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OF COUNSEL
DANIEL J. McNAMARA

August 10, 1992

Ms. Eva Chu
Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
80 Swan Way, Rm. 200
Oakland, CA 94621

Re: 7400 Amador Valley Boulevard - Dublin

Dear Ms. Chu:

Attached is the report for the third submitted proposal, that of TMC Environmental, Inc. It is my inclination to select this bid, but I would like to discuss it with you before I do so. I will return from vacation September 1, 1992, and will get in touch with you at that time.

Very truly yours,

McNAMARA, HOUSTON, DODGE, McCLURE & NEY

Richard E. Dodge
Richard E. Dodge

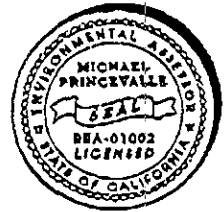
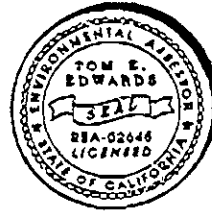
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Enclosure

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DICTATED BUT NOT READ

PROPOSAL

7400 Amador Valley Boulevard
Dublin, California

MANAGEMENT AND CONSULTING



California Registered Environmental Assessors
California Certified Engineering Geologist
Oregon Registered Engineering Geologist
Oregon Registered UST Soil Cleanup Supervisors

"An Environmental Management Company"

SITE INVESTIGATION PROPOSAL

7400 Amador Valley Boulevard
Dublin, California

INTRODUCTION

TMC Environmental, Inc. (TMC) is submitting this proposal for the investigation of soils at the facility located in Dublin, California. The purpose of the investigation is to finish gather subsurface information to determine the extent of gasoline contamination. The following proposal is based upon our meeting conversation, a brief site inspection, and review of the provided reports.

DISCUSSION OF PROPOSED WORK

After reviewing the documents and reports supplied to TMC, we recommend the following investigative work. We recommend that no additional monitoring wells be installed until the edges of the gasoline plume have been found using soil borings and soil and grab water samples. The well on site contains contaminated water, therefore it cannot be used to define the edge of the gasoline plume. The next well or wells should define the outer limits of the groundwater plume and contain no contaminated water.

TMC proposes to drill five (5) soil borings to a maximum depth of Twelve (12) feet below surface grade. The borings will be located far outside the limits of the previous excavation in northern, western and southern directions. No drilling easterly towards the Shell property will be required. Two (2) soil samples and one water sample from each boring will be submitted for laboratory analysis of gasoline.

SCOPE OF WORK

PERMITTING

Site investigations at fuel leak sites will involve permitting by the following local and state agency: County of Alameda County Environmental Health Department. Notification must also be provided to all utility companies for clearance of underground lines prior to drilling on public and private property. Project delays due to agency permitting is beyond the control of TMC Environmental Inc.

WORKPLAN

As required by agency guidelines, a workplan will be prepared for the investigation of the Dublin facility. The workplan will include the required site safety plan, sampling and analysis plan, and standard investigation procedure protocols. The workplan is comprehensive in scope. Additional investigative work in the future will only require a letter amendment to this workplan. Upon client approval, the workplan will be signed by a California Certified Engineering Geologist and submitted to the County of Alameda

Environmental Health Department for approval to proceed with the investigation. Petroleum fuel and its components, particularly benzene, are now considered hazardous substances as defined by Title 22 of the California Code of Regulations. The site specific safety plan must be completed and implemented prior to the start of work.

SOIL BORINGS

To estimate the extent of gasoline contamination in soil, we propose to drill five exploratory borings to a maximum of 12 feet below grade at the approximate groundwater interface outside of the previous excavation. We will provide for the asphalt and concrete coring of the holes if necessary. Soil samples will be collected at five and ten feet below grade using a licensed drill rig. During the drilling, a geologist will maintain a geological log of the soil encountered in each hole. Soil cuttings will be stockpiled on plastic for aeration of any gasoline. Disposal of the soil is at clients additional expense. Disposal will be a minor expense once the gasoline is evaporated, if any was present. If gasoline was present in the soil, then one soil sampling episode of the stockpile will be performed to prove the soil is aerated and clean.

