



LEVINE-FRICKE

CONSULTING ENGINEERS AND HYDROGEOLOGISTS

October 28, 1988

LF 1077

Mr. Lane Hill
Kem-Mil Company
1829 Clement Avenue
Alameda, California 94501

Subject: Soil Contamination
1829 Clement Avenue, Alameda, California
Work Order No. 1

Dear Mr. Hill:

In response to your request, Levine-Fricke has prepared this proposal for an investigation of soil and ground-water conditions beneath the building at 1829 Clement Avenue in Alameda, California.

Previous work by others at the site has uncovered evidence of the release of chemicals onto the soil under parts of the building. The indications are that the lateral extent of shallow affected soils is well-defined, but that the vertical extent and any impact on ground water are unknown. Therefore the primary objective of this proposed investigation is to collect and analyze soil samples at depths greater than 1 foot and to install monitoring wells to provide information on ground-water quality and flow. A Work Plan will then be written to describe the remedial measures considered appropriate for the conditions at the site. That plan will be discussed in detail with Kem-Mil before submission for review.

During our meeting on October 17, 1988 we discussed the letter report by Blymyer Engineers (September 28, 1988); additional data from Trace Analysis Laboratory (October 4, 1988); and a set of photographs taken by Kem-Mil in the crawl space beneath the wastewater treatment room and the chemical etch area. We also briefly toured the facility.

Since that visit we have received a copy of the Notice of Violation from Alameda County, dated October 19, 1988. This proposal addresses paragraph 11 of that notice and the discussion following that paragraph. The County is notifying Kem-Mil that a plan of correction is required and that the first element of this plan must be a definition of "the lateral and vertical extent of the problem". Therefore the primary objectives of this proposal correspond with the relevant sections of the County's notice.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(415) 652-4500

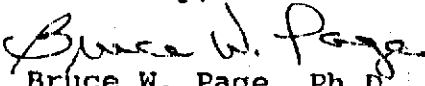
Other offices in NEWPORT BEACH and OAKLAND, CA


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We have submitted this proposal in the form of a Work Order to expedite initiation of work. Two copies of this Work Order are enclosed. Should the proposal meet with your approval, please sign both copies of the attached Approval and Acceptance form and the Standard Contract and return one copy of each to us.

If you have any questions or would like to request any modifications to the proposal, please do not hesitate to call one of the undersigned.

Sincerely,


Bruce W. Page, Ph.D.
Senior Chemical Engineer


Thomas M. Johnson, R.G.
Principal Hydrogeologist

October 28, 1988

LF 1077

WORK ORDER NO. 1

The following text describes the Scope of Work, Schedule, and Estimated Budget for the Phase I investigation of the soil contamination problem at 1829 Clement Avenue in Alameda, California.

INTRODUCTION

Kem-Mil has been in business under the present management at 1829 Clement Avenue in Alameda, California, for about two years. The company had previously operated under different management at the same location for over twenty years. Chemical etching and wastewater treatment are the Kem-Mil processes of most relevance to this investigation.

The owners of the property, Pacific Shops, retained Blymyer Engineers, also of 1829 Clement Avenue, to conduct a preliminary investigation of suspected soil contamination in the subfloor areas of the building. Blymyer's report, dated September 28, 1988, was apparently forwarded to county, state, and federal environmental agencies. Alameda County conducted an inspection on October 6, 1988 and followed that with a Notice of Violation dated October 19, 1988. This notice refers under Condition 11 to the "gross signs of hazardous waste accumulation" in the subfloor area and goes on to request a plan of correction for that alleged condition.

