Grout				\$ 27,500.00
<i>(Equipment)</i>				
Truck	6	\$ 50.00	day	\$ 300.00
Disposal of cuttings, debris				\$ 3,600.00
<i>(Instruments)</i>				
Photoionization Detector	5	\$ 100.00	day	\$ 500.00
<i>(Laboratory Analysis)</i>				
TPHg/BTEX/Oxy genates	3	\$ 135.00	ea	\$ 405.00
SUBTOTAL				\$ 37,115.00



DEPARTMENT OF ENVIRONMENTAL RESOURCES
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**MASTER AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This Master Agreement For Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and ATC Associates Inc. ("Contractor") on Oct. 1, 2008.

Recitals

WHEREAS, the County has a need for contractor services involving numerous and different tasks and projects related to the investigation, testing and cleanup of the 402 Downey Avenue underground storage tank site identified in Exhibits A, B, and C; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services; and

WHEREAS, the County and the Contractor wish to execute one agreement that shall govern all of the work or services provided by the Contractor during the term of this Agreement

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

1.1 The Contractor shall furnish to the County upon receipt of the County's written authorization to proceed, those services and work set forth in a "Scope of Work" separately approved for each project or task being provided by the Contractor, which Scope of Work are, by this reference, are made a part hereof.

1.2 Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of work or services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.3 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.4 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances and resolutions, and in accordance with a schedule of work set forth in the scope of work for each separately approved project. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. Consideration

2.1 County shall pay Contractor the rates set forth in **Exhibit C**, attached hereto and made a part of this Agreement, and for the tasks set forth on separately approved project authorizations or scope of work.

2.2 Except as expressly provided in this Agreement or in a separately approved scope of work contained within the Project Authorization - **Exhibit B**, attached hereto and made a part of this Agreement, Contractor

By: _____
Sonya K. Harrigfeld
Director
"County"

By: _____
Name
Title
"Contractor"

APPROVED AS TO FORM:
John P. Doering
County Counsel

By:
Name
Deputy County Counsel

shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

The term of this Agreement shall be from **September 23, 2008** until **September 22, 2011**. The term for each separately approved project or scope of work shall begin on the date of approval until completion of the agreed upon services, or as otherwise specified in the approved scope of work. In no case shall the individual project or scope of work completion date go beyond the Agreement end date of September 22, 2011.

3.1 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.2 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.3 The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Contractor. Contractor agrees to waive any claims for damages, including loss of anticipated profits, in the event the County terminates the Agreement as provided for in this paragraph. Upon such termination, the obligations of this Agreement shall continue as to any work already performed and the County shall pay Contractor the amount due for work properly performed as of the date of termination, less any sums previously.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in this Agreement or in separately approved project or scope of work, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services under this Agreement. The Contractor--not the County--has the sole responsibility for payment of the costs and expenses incurred by Contractor in providing and maintaining such items.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with

coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California)

with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, which arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such

persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of separately approved project or scope of work. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

11. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

12. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

13. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address

of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Department of Environmental Resources
Attention: Susan M. Garcia, C.P.M.
3800 Cornucopia Way, Suite C
Modesto, CA 95358

To Contractor: ATC Associates Inc.
Attention: Jeanne Homsey
1117 Lone Palm Avenue, Suite 201
Modesto, CA 95351

14. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect, which would conflict, in any manner or degree with the performance of the work and services under this Agreement.

15. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

16. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

17. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

18. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

19. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

20. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

(signatures on the next page)

IN WITNESS WHEREOF, the parties have executed this Agreement on the date hereinabove written.