LABORATORY ANALYSIS

Selected samples, to a maximum of 10 soil samples and 5 water samples will be analyzed. Samples taken will be analyzed for Total Volatile Hydrocarbons as gasoline (TVH) with benzene, toluene, ethylbenzene, and total xylenes (BTEX) distinction. Grab water samples will be analyzed for TVH as gasoline with BTEX distinction in accordance with California Department of Health Services (DOHS) regulations.

INVESTIGATION REPORT

An investigation report will be prepared detailing all field work, findings, summary and recommendations. The report will be submitted for your review and upon your approval submitted to the Alameda County Environmental Health Department.

ESTIMATED TIME FOR COMPLETION OF SPECIFIC TASKS

The time estimated to complete the described tasks is as follows.

Workplan and approval by the lead agency	2 weeks
Soil Borings and analyses	3 weeks
Investigation Report	2 weeks
Total	7 weeks

ESTIMATED COST

Workplan

Includes site safety plan, site history and findings resulting from the previous work

Sub Total	\$ 2,500.00
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Soil Borings

Permitting	\$ 200.00
Concrete coring of 2 holes	200.00
Drill rig (includes rig time, driller and assistant, steam cleaner, mobilization):	1,440.00
Drilling Materials (cement, etc.)	150.00
Sampling Materials (brass liners, bailers, etc.)	150.00
Project Manager, (10 hours @ \$70.00 per hour)	700.00
Technician, (8 hours @ \$45.00 per hour)	360.00
Field Analyzer (1 day @ 100.00 per day)	100.00
Analyses (15 ea. TVH @ BTEX)	<u>2,025.00</u>
Sub Total	\$ 5,325.00

Investigation Report

Includes a detail of field work, documentation, summary and recommendations.

Sub Total	\$ 3,200.00
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Total Budgetary Estimate \$11,025.00

COMPENSATION

We estimate the total fee for the above services will not exceed \$11,025.00. An initial retainer of \$3,000.00 is due upon the execution of this proposal/agreement. The balance will be billed on a time and materials basis and payable upon completion of the work and receipt of our invoice.

All work is to be completed in a workmanlike manner according to standard environmental practices. Any alteration or deviation from the above specifications involving extra costs will be executed upon approval of the client and will become an extra charge over and above the estimate on a time and materials basis at our standard rates. If work is stopped or delayed for any reason beyond the control of TMC Environmental Inc., all work will be due and payable upon receipt of our invoice.

In the event TMC Environmental Inc. encounters unforeseen underground structures, cables, conduit, or piping, additional charges may be incurred.

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, is entered into this 31st day of July, 1992 by and between TMC Environmental, Inc., a California corporation (hereafter called TMC) and Mr. Richard Dodge and Mrs. Jeanne Dodge, 700 Amador Valley Blvd, Dublin, California, hereafter called "Client".

WHEREAS the PROFESSIONAL SERVICES set forth in this agreement are to be performed at the property or location (hereafter called the "Site"), the Site is described in accordance with TMC's Proposal letter dated July 31, 1992, which is made a part hereof.

NOW, THEREFORE, Client and TMC agree as follows:

1. TMC agrees to furnish and perform the professional services at the Project, in accordance with TMC's Proposal letter dated July 31, 1992, which is made a part hereof.
2. The Client agrees to pay TMC, for its professional services, a fee in accordance with TMC's Proposal letter with fee schedule dated July 31, 1992, which is made a part hereof. Conditions of payment are on the current fee schedule.

TMC has not included in its fees substantial premiums in the nature of reserves for risks. TMC's services will be compensated largely on the basis of the time TMC employees spend in rendering services and not on the basis of the legal liabilities created by the risks from the wastes or materials.

3. Special Terms and Conditions in accordance with TMC's Proposal letter dated July 31, 1992, which is made a part hereof.