On October 17, 1988, Dr. Bruce W. Page, Levine-Fricke Senior Chemical Engineer, visited the Kem-Mil site to discuss the available information on the soil contamination problem and to plan an appropriate response. At this meeting, Blymyer Engineers reported having taken one surface sample from the soil below the wastewater treatment room (2499); two surface samples from the soil below the etch area (2500 and 2501); and one sample from 4 feet below sample 2501 (2502). All four samples were submitted to Trace Analysis Laboratory in Hayward for analysis. Total petroleum hydrocarbons (TPH) as gasoline, acetone, the BTEX compounds, the EPA Method 8100 analytes, and the EPA Method 8010 halogenated volatiles were not detected in any of the Blymyer samples. Sample 2499 reportedly contained 1,500 mg/kg of arsenic; sample 2501 reportedly contained 75 mg/kg of beryllium and 3,000 mg/kg of copper; all four samples reportedly contained over 2,000 mg/kg of cyanide; and samples 2500 & 2501 had pH values reported as 2.5 and 2.6, respectively. The arsenic result is apparently not related to production at Kem-Mil, since that element is not found in either the etchants or the base metals. The

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cyanide results may be erroneously high due to color and turbidity interferences in all four samples, according to a footnote in the Trace report.

A second analytical report from the same laboratory, dated October 4, 1988, was also reviewed in our October 17, 1988 meeting. Four surface soil samples taken by Kem-Mil personnel from the subfloor area had been analyzed for halogenated volatiles by EPA Method 8010, aromatics by EPA Method 8020, and the seventeen metals of known environmental concern. As with the previous results, only the metals were reported at detectable concentrations. Sample 1 reportedly contained 1,600 mg/kg of copper; sample 6 contained 1,000 mg/kg of chromium, 6,400 mg/kg of copper, 1,800 mg/kg of molybdenum, and 680 mg/kg of zinc; sample 14 contained 1,800 mg/kg of arsenic, 770 mg/kg of copper, 520 mg/kg of molybdenum, and 200 mg/kg of vanadium; and sample 15 1,500 mg/kg of chromium, 5,000 mg/kg of copper, 2,900 mg/kg of molybdenum, and 810 mg/kg of zinc.

With any substance considered to be persistent and bioaccumulative toxic, there are two concentrations of regulatory importance. If a sample of waste contains one of these substances at a concentration higher than its Department of Health Services (DOHS) Total Threshold Limit Concentration (TTLC), that waste will normally be considered hazardous. However, state law allows for the possibility that the toxic substance is tightly fixed in the waste and will not leach into the environment under reasonable conditions. The DOHS Soluble Threshold Limit Concentration (STLC) is set at a lower value than the TTLC. A state-designed leaching test can be run on a potentially hazardous waste and, if the leachate has a concentration below the STLC, the waste can be classified as non-hazardous. Therefore, in interpreting analytical results for substances with established TTLCs and STLCs, it is important to recognize that final determinations of "hazardous" are not possible. In our discussion of the analytical reports, we have highlighted a number of results which fall between the appropriate TTLC and STLC values. They do not necessarily indicate that the soil is "hazardous", but are high enough to (probably) lead to regulatory demands for additional analyses.

In the October 17, 1988 meeting we also examined photographs taken by Kem-Mil in the subfloor areas and briefly toured the facility. The photographs showed dismantled sewer lines laden with deposited solids. Some of these lines were the same ones referred to in the County's Notice of Violation.

From the photographs it appears that the lateral extent of the shallow affected soils is well-defined. We therefore concluded that the next step in mitigating this situation must be to define the vertical extent of the affected soils and to test the ground water beneath the site.

SCOPE OF WORK

The analytical data collected in previous investigations neither define the vertical extent of the affected soils nor address the issue of ground water at the site. Kem-Mil has asked Levine-Fricke to prepare a Work Order to assess these aspects of the situation and to develop a remediation plan for the site. This Work Order corresponds to the plan of correction requested by the county in their Notice of Violation.

Because the affected soils are beneath the building, our proposed work includes the use of some slanted borings to collect deeper soil samples and to install monitoring wells. Monitoring wells will serve the dual purpose of providing ground-water samples for chemical analysis and water-level data for evaluation of flow directions. If ground water has been affected by chemical releases, an understanding of flow directions and gradients will be an important requirement for the remedial program.

The proposed Scope of Work is as follows:

- Task 1: Installation of Shallow Monitoring Wells and Sampling of Soil at the 3- to 4-foot Depth
- Task 2: Surveying, Development, and Sampling of Wells
- Task 3: Laboratory Analyses
- Task 4: Preparation of Work Plan
- Task 5: Submittal and Negotiation of Work Plan
- Task 6: Project Management, Interface with Lawyers and Meetings

A detailed description of these tasks is given below.

