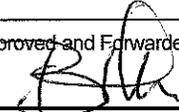




STAFF REPORT

Date: Tuesday, April 26, 2016
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, Public Works Director/City Engineer
SUBJECT: Award of Contract with Revel Environmental Manufacturing, Inc. for Operation and Maintenance of Storm Water Filters for City's Storm Drain Inlets

Approved and Forwarded to City Council:

Bryan H. Montgomery, City Manager

Background and Analysis

On November 9, 2010 the City executed an agreement with the Association of Bay Area Governments (ABAG) for the City to participate in a grant-funded Bay Area-wide Trash Capture Demonstration Project. Participation in this project resulted in the installation of 28 Full Trash Capture Devices (FTCD) in several locations in Oakley at no cost to the City. On May 9, 2013, the City entered into an agreement with Revel Environmental Manufacturing, Inc. (REM) for the ongoing operation and maintenance of 28 FTCDs.

Over the past several years, the California Regional Water Quality Control Board (Waterboard) has increased the requirements related to trash under the Municipal Regional Stormwater National Pollution Discharge Elimination System Permit that Contra Costa County and the cities within the County operate under. The Waterboard specifically recognizes FTCD units as an effective way to meet this goal provided the units are operated and maintained properly. Part of the City's agreement with ABAG requires the City to operate and maintain these FTCDs in perpetuity at the City's expense. The new Waterboard permit that was adopted on November 19, 2015 requires total elimination of municipal trash getting into waterways by July 1, 2022.

REM has provided excellent service, and staff recommends that their services be continued for the City of Oakley. REM has submitted an updated proposal and their desire to continue to provide servicing the City of Oakley Trash capture Devices.

City staff is working on identifying additional locations that would benefit from installation of FTCDs as well as larger scale methods of capturing trash before it can enter into local waterways to make sure the City is in conformance with the Waterboard permit.

Fiscal Impact

Approval of the resolution will authorize the City Manager to execute the agreement with REM at an annual cost of \$3,402 for servicing the existing