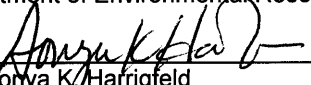
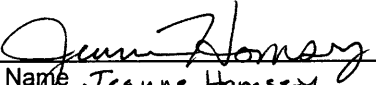
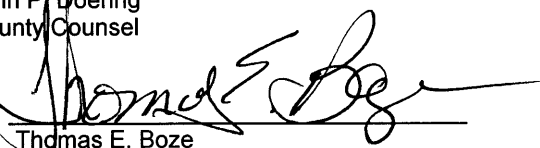
<p>COUNTY OF STANISLAUS Department of Environmental Resources</p> <p>By:  Sonya K. Harrigfeld Director</p> <p>Date: <u>10/2/08</u> "County"</p>	<p>ATC ASSOCIATES INC.</p> <p>By:  Name Jeanne Homsey Title Branch Manager</p> <p>Date: <u>10/01/08</u> "Contractor"</p>
<p>APPROVED AS TO FORM: John P. Doering County Counsel</p> <p>By:  Thomas E. Boze Deputy County Counsel</p>	

EXHIBIT A**SCOPE OF WORK**

This Master Agreement is for the investigation, testing and clean up of 402 Downey Avenue, Modesto, CA.

The Work at the Downey Avenue site shall be authorized by a written and executed Project Authorization (Exhibit B). All terms and conditions in the Master Agreement shall apply to the Project Authorization. As each project is authorized against this Master Agreement, the Contractor shall develop the project cost based on the unit/task price/rates outlined in the Master Agreement - Exhibit C and in accordance with the State Water Resources Control Board (SWRCB), Underground Storage Tank (UST) Fund's current cost guidelines.

A. BACKGROUND

The County administers a contract with the State Water Resources Control Board (SWRCB) for the investigation and clean up of sites designated as EAR sites. The Downey site listed above has both soil and groundwater contamination associated with underground storage tanks. The primary constituents of concern are petroleum hydrocarbons, BTEX, and MTBE. Complete records regarding the historical investigations for the site listed above are on file with the County's Department of Environmental Resources.

B. SERVICE REQUIREMENTS

The practice of geology must be performed by professional geologists within the meaning of the Business and Professions Code, Division 3, chapter 12.5 (commencing with section 7800). The practice of engineering must be conducted by professional engineers within the meaning of the Business and Professions Code, division 3, chapter 7 (commencing with section 6700). The Business and Professions Code requires all geologic plans and reports and all engineering plans and reports to be prepared by or under the direction of a registered geologist or engineer, respectively, and these plans and reports must be signed by the registered professional in responsible charge.

The California State Water Resources Control Board, Underground Storage Tank Cleanup Fund (Fund), will only reimburse the County for the activities of the firms that are properly licensed and maintain necessary registrations for legal operations in the State of California. Therefore, the Contractor is responsible for complying with the State of California's, requirements for performing professional services.

C. SCOPE OF WORK

The Contractor shall provide all the labor, materials and equipment necessary to perform various services involving numerous and different tasks and projects related to the investigation, testing and cleanup of the underground storage tank located at 402 Downey Avenue in Modesto, California. Some of the numerous and different tasks and projects include but are not limited to performance of quarterly groundwater monitoring, operation and maintenance of the ozone sparge system, operation of soil vapor extraction system, verification of Soil Borings and Report, project management, scheduling of activities related to site investigation, etc.

Contractor shall provide to the County what additional data is required, prior to initiating an interim remedial action, or a corrective action plan. The Contractor shall also identify what type of investigation is preferred (i.e., Geoprobe, CPT, monitoring well installation, etc.) and provide preferred remedial methods and projected clean up timeline.

The County shall issue Project Authorizations for each specific scope of work based on the proposals submitted by the Contractor and approved by the County. The County shall review proposals submitted by the Contractor for cost efficiency, quality of investigation, and projected length of time to complete investigation and remediation. The County expects the work to be performed based on the costs submitted within the approved proposals. All effort should be made to ensure all proposals are as complete as possible. Scopes of work initiated are done so under fixed price contracting whereby the County will not pay for work beyond the scope of work unless specifically agreed to. Contractor will be expected to notify the County when 25%, 50%, and 75% of tasks and costs are achieved within each scope of work.

D. TRANSPORTATION

Title or Ownership of any hazardous waste transported as a result of this Agreement passes to the Contractor at the point the carrier accepts the waste.

E. COMPENSATION

Compensation shall be for work actually completed, not work in progress.