Task 1: Installation of Shallow Monitoring Wells and Sampling of Soil at the 3- to 4-foot Depth

Shallow monitoring wells will serve two purposes in this investigation. As sources of water-level data, they will allow a hydrogeological analysis of the site and, as sources of ground-water samples, they will allow an assessment of water quality. We will also use slanted borings to provide samples of deeper soils without drilling through known affected areas.

Four shallow 15-foot monitoring wells and two slanted soil borings will be installed near the affected areas of the building. Exact locations of the wells and borings will be determined in the field. Shallow wells will be completed using 2-inch-diameter casings. The actual length and depth of perforated intervals in each well will be determined in the field, based on the depth to ground water, the types, and depths and thicknesses of sediments encountered. The perforated intervals will be selected to sample ground water from the shallowest and more permeable sediments.

After the well casing has been placed in the completed borehole, the well annulus opposite the perforated interval will be back-filled with an appropriately-sized sand pack to approximately 2 feet above the perforations. Bentonite will be placed above the sand pack to isolate the perforated interval from the material above. A cement-bentonite grout will then be placed above the bentonite seal to the land surface to seal the remainder of the borehole interval from surface water. Next, a protective, locking steel cover will then be placed over the top of the casing to protect the well's integrity. Finally, a weather- and tamper-proof metal or concrete box and cover will be cemented in place, flush with the surface grade over the top of the well.

Kem-Mil personnel have already collected and staked the locations of approximately fifteen surface soil samples. As part of the definition of the vertical extent of the affected soils, Levine-Fricke proposes collecting additional soil samples from 3 to 4 feet below the staked locations. In this first phase of work, eight of the sample pairs will be analyzed to define the vertical extent of affected soils.

The photographs taken by Kem-Mil in the subfloor areas showed distinct staining on portions of the concrete support walls. Wipe samples will be taken from these affected areas to provide data for use in the Work Plan described in Task 4.

Task 2: Surveying, Development, and Sampling of Wells

All newly installed wells will be surveyed to the nearest 0.01 foot and related to mean sea level, using a local bench mark to establish accurate ground-water elevations. Water-level measurements will be collected from the monitoring wells to evaluate shallow ground-water flow directions and gradients. A base map will then be prepared for the site, since one will be needed for reporting purposes.

Shallow monitoring wells will be developed by pumping, surging, and/or bailing to remove finer particles near the well screen and improve hydraulic communication with the surrounding formation. Parameters such as water clarity, pH, temperature, specific conductance, and volume extracted will be measured during development. Development will terminate when the well visually produces little or no sediment, and water-quality indicators measured during development and sampling stabilize. All water will be stored in temporary holding tanks pending receipt of the water-quality results.

Two rounds of samples will be collected from each newly-installed well. The wells will be sampled after at least three well casing volumes have been withdrawn from each or, if the water levels recover slowly after purging, after water-level recovery.

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Samples will be collected using a Teflon bailer, which will be cleaned with laboratory-grade detergent, followed by a deionized water rinse, between each sampling. Samples will be decanted from the bailer into laboratory-supplied glass or plastic bottles then stored in a chilled cooler for shipment to the laboratory. Samples for metals analyses will be filtered at the time of sampling using a 0.45 um-size filter apparatus, then mixed with HNO₃ preservative prior to shipment to the laboratory.

Duplicate and field blank samples will be collected and analyzed during each round of sampling for quality control purposes. The second round of samples will be collected within one week after the first round to confirm initial laboratory results. Samples will be collected and transported using strict Chain-of-Custody protocol.

Task 3: Laboratory Analyses

The sampling program described above will generate the following environmental samples: 1) the shallow soil samples already collected by Kem-Mil; 2) a set of deeper soil samples from the same locations; 3) soil samples from the installation of shallow monitoring wells and slanted borings; 4) wipe samples from affected areas of the concrete support walls; and 5) ground-water samples from the shallow wells. All of the soil and wipe samples will be analyzed for cyanide, pH, and total metals. Once these results are available, Levine-Fricke personnel will select about half of the soil samples for metals analysis by the California Waste Extraction Test to determine if the STLC values are exceeded for any of the seventeen metals of known environmental concern.