GENERAL TERMS AND CONDITIONS

1. **Additional Work:** The Client may request, but TMC is not obligated to perform, services in addition to those described above. Any such additional work which Client and TMC agree upon shall be an amendment to this Agreement, and shall be subject to all of the terms and conditions of this agreement. Additional work will be billed at the current fee schedule rates. The nature of environmental work is such that, in most cases, it is impossible to determine in advance the exact amount of time which will be required to complete a given job. Estimates, when requested, are made in good faith, but can only be based upon those factors affecting the cost which are presented to us or can be readily foreseen. It must be understood that the cost of a job can vary from an estimate, where unusual and unforeseen elements develop.

2. **Right of Entry:** Client warrants to TMC that it has full legal right to authorize TMC to enter upon the Site and such adjoining property as is necessary to allow TMC to perform its services. Client is responsible for clearly marking the legal property boundaries and incurring costs for entry. TMC will take reasonable precautions to minimize any damage to the Site; however, Client acknowledges that during the normal course of the performance of TMC's services, some damage to the Site may occur. The correction of any damage to the Site shall be the obligation of the Client.

3. **Information Supplied by Client:** Client warrants the accuracy of any information supplied by it to TMC, acknowledges that TMC will not verify the accuracy of such information due to budget constraints, and agrees that TMC is entitled to rely upon such information and include it in reports. Client shall immediately notify TMC in writing of any date, information or knowledge in the possession of or known to Client relating to the conditions existing at the Site. Client shall provide TMC with the location, size and depth of any and all underground tanks, piping, electrical lines, cables, telephone lines, utilities or structures existing at the Site. Client shall incur the expense for damage or injury arising from damage to subterranean structures (pipes, tanks, telephone lines, cables, etc.) which are not called to TMC's attention and correctly shown on the plans furnished to TMC.

4. **Standard of Care and Professional Responsibility:** TMC's professional services shall be performed, findings obtained, and recommendations prepared in accordance with generally accepted environmental consulting principles and practices in the area where the services are rendered and at the time the services are rendered. Except as expressly set forth in these General Conditions, no other warranty, express or implied, is extended by TMC.

Client acknowledges that the services to be performed by TMC involve the use of tests, calculations, analyses and procedures which are in a constant state of development. Improvements, changes in methods, and modifications of procedures have been made in the past, are now being made, and are expected to continue to be made in the future. Further, Client recognizes that, while necessary for investigations, commonly used exploration methods, such as drilling borings, or excavating trenches, involve an inherent risk. For example, exploration on a site containing contaminated materials may result in inducing cross-contamination, the prevention of which may not be complete using presently recognized and approved sealing methods. Client agrees to reimburse TMC for losses of drilling and sampling equipment in boreholes and for damages to field equipment occurred during the reasonable conduct of field work. Client is solely responsible for complying with all future and more stringent cleanup standards and regulations.

Client recognizes that projects containing contaminated materials may not perform as anticipated by Client, even though TMC's services are performed in accordance with the level of care and skill required of it. Further, certain governmental regulations relating to hazardous waste sites may purport to require achievement of results which cannot be accomplished in an absolute sense. It is recognized that a satisfactorily designed, constructed and maintained monitoring system assists in the early detection of environmental changes allowing for early correction of problems. Unless it is specifically included in the scope of services to be performed by TMC, Client understands that TMC shall not perform such monitoring.

TMC shall not be required to sign any certification, with regard to the work performed, tested, or observed under this agreement unless 1) TMC, in its sole judgement, believes that sufficient work has been performed by TMC to provide a sufficient basis to issue the certification, 2) TMC, in its sole judgement, believes that the work performed, tested or observed meets the criteria of the certification. Any certification by TMC does not constitute a warranty or guarantee, either express or implied.

Professional reports rendered are the considered opinion of employees of TMC based on observation of the site conditions revealed at points of exploration and reconnaissance. No warranty or representation, either expressed or implied, is or should be construed regarding site conditions at locations other than those penetrated by the explorations. The inclusion of plans in the report does not imply an endorsement or verification of the

design, dimensions, elevations or property lines as shown on those plans unless specifically indicated on the plans or referenced report.