1. Contractor shall be compensated for the services specified in each Project Authorization issued against this Master Agreement based on a time and material basis, not to exceed the total amount per task and at the rates set forth in Exhibit C – Rate Schedule of this Master Agreement.
2. The parties hereto acknowledge the maximum amount to be paid by the County for services provided **shall not exceed \$200,000.00**, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

F. INVOICING

Contractor shall invoice the County on a monthly basis.

The remit to address is:

Stanislaus County Department of Environmental Resources
Attention: Accounts Payable
3800 Cornucopia Way
Suite C
Modesto, CA 95358

G. TERMINATION FOR CONVENIENCE

The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Contractor. Contractor agrees to waive any claims for damages, including loss of anticipated profits, in the event the County terminates the Agreement as provided for in this paragraph. Upon such termination, the obligations of this Agreement shall continue as to any work already performed and the County shall pay Contractor the amount due for work properly performed as of the date of termination, less any sums previously paid.

H. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA. The Contractor shall be responsible for strict compliance with all requirements of the California Occupational Safety and Health Act (OSHA) which are applicable to the work to be accomplished pursuant to this Agreement. OSHA shall be construed to include, but not be limited to, all applicable safety orders issued by the Division of Industrial Safety, State of California. In the event the contractor or any of the Contractor's employees shall observe any violation of OSHA in or on the premises on which the Contractor is to perform work pursuant to this Agreement, the Contractor shall immediately give written notice to the County of such violation.

I. REPRESENTATIVES

Start-up service shall be coordinated with the County's Nicole Damin (209) 525-6725 representative. The Contractor's representative is Jeanne Homsey (209) 579-2221.

J. WORK SCHEDULE

Consultant is obligated to perform, in a timely manner, the services and work provided for under this Agreement. It is understood by Consultant that the performance of these services and work shall require the Consultant to perform the services and work in conformance with a work schedule agreed to by the parties in each Project Authorization executed against this Master Agreement.

K. INSURANCE

The following insurance is required in addition to the insurance identified in sections 6.1.1 through 6.1.3 of the Agreement.

Professional Liability Insurance: Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Contractor work under this Agreement.

L. MULTI-YEAR CONTRACT

If funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, the County shall have the right to terminate this Agreement and the Contractor is not entitled to recover any costs not incurred prior to termination.

M. SUBCONTRACTORS

All insurance coverage for subcontractors shall be subject to all of the insurance and indemnity requirements stated herein.

N. LABOR CODE COMPLIANCE

Prevailing Wage Pursuant to Labor Code Section 1771, certain work under this Agreement is subject to the provision of Article 2 (commencing with section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, and the Contractor shall pay all workers the general prevailing rate per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday and holiday work. These wage rates, which are set forth by the Director of the Department of Industrial Relations, are now on file with the Department of Public Works and are a part of this Agreement. The Contractor shall post a copy of these prevailing wage rates on the job site.

1. Payroll Records Pursuant to and in accordance with the provisions Labor Code Section 1776, the Contractor shall keep accurate payroll records of employees performing work under this Agreement and shall make available for inspection a certified copy such payroll records.

2. 8 Hour Day Pursuant to and in accordance with the provisions of Labor Code Section 1810, 1811 and 1815, the time of service of any laborer, workman, or mechanic employed upon any of the work under this Agreement is limited and restricted to eight (8) hours during any one calendar day, and 40 hours during any one calendar week, except that work performed by employees of contractors in excess of eight (8) hours per day and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

3. Apprentices The Contractor shall comply with all applicable provisions of the Labor Code, including without limitations Section 1777.5 and 1777.6, related to employment of apprentices by the Contractor and all subcontractors, and Contractor shall be subject to all applicable penalties for non-compliance.

4. Penalties The Contractor shall comply with Labor Code Section 1775. In accordance with Labor Code Sections 1775 and 1813, the Contractor shall forfeit, as a penalty to the County of Stanislaus \$25.00 for (a) each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for such work or craft in which such workman is employed for any work done under the contract by him or by any subcontractor under him; and (b) each calendar day or week during which any laborer workman or mechanic is required or permitted to labor more than eight hours in any one calendar day or 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing with Section 1810) of Chapter 1, Part 7, Division 2 of the Labor Code. In addition to said penalties, the difference between such stipulated prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than the stipulated prevailing wage rate shall be paid to each workman by the Contractor.