The ground-water samples will also be analyzed (after field filtration) for total metals, cyanide, and pH. In addition, these samples will be analyzed for phenols.

Task 4: Preparation of Work Plan

At the present time, the Department of Environmental Health of Alameda County has taken a lead position by issuing their October 19, 1988 Notice of Violation. This notice requests Kem-Mil to provide Alameda County with a plan of correction ("the Work Plan"). Levine-Fricke proposes to write that plan for Kem-Mil, based on all currently available data and the data collected in the first three tasks of this investigation.

From the information available, it appears likely that some removal of soils from the subfloor areas will be necessary. If this proves to be the case, the techniques to be employed in such a confined space will have to be carefully considered. Our geotechnical staff will supply the expertise and experience to develop that portion of the Work Plan.

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A Health and Safety Plan will have to be included as a major part of the Work Plan. Levine-Fricke can suggest firms which specialize in writing and implementing such plans. It would be up to Kem-Mil to decide whether this work should be subcontracted through Levine-Fricke or contracted directly by Kem-Mil. Costs for preparation of the Health and Safety Plan are not included in the enclosed budget estimate.

The Work Plan would be presented to Kem-Mil in draft form for internal discussion before submittal to the regulatory agency. Cost estimates for implementing the plan would be prepared for Kem-Mil's use.

Task 5: Submittal and Negotiation of Work Plan

At this juncture, we would expect to submit the Work Plan to the Department of Environmental Health of Alameda County. However, this could change by the time the plan is completed. The California Department of Health Services (DOHS) could assume the lead position, on the basis that this is primarily a soil issue and that DOHS normally has jurisdiction on soils. Also, the condition of the ground water at the site is not known at this time. If there has been an impact on the ground water, it is possible that the Regional Water Quality Control Board (RWQCB) could take the lead on that part of the remedial program.

In any case, once Levine-Fricke and Kem-Mil have agreed on the contents of the Work Plan, Levine-Fricke will submit this to the appropriate agency and represent Kem-Mil in negotiations on the details of the plan.

Because the elements of the Work Plan are not known at this time, it is not possible for us to include their implementation in this proposal. A second phase of work will be needed to carry out the actual remedial program.

Task 6: Project Management, Interface with Lawyers, and Meetings

Dr. Bruce W. Page, Senior Chemical Engineer, will be Project Manager for this phase of work. As such, he will be the primary contact for Kem-Mil and any lawyers working for Kem-Mil on this project. He will be responsible for all technical and administrative aspects of the project. Mr. Thomas M. Johnson, R.G. and Principal Hydrogeologist, will be the technical task leader for hydrogeologic considerations at the site. Dr. Akali Igbene will perform quality assurance/quality control (QA/QC) reviews for all laboratory data and interface with the subcontractor laboratory on turnaround time and prices. Mr. James D. Levine, P.E. and President of Levine-Fricke, and Carl A.P. Fricke, Vice President, will peer review the work and assist with project management duties.

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SCHEDULE

Based on our experience with scheduling drillers and laboratories, we estimate that it will take about six weeks to complete the field work and receive analytical results. If we allow an additional three weeks to prepare the Work Plan and discuss this with Kem-Mil, and then add one week for contingencies, we would expect about ten weeks to elapse between our receipt of Kem-Mil's authorization to proceed and the submittal of the Work Plan to the appropriate regulatory agency.

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ESTIMATED BUDGET

Work will be conducted on a time-and-materials basis in accordance with our current Schedule of Charges, a copy of which is enclosed. We have estimated the time requirements and subsequent costs of this proposed Scope of Work based upon a level-of-effort deemed appropriate for the investigation. Any anticipated modifications to this estimate will be discussed with Kem-Mil representatives as they become evident. The estimated total budget will not be exceeded without prior authorization from Kem-Mil.