5. Hazardous Waste, Pollution, Environmental and Health Hazards: Prior to the commencement of services by TMC on any hazardous project, Client agrees to advise TMC in writing if any of said services are to be performed in an area where hazardous waste or material raises a potential or possible health hazard or nuisance to anyone working within the area. TMC is being engaged to render professional services involving wastes or materials for which TMC has had no role in generating, treating, storing or disposing. TMC has not shared and will not share in any revenues or profits from the processes producing those or similar wastes or materials. Prior to the effective date of the Agreement to which these General Conditions are a part, Client represents that it has advised TMC in writing of any known hazardous waste materials existing on or near the Site, said notice containing the identification of any such hazardous waste, the extent and location thereof. In the event unforeseen contaminants, hazardous wastes or materials are encountered by TMC during the course of performing its services:

a) Client and TMC agree that the scope of services, scheduled and estimated fee budget (if any) shall be adjusted as is reasonably necessary.

b) Client shall be solely responsible for notifying, in writing, all appropriate federal, state, municipal or other government agencies of the existence of any hazardous or toxic materials located on or in the project site, or discovered during the performance of the Agreement within any legal time constraints. Client is solely responsible for submitting reports to the appropriate governmental agencies in a timely manner. Client agrees to be responsible for the ownership, removal and disposal of any hazardous waste uncovered as a result of the site investigation, including drilling waste and ground water, if any, used in the site investigation.

6. Job Site Safety: TMC is not responsible in any way, directly or indirectly, for working conditions of any third party on the job site. Any supervision of a third party contractor's performance conducted by TMC is not intended to include review of the adequacy of the contractor's safety measures, in, on or near the site.

7. Termination of Agreement: This Agreement may be terminated by either party upon seven (7) days' written notice to the other party. In the event that such termination occurs, the Client shall pay TMC for that portion of the work performed and not billed as of the date of termination, including any such work performed during said seven (7) day period. Payment for any such portion not billed shall be based on TMC's current fee schedule. TMC's Limitation of Liability and the Indemnity obligations of this Agreement shall be binding notwithstanding any termination of this Agreement.

In the event Client requests termination of TMC's professional services prior to completion thereof under this agreement, TMC reserves the right to complete such analyses, records and reports as may be necessary to place its file in order and to protect its reputation for professional competence. All files, drawings, samples and reports shall remain the property of TMC, in TMC's discretion, until TMC has received payment in full for its services.

8. Governing Law: These General Conditions shall be governed by and constructed under the laws of the State of California.

9. Severability: Every part, term or provision of this Agreement is severable from others. Notwithstanding any possible future finding by duly constituted authority that a particular, term, or provision is invalid, void or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby.

10. Limitations Of Liability: Restrictions or exclusions in the availability of professional liability and other insurance for TMC's services either at present or as reasonably contemplated in the future make it difficult or impossible for TMC or the environmental profession as a whole to apportion risk on this or other-similar work by adjustment of fees. The Liability of

TMC, its agents, employees and subcontractors, for Clients claims of loss, injury, death, damage, including, without limitation, Clients claims of contribution and indemnification with respect to third party claims, shall not exceed, in the aggregate under this Agreement:

1) The total sum of TMC's total fee for the services rendered for claims of liability arising out of: (a) any environmental pollution or contamination, including, without limitation, any actual or threatened release of toxic, irritant, pollutant, or waste gases, liquids, or solid materials; or (b) professional negligence, including errors, omissions, or other professional acts, and including unintentional breach of contract; or

2) the total sum of \$1,000,000, for injury, loss or damage by causes as provided for in TMC's general liability insurance, for which TMC has any legal liability other than as described in categories 1(a) and (b) above.

In no event shall either TMC or Client be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such claim is based upon alleged breach of contract, willful misconduct, or negligent act or omission, whether professional or non-professional, of either of them or their employees, agents or subcontractors.