O. TRENCHING AND EXCAVATION

1 Subsurface Conditions Pursuant to Public Contract Code Section 7104, the following provisions shall apply provided the work under this Agreement involves digging trenches or other excavations that extend deeper than four (40 feet below the surface):

(a) The Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

(i) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

(ii) Subsurface or latent physical conditions at the site differing from those indicated.

(iii) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

(b) The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.

(c) In the event that a dispute arises between the public entity and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the contracting parties.

2 Excavation Shoring. Pursuant to Labor Code section 6707, if the work under this Agreement involves digging trenches or other excavations that extend deeper than five (5) feet below the surface the Contractor shall provide at its sole cost and expense adequate sheeting, shoring and bracing, or equivalent method, for the protection of life or limb, which shall conform to applicable safety orders.

P. UTILITY RELOCATION

Pursuant to Government Code section 4215, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. The Contractor shall not be assessed liquidated damages for delay in completion of the project, when such delay is caused by the failure of the County or the utility owner to provide for removal or relocation of such utility facilities.

Q. ASSIGNMENT OF ANTI-TRUST ACTIONS AND UNFAIR BUSINESS PRACTICE CLAIMS.

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

R. RESPONSIBILITY FOR ERRORS

Contractor shall be responsible for its work and results under this Agreement. Contractor, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Contractor occurs, then Contractor shall, at no cost to County, provide all necessary design drawings, estimates and other Contractor professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

S. DUTY TO COOPERATE

Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Contractor shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

T. PATENT RIGHTS

Contractor represents that professional services provided by Contractor pursuant to this Agreement does not infringe on any other copyrighted work. Contractor shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

U. DOCUMENTS

In the event of termination of this Agreement, all documents prepared by Contractor in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Contractor, at no cost to County. Any use of uncompleted documents without specific written authorization from Contractor shall be at County's sole risk and without liability or legal expense to Contractor.

SAMPLE EXHIBIT B

Agreement Number A081908

PROJECT AUTHORIZATION NO. 00-00

A. Terms and Conditions

Except as hereinafter provided, the services provided by the Contractor under this Project shall be subject to the terms and conditions set forth in the *Master Agreement For Independent Contractor Services* made and entered into by and between the COUNTY OF STANISLAUS ("County") and [COMPANY NAME] ("Contractor"), on _____, 2006.

B. Scope of Work

The Contractor shall provide services under the Agreement and this scope of work for additional site work requested by the County, as set forth in the Contractor's proposal and scope of work dated _____, and proposal and scope of work with attachment ___ dated _____, attached hereto and, by this reference, made a part hereof.

C. Compensation

The Contractor shall be compensated for the services provided under the Agreement and this scope of work as follows:

1. Contractor will be compensated on a time and material basis, not to exceed the total amount per task and at the rates set forth in Exhibit C.
2. The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed _____, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

D. Payment and Invoicing

1. Consultant shall be compensated for services rendered and accepted under this Agreement and shall be paid monthly, in arrears, on a time and material basis, not to exceed the total amount per task per task, for work performed and services provided.
2. The terms of payment are Net 30 days after approval of the invoice.
3. Consultant shall submit a detailed invoice upon completion of each task. The invoice is to include but not be limited to the following information: hours worked by Consultant's Staff, the title of the Staff, billable rate, item rental equipment, number of days rented and rate of rental, task, staff and reimbursable items.
4. The County shall pay the Consultant 30 days after approval of the invoice.

Invoices shall be mailed or delivered to the Department indicated below. The remit to address is:

Stanislaus County
Department of _____
Attention: _____

E. Project Authorization Period

Services will commence on or about _____, 200_ and be completed by _____, 200_.

IN WITNESS WHEREOF, the parties have executed this Project Authorization No. 00-00 on _____, 200_.

(signatures on the next page)

COUNTY OF STANISLAUS

CONTRACTOR NAME

EXHIBIT C

RATE SCHEDULE

The Contractor shall provide all the labor, material, supplies, tools, licenses, permits and equipment to perform Contractor services involving numerous and different tasks and projects identified in Exhibit A and B that are related to the environmental investigation, testing, reporting, monitoring, clean-up, operation and maintenance of the 402 Downey Avenue, Modesto, CA site. The work for each project shall be authorized on a separate Project Authorization issued by the County.