Task 1: Installation of Shallow Monitoring Wells and Sampling of Soil at the 3- to 4-foot Depth (15 feet maximum)

Levine-Fricke Personnel	\$ 2,700
Drilling Subcontractor	3,340
Materials	1,265
Travel & Expenses	100
Subcontract Administration	630

	\$ 8,035

Task 2: Surveying, Development, and Sampling of Wells

Levine-Fricke Personnel	\$ 2,200
Surveyor Subcontractor	300
Materials & Equipment	620
Travel & Expenses	75
Reproduction, Mailing & Base Map	300
Subcontract Administration	90

	\$ 3,585

Task 3: Laboratory Analyses

Levine-Fricke Personnel	\$ 500
Laboratory Subcontractor	12,980
24 Soils for Total Metals, CN, pH	
2 Wipes for Total Metals, CN	
8 Waters for Total Metals, CN, pH, phenolics	

	\$13,480

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Task 4: Preparation of Work Plan

Levine-Fricke Personnel	\$ 3,875
Graphics	300
Reproduction & Mailing	125
Travel & Telephone	95

	\$ 4,395

Task 5: Submittal and Negotiation of Work Plan

Levine-Fricke Personnel	\$ 3,225
Travel & Telephone	75

	\$ 3,300

**Task 6: Project Management, Interface with Lawyers,
and Meetings**

Levine-Fricke Personnel	\$ 2,500
Travel & Telephone	100

	\$ 2,600

ESTIMATED TOTAL.....\$ 35,390

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October 28, 1988

LF 1077

APPROVAL AND ACCEPTANCE

Approval and acceptance of this Work Order No. 1 are acknowledged by the duly-authorized representatives of Kem-Mil Company and Levine-Fricke, Inc.

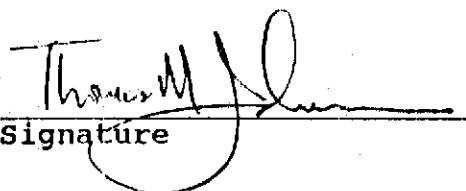
KEM-MIL COMPANY

Signature

Title

Date

LEVINE-FRICKE, INC.



Signature

Principal Hydrogeologist
Title

10/28/88
Date

LEVINE-FRICKE

1988 SCHEDULE OF CHARGES

Charges for work performed on a project will be calculated and billed in U.S. currency at the rates and by category shown below, with Equipment Rentals shown on a separate schedule. The labor rates include all fringe benefits, burdens, and fees. This Schedule is revised annually at the beginning of each year. Changes within a calendar year will not be made on a project in progress without prior notification.

PROFESSIONAL SERVICES

Principal	\$ 110	per hour
Senior Engineer/Hydrogeologist	85	per hour
Project Engineer/Hydrogeologist	70	per hour
Staff Engineer/Hydrogeologist	60	per hour
Technical Editor	50	per hour
Senior Illustrator	53	per hour
Illustrator II	46	per hour
Illustrator I	38	per hour
Senior Technician/Maintenance Staff	45	per hour
Technician/Maintenance Staff	38	per hour
Administrative Manager	38	per hour
Technical Typist	35	per hour
Reproduction/Staff Assistant	30	per hour
Computer Time (micro) and Peripherals	15	per hour
Automobile	0.35	per mile
Truck/Van Rental	75	per day or
	300	per week plus
	0.50	per mile over
		200 miles

Fifteen percent (15%) will be added to direct expenses to cover administration of travel, lodging and subsistence, direct printing costs and photographic work, laboratory tests, telephone, special consultants, miscellaneous supplies, main-frame computing, and other out-of-pocket expenses. Outside services for which Levine-Fricke, Inc. administers a subcontract, such as drilling or laboratory services, or other outside services such as equipment rental items, will be charged at cost plus fifteen percent (15%). This charge includes insurance costs, taxes, administrative fees, processing fees and carrying costs. Time spent in domestic travel will be billed with the foregoing schedule, except that no more than eight hours of travel time will be billed in any one day. Overtime hours will be charged at the rates quoted above.