11. Indemnification: Client agrees to defend, indemnify and hold harmless TMC, its officers, directors, agents, servants and employees, from and against any and all claims, injunctions, administrative proceedings, suits, damages or liability, including claims or suits brought by employees of Client, or for attorney fees, arising from or related to the performance of work under this Agreement, errors, omissions or inaccuracies in documents or information provided, or which should have been provided to TMC by Client, or from the existence of hazardous waste, materials or contaminants; unless such claims, injunctions, administrative proceedings, suits, damages or liability, are caused by the sole negligence or willful misconduct of TMC.

12. Ownership of Documents: All reports, boring logs, field notes, laboratory test data, calculations, estimates and other documents prepared by TMC, as instruments of service, shall remain the property of TMC. Client agrees that all report and other work furnished to Client or his agents, which is not paid for, will be returned upon demand and will not be used by the client for any purpose whatsoever. TMC will retain all pertinent records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to the client at all reasonable times.


13. Assigns: Neither the Client nor TMC may delegate, assign, subcontract or transfer his duties in this agreement without the written consent of the other party.

TMC will diligently proceed to complete the professional services described in this agreement in a timely manner. However, it is expressly agreed that TMC shall not be held responsible for delays in performance occasioned by factors beyond TMC's control, including delays caused by decisions or actions by federal, state, or local governmental agencies.

IN WITNESS THEREOF, Client and TMC have executed this Agreement the day and year first above written.

Client _____

by _____

TMC Environmental, Inc.
by 

TMC ENVIRONMENTAL, INC. 1992 FEE SCHEDULE

Environmental Consulting Services:	California Registered Professional	\$85.00 /hour
	Project Manager	75.00 /hour
	Engineer/Geologist	65.00 /hour
	Technician	45.00 /hour
Support Services:	Draftsman	\$45.00 /hour
	Technical Editor	40.00 /hour
	Clerical	35.00 /hour
Equipment:	Organic Vapor Analyzer	\$100.00 /day
	Air Monitoring Equipment	50.00 /day
	Safety Equipment (level C)	70.00 /day
	Sampling Meters	40.00 /day
	Water Level Indicator	30.00 /day
	Turbidity Meter	75.00 /day
Stock Materials:	Plastic Roll (100'X 20'-6 mil.)	\$90.00 /roll
	55-gallon Drum	45.00 /each
	Absorbent (Solid-A-Sorb)	8.00 /bag
	Brass Tubes	5.00 /each
Travel Expenses:	Mileage	\$ 0.50 /mile
	Personnel	hourly rates
	Per Diem	actual cost
	Commercial Transportation	actual cost
Miscellaneous Expense:	Subcontracting	list + 20 %
	Materials	list + 20 %
	Equipment	list + 20 %
	Laboratory Fees	list + 20 %
	Meals & lodging	list + 20 %

Disposal Fees: Disposal fees for hazardous or regulated waste will be billed on a site-specific and material-specific rate. Rates will include analysis, material loading, transportation, and disposal. State and federal taxes for hazardous waste will be billed directly by the appropriate agencies.

CONDITIONS OF PAYMENT

Invoices: TMC will submit monthly progress invoices to Client, and a final invoice will be submitted upon completion of the services. Within thirty (30) days after receipt of an invoice, client shall pay the full amount of the invoice. If client objects to all or any portion of any invoice, it shall so notify TMC of the same within fifteen (15) days from the date of receipt of said invoice and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the invoice.

If client fails to make payment within thirty (30) days after receipt of an invoice, then Client shall pay an additional monthly service charge of one and one-half percent (1½ %) per month (but not exceeding the maximum rate allowed by law) on all such amounts outstanding, payments thereafter received to be applied first to accrued interest and then to principal amount. The additional charge shall not apply to any disputed portion of any invoice resolved in favor of Client. In the event Client fails to pay any undisputed amount to TMC when due, TMC may immediately cease work until said payment together with a service charge at the rate of 1½ % per month, as specified above, from the due date has been received.

Any additional work to be performed by TMC in connection with the Site, shall be governed by each and every term of this agreement.