Charges for the work shall be in accordance with this rate schedule. The below rate schedule is in effect through the term of this Agreement. No rate increases shall be considered or allowed. The following billable rates include: labor, benefits, taxes, overhead/general & administrative (G&A), profit, and ancillary charges such as copies, faxes, telephone, postage, paper clips, binders, cellular phone charges, computer charges (CADD, word-processing, mapping), etc.

It is important that the Contractor use only the appropriate staff levels for the tasks performed. The Contractor may use a higher billing staff person to perform tasks commonly performed by a lower billing staff person if the billing rate is adjusted downward to correspond to the task performed.

Definitions:

The following definitions are listed for the purpose of intent in the use the specific words:

- "Task" refers to a function or a piece of work assigned or done by Contractor as part of the investigation, monitoring, testing of designated site. The task cost shall include itemization of labor, materials, equipment, rentals, laboratory analysis, etc.
- "Staff Billable Rate" refers to Contractor's Staff responsible for performing the task
- "Laboratory Analysis" refers to rates charged by the laboratory used by the Contractor
- "Equipment" refers to cost for the daily rental of equipment (i.e., Air sample pump, drums, generator, etc.) necessary to perform the investigation, monitoring or testing of the site
- "Fee" refers to cost for fees such as disposal fees.
- "Sampling Vehicles" refers to daily rental of vehicles used to perform investigation, monitoring or testing of site.
- "Materials" refers to materials such as fuel costs associated with the investigation, monitoring or testing of site.

STAFF BILLABLE RATE:

<u>Title</u>	<u>Billable Hourly Rate</u>
Project Manager	\$95.00
Senior Engineer / Geologist	\$75.00
Staff Geologist / Engineer	\$55.00
Technician	\$50.00
Draftsperson	\$55.00
Clerical	\$45.00

STANDARD FEE SCHEDULE FOR EQUIPMENT AND ANALYSIS:

<u>Description</u>	<u>Rate</u>	<u>Unit of Measure</u>
Truck	\$ 50.00	day
Drum Disposal	\$110.00	each
Bailer	\$ 13.00	each
Pump	\$100.00	each
WLP	\$ 25.00	day
pH/Temp/Conductivity Meter	\$ 25.00	each
TPHg/BTEX/Oxygenates (soil or water analysis)	\$135.00	each

<u>Description</u>	<u>Rate</u>	<u>Unit of Measure</u>
Photoionization Detector	\$100.00	day
Neoprene Apron	\$000.00	each
Chemical resistant boots	\$ 48.00	each
Goggles	\$000.00	each
Face shield w/frame	\$000.00	each
Nitrile gloves	\$ 22.00	each
Vehicle mounted wind sock	\$000.00	each
Eye wash bottles/purified water	\$000.00	each
Hydrogen peroxide (5 gal bucket)	\$ 66.00	each
Hydrogen peroxide (55 gal drum)	\$429.00	each

Note: No mark up shall be applied to any of the items listed in the standard fee schedule.



DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C
Modesto, CA 95358

Phone: (209) 525-6770

Fax: (209) 525-6773

ATC ASSOCIATES INC.

PROJECT NO. 08-01-SMG

A. Terms and Conditions

Except as hereinafter provided, the services provided by the Contractor under this Project shall be subject to the terms and conditions set forth in the *Master Agreement For Independent Contractor* made and entered into by and between the County of Stanislaus ("County") and ATC Associates Inc., ("Contractor"), on September 23, 2008.

B. Scope of Work

The Contractor shall provide services under the Agreement and this Project to perform groundwater monitoring and reporting (4 quarterly events), remediation system routine operation and maintenance of the Ozone Sparge/Oxygen Booster System (12 months) and Operation of Soil Vapor Extraction System (6 months) , as set forth below.