INVOICES AND PAYMENT

Invoices will be issued routinely on a final or partial basis. Payment is due upon receipt. Interest of one and one-half percent (1-1/2%) per month will be applied to the outstanding balance for accounts not paid within twenty (20) calendar days from the billing date, effective 21 days from the billing date. This does not constitute a credit agreement. Client shall pay any attorney fees, court and other costs associated with collection of any delinquent amount.

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1988 SCHEDULE OF CHARGES FOR FIELD EQUIPMENT

	<u>RATE:</u>	
	<u>Per Day</u>	<u>Per Week</u>
WATER SAMPLING		
Conductivity Meter, pH Meter, Thermometer, Sampling Bailers, Water-Level Meter, Cooler	\$ 50	\$200
Steam Cleaner	100	400
Peristaltic Pump & Filter Apparatus	35	140
45 Micron Filters	2.50	each
PUMPS		
Electric Submersible Pump, Flow Meter and Hose	\$ 50	\$200
Hand Pump or Centrifugal Pump & Hose	10	40
Electric Generator	50	200
Air Development Purging Equipment	60	240
Swabbing Tools	50	200
SOIL SAMPLING		
Hand Auger, Sampling Probes & Tools	\$ 50	\$200
Acetate (CAB) Tubes, Caps		2 each
Brass Tubes, Caps (1" x 12")		5 each
Brass Tubes, Caps (2" x 6")		5 each
Stainless Steel Tubes, Caps (one-inch dia.)		15 each
Modified California Sampler	25	100
WELL TESTING		
Single Channel Data Logger/Computer/ Pressure Transducer	\$200	\$800
Multi-Channel Data Logger/Computer/ Pressure Transducer	250	1,000
Additional Pressure Transducers	25	100
Conductivity Probe	10	40
Stevens Type "F" Water Level Recorder	50	200
Flow Meter	10	40
Recording Barometer	50	200
OCEAN/BAY/LAKE SAMPLING		
Boat and 15 hp Motor	\$150	\$600
Ekman Dredge	30	120
Peterson Dredge	30	120
Portable Crane and Winch	50	200
MISCELLANEOUS		
Storage Container Liners	\$ 60	each
Locking Well Caps		25 each
Test Plugs and Padlocks		20 each pair
Organic Vapor Analyzer (Photovac)	100	400
Air Quality Sampling Equipment	20	80
Half-Face Respirator & Cartridges	20	80
Road Safety Equipment	10	40
Rollatape	5	20
Laboratory Use	200	1,000

Equipment which must be rented locally will be charged at cost plus fifteen percent (15%).

October 28, 1988

LF 1077

AGREEMENT MADE BETWEEN
KEM-MIL COMPANY
AND
LEVINE FRICKE, INC.
FOR
CONSULTING SERVICES

Whereas Kem-Mil Company (hereinafter the "Client") with a mailing address at 1829 Clement Avenue, Alameda, California 94501, desires Levine-Fricke, Inc., (hereinafter "Consultant") having a mailing address at 1900 Powell Street, 12th Floor, Emeryville California, 94608, to provide consulting services, the parties hereto agree as follows:

ARTICLE I -- CONTRACTUAL RELATIONSHIP

In performing the services under this Agreement, Consultant shall operate as, and have the status of, an independent contractor and shall not act as or be an employee of Client. As an independent contractor, Consultant will be solely responsible for determining the means and methods for performing the consulting services described in the Scope of Services.

ARTICLE II -- SCOPE OF SERVICES

Consultant agrees to perform for Client the consulting services described in Work Orders attached hereto and incorporated in this Agreement. Such services shall be performed during the period mentioned and at the times and locations specified. For each assignment, a written Work Order shall be prepared and signed by authorized representatives of Client and Consultant. Each Work Order shall specify the Scope of Services, Schedule and Estimated Budget for the assignment.

ARTICLE III -- COMPENSATION AND PAYMENT

As full consideration for the performance of services described herein, Client shall pay to Consultant the compensation provided for in the Levine-Fricke Schedule of Charges given in Attachment 1 and incorporated in this Agreement. At January 1 of each subsequent year, Consultant's updated Schedule of Charges will apply for work performed after that date.

Consultant shall submit progress invoices to Client in duplicate showing the services performed during the invoice period, and the charges therefore.