Task 1 – Perform Groundwater Monitoring - Four (4) Quarterly Events

Contractor shall perform quarterly site visits to complete monitoring and sampling activities. Prior to purging the groundwater wells, the Depth to Water (DTW) in wells MW1 through MW10 shall be measured to evaluate the direction and magnitude of the groundwater gradient beneath the site. A minimum of three well volumes (casing and sand pack) shall be purged from each well before groundwater samples are collected. Temperature, pH, electric conductivity and oxidation-reduction potential shall be measured and allowed to stabilize. After purging, groundwater samples are collected; dissolved oxygen shall be measured in each well. Water samples shall be collected using disposable bailers, one dedicated to each well.

Collected groundwater samples shall be submitted using chain-of-custody record to a State-certified laboratory. Groundwater samples, ten total, shall be analyzed for Gasoline Range Organics (GRO) benzene, toluene, ethyl benzene, and xylenes (BTEX), methyl tertiary butyl ether (MTBE), ethyl dibromide (EDB), 1,2-dichloroethane (1,2-DCA), tertiary butyl alcohol (TBA), tertiary amyl ether (TAME), di-isopropyl ether (DIPE), and ethyl tertiary butyl ether (ETBE) by EPA method 8260B. Purge water shall be stored in 55-gallon drums approved for hazardous liquid storage pending laboratory analysis. Purge water shall be transported and legally disposed of a licensed liquid recycling facility.

Contractor shall prepare a report each quarter that shall include a summary of site activities, groundwater data in tabular form, site plans, laboratory report sheets and field data. The groundwater monitoring report shall be submitted to the County's Department of Environmental Resources (DER) and the Central Valley Regional Water Quality Control Board (CVRWQCB). In addition, Contractor shall upload all quarterly monitoring data into the State Water Resources Control Board (SWRCB) Geotracker database.

Task 2 – Remediation System Routine Operation and Maintenance of the Ozone Sparge/Oxygen Booster System (12 months)

Contractor shall provide all the labor, material and equipment to perform twelve (12) months of routine operation and maintenance (O&M) and system monitoring. Twelve (12) months of operation of the ozone

and oxygen injection systems is also included in this task. Contractor shall conduct routine O&M and system monitoring twice monthly or monthly as required by site conditions and permit. This task does not include labor for unscheduled downtime due to unusual system malfunction but includes labor for routine maintenance indicated by the equipment manufacturer. The Contractor owns the Ozone Sparge System and shall not charge the County any fee for use of this system for this project.

Contractor shall pay electrical costs for this task, which may vary throughout the remediation, and invoice the County for actual costs. The total not to exceed cost listed below for Task 2 – Energy Costs are based on the historical cost for the site.

TASK 3 – Operation of Soil Vapor Extraction System (6months)

The Soil Vapor Extraction System (SVE) was shut down following the H2O2 injection and subsequent quarterly monitoring event. Contractor shall turn the SVE system back on to monitor rebound effect and/or operate to collect off-gas if another H2O2 injection event is approved. This task includes the labor, material and equipment required for routine O&M and SVE system monitoring for six months. Routine O&M and system monitoring shall be conducted twice monthly or monthly as required by site conditions and permit.

Contractor shall pay energy costs for this task, which may vary throughout the remediation, and invoice the County for actual costs. The total not to exceed cost listed below for Task 3 – Energy Costs are based on the historical cost for the site.

C. Compensation

The Contractor shall be compensated for the services provided under the Agreement and this scope of work as follows:

1. Contractor will be compensated on a time and material basis, not to exceed the total amount per task and at the rates set forth below and in Exhibit C of the Master Agreement.
2. The parties hereto acknowledge the maximum amount to be paid by the County for services provided **shall not exceed \$68,340.00**, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.
3. The following are the time and material not to exceed totals for Tasks 1-3.