Within twenty (20) days after receipt of an invoice, Client shall pay the full amount of the invoice; however, if Client objects to all or any portion of any invoice, it shall so notify Consultant of the same within a reasonable period from date of receipt of 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.

ARTICLE IV -- PROFESSIONAL RESPONSIBILITY

Consultant represents that the services are performed within the limits prescribed by Client, with the usual thoroughness and competence of the profession. No other warranty or representation, either expressed or implied, is included or intended in any proposal, contracts, opinions or reports.

Client recognizes that environmental, geologic and geotechnical conditions can vary from those encountered at the times and locations where data are obtained by Consultant and that the limitation on available data results in some level of uncertainty with respect to the interpretation of these conditions, despite the use of standard professional care and skill.

For property assessments, it is understood and agreed by the parties that a full and complete determination as to whether a certain piece of land is or is not free from environmental contamination cannot be made. The extent of testing and statistical confidence associated with a property assessment is balanced against a reasonable project budget, and as such, 100% confidence in property assessment conclusions can never be reached. As such, it is agreed that Consultant will not provide guarantees, certifications, or warranties that a property is free from environmental contamination.

Client shall defend and save Consultant harmless from all liability, claims and demands, including expenses of suit and reasonable attorney's fees, arising from personal injuries, including disease and death, property loss or damage, injuries to others (including personnel of Client, Consultant or subcontractors performing work hereunder), and air or ground pollution or environmental impairment arising out of or in any manner connected with or related to the performance of the Agreement, except if such injury, loss or damage shall be caused by the sole negligence or willful misconduct of Consultant, its employees, agents or representatives.

Consultant shall not be liable for damage or injury arising from damage to subterranean structures (pipes, tanks, telephone cables, etc.) which are not called to Consultant's attention and correctly shown on the plans furnished by Client in connection with work performed under this Agreement.

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Consultant will hold Client, its affiliates, directors, officers, employees, agents and subcontractors harmless from all lost costs, injuries, expense, damage and claims, including (without limitation) attorney's fees, arising out of Consultant's sole negligence in the performance of this Agreement by Consultant. Consultant shall maintain the following insurance policies:

- o Standard auto liability policy and Comprehensive General Liability Insurance with combined single limit coverage of a minimum \$1,000,000.
- o Worker's Compensation shall be provided in compliance with California statutes.

These coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an excess or Umbrella Liability Policy.

Certificates shall be provided to the Client showing proof of above insurance, and shall contain a provision that coverages afforded under the policies will not be cancelled or not renewed until at least thirty (30) days prior written notice has been given to the Client.

For any damage on account of any error, omission, or other professional negligence, Consultant's cumulative liability to all parties, including the Client and all third parties with respect to services performed pursuant to this Agreement, will be limited to Consultant's fee or \$50,000, whichever is greater. For any damage caused by negligence other than professional negligence, Consultant's liability, including that of its employees, agents and subcontractors, in the aggregate under this agreement shall not exceed the limits of Consultant's comprehensive general and automobile liability insurance coverage. Consultant shall not be liable to Client for special, incidental, consequential, or penal losses or damages (including but not limited to lost profits and/or loss of use of the project that is the subject of this Agreement) even if Consultant has been advised of the possibility of such damage. Such limitation shall apply to all actions of any character, whether in law or equity and whether sounding in contract, indemnity, contribution, warranty, tort, design defect or otherwise.

ARTICLE V -- ASSIGNMENT AND SUBCONTRACT

Consultant's duties and obligations under this Agreement may not be assigned by Consultant; however, with the approval of the Client, Consultant may employ suitably trained and skilled persons or firms under subcontract to perform any part of the said duties and obligations.