Task	Description	Quantity	Cost	Not To Exceed Total
1	Groundwater Monitoring & Reporting (4Quarterly Events)			
	<i>Professional Services</i>			
	Project Manager	12 hrs	\$ 95.00	\$ 1,140.00
	Senior Engineer/Geologist	16 hrs	\$ 75.00	\$ 1,200.00
	Staff Geologist	48 hrs	\$ 55.00	\$ 2,640.00
	Draftsman	6 hrs	\$ 55.00	\$ 330.00
	Technician	64 hrs	\$ 50.00	\$ 3,200.00
	Clerical	8 hrs	\$ 45.00	\$ 360.00
	<i>Subcontractor</i>			
	Drum Disposal	12 ea	\$110.00	\$ 1,320.00

Task	Description	Quantity	Cost	Not To Exceed Total
1	Groundwater Monitoring & Reporting (4Quarterly Events) continued....			
	<i>Equipment</i>			
	Truck	4 days	\$ 50.00	\$ 200.00
	<i>Instruments</i>			
	pH/temp/cond meter, WLP, bailers, pumps	4 ea	\$250.00 /day	\$ 1,000.00
	<i>Laboratory Analyses</i>			
	TPHg/BTEX/Oxygenates	40 ea	\$135.00	\$ 5,400.00
	Task 1 – Subtotal			\$16,790.00
2	Remediation System Routine O&M of the Ozone Sparge/Oxygen Booster System (12 months)			
	<i>Professional Services</i>			
	Project Manager	24 hr	\$ 95.00	\$2,280.00
	Senior Engineer/Geologist	24 hr	\$ 75.00	\$1,800.00
	Technician	85 hr	\$ 50.00	\$4,250.00
	<i>Equipment</i>			
	Truck	12 days	\$ 50.00	\$ 600.00
	Ozone Sparge System (no fee for use of Contractor owned equipment)	-0-	-0-	-0-
	<i>Energy Costs</i>			
	Electricity			\$27,500.00
	Task 2 – Subtotal			\$36,430.00
3	Operation of Soil Vapor Extraction System (6 months)			
	<i>Professional Services</i>			
	Project Manager	12 hr	\$ 95.00	\$1,140.00
	Senior Engineer/Geologist	-0- hr	\$ 75.00	-0-
	Technician	42 hr	\$ 50.00	\$2,100.00
	<i>Equipment</i>			
	Truck	12 days	\$ 50.00	\$ 600.00
	PID	12 days	\$100.00	\$1,200.00
	<i>Energy Costs</i>			
	Electricity, Gas			\$10,080.00
	Task 3 - Subtotal			\$15,120.00
	PROJECT TOTAL			\$68,340.00

D. Payment and Invoicing

- Contractor shall be compensated for services rendered and accepted under this Agreement and shall be paid monthly, in arrears, on a time and material basis, not to exceed the total amount per task for the work performed and services provided.
- The terms of payment are Net 30 days after approval of the invoice.

- 3. Contractor shall submit a detailed invoice upon completion of each task. The invoice is to include but not be limited to the following information: hours worked by Contractor's Staff, the title of the Staff, billable rate, item rental equipment, number of days rented and rate of rental, task, staff and reimbursable items.
- 4. The County shall pay the Contractor 30 days after approval of the invoice.

Invoices shall be mailed or delivered to the Department indicated below. The remit to address is:


Stanislaus County
 Department of Environmental Resources
 Attention: Accounts Payable
 3800 Cornucopia Way, Suite C
 Modesto, CA 95358

E. Project Authorization Period

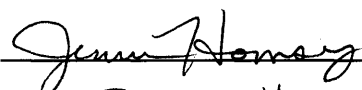
Services will commence on or about September 23, 2008 and be completed by September 22, 2009.

IN WITNESS WHEREOF, the parties have executed this Project No. 08-01-SMG on October 1, 2008.

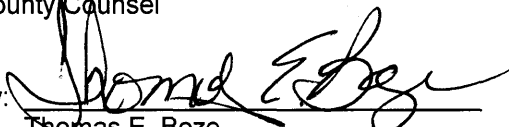
COUNTY OF STANISLAUS
 Department of Environmental Resources

By: 
 Sonya J. Harrigfeld
 Director
 "County"

ATC ASSOCIATES INC.

By: 
 Name: Jeanne Homsey
 (Printed)
 Title: Branch Manager
 "Contractor"

APPROVED AS TO FORM:
 John P. Doering
 County Counsel

By: 
 Thomas E. Boze
 Deputy County Counsel