ARTICLE VI -- SUSPENSION

- (a) Client may, at its sole option, by ten (10) days notice in writing to Consultant, suspend at any time the performance of all or any portion of services to be performed under this Agreement. Upon receipt of any such notices, Consultant shall immediately discontinue services, placing of orders, contracts, and rental agreements to the extent they relate to services suspended, on the date and to the extent specified in the notice; and unless otherwise specifically stated in the notice, Consultant shall continue to protect and maintain the work theretofore completed, including those portions on which services have been suspended.
- (b) In the event of such suspension, Consultant will be reimbursed for the following costs, reasonably incurred, without duplication of any items, to the extent that such costs result from such suspension of services:
- (1) A standby charge to be paid to Consultant to compensate for keeping, to the extent required in notice, its organization and equipment committed to the work sites in a standby status, and for the cost of maintaining and protecting that portion of the work upon which activities have been suspended;
 - (2) All reasonable costs as mutually agreed associated with demobilization and relocation of Consultant's plant, forces, and equipment, and costs which Consultant is or will be legally obligated to pay related to the performance of services rendered.
- (c) If payment of any invoice by Client is not maintained on a twenty (20) days current basis, Consultant may, by ten (10) days written notice to Client, suspend further performance until such payment is restored to a current basis.

ARTICLE VII -- TERMINATION

Client shall have the right to terminate this Agreement, in whole or in part. Upon receipt of any termination notice, Consultant shall immediately discontinue services on the date and to the extent specified in the notice in the manner specified in Article VI(a). Consultant shall be paid the amount earned by or reimbursable to it hereunder to the time specified in said notice, including fee payments received or otherwise due and all reasonable costs incurred by Consultant prior to and in connection with discontinuing the work hereunder, including the costs associated with subcontract terminations, and shall have no further claim against Client with respect thereto.

ARTICLE VIII -- CONFIDENTIALITY

Consultant shall not release information regarding work for the Client, except for information that is in the public domain or is provided by third parties, to any person other than Client's Authorized Representative and to persons designated by the Authorized Representative.

ARTICLE IX -- AFFIRMATIVE ACTION

It is the policy of Consultant to comply with all State and Federal regulations concerning equal employment opportunity. This policy establishes an Affirmative Action Program composed of specific steps that will be undertaken to implement this policy in compliance with the regulations provided by the Secretary of Labor in 41 C.F.R. Chapter 60 et. seq. The purpose of the Affirmative Action Program is to ensure that every good faith effort is made to hire and maintain in all job categories qualified people from minority groups and females. The program is designed to assist the Consultant in meeting its obligations under applicable Executive Orders and Title VII of the Civil Right Act of 1964. Toward that end, the following provisions are incorporated herein.

- (a) **EQUAL OPPORTUNITY:** The nondiscrimination and affirmative action clauses contained in Executive Order 11246, as amended by Executive Order 11375, pertaining to equal employment opportunity for all people without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 of the code of Federal Regulations are incorporated herein.
- (b) **EMPLOYMENT OF THE HANDICAPPED:** The nondiscrimination and affirmative action clauses contained in the Rehabilitation Act of 1973, as amended, relative to the employment of qualified handicapped people without discrimination based upon their physical or mental handicaps, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60-741 of the Code of Federal Regulations are incorporated herein.
- (c) **AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA:** The nondiscrimination and affirmative action clauses contained in the Vietnam Era Veteran's Readjustment Assistance Act of 1974 relative to the employment of disabled veterans and veterans of the Vietnam era, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60-250 of the code of Federal Regulations are incorporated herein.

ARTICLE X -- ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between Client and Consultant. It supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written, with respect to the subject matter thereof, and has been induced by no representations, statements, or agreements other than those herein expressed. No agreement hereafter made between the parties shall be binding on either party unless reduced to writing and signed by an authorized officer of the party sought to be bound thereby. All provisions shall survive termination or completion of work under this Agreement.

This Agreement shall, in all respects, be interpreted and construed and the rights of the parties hereto shall be governed by the laws of the State of California.

Acceptance of this Agreement is executed by the signatures of duly authorized representatives of Kem-Mil Company and Levine-Fricke, Inc.

KEM-MIL COMPANY

Signature

Title

Date

LEVINE-FRICKE, INC.



Signature

Principal Hydrogeologist

Title

10/28/85

Date

LEVINE FRICKE

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Signature

Title

Date

LEVINE-FRICKE, INC.



Signature

Principal Hydrogeologist

Title

10/28/85

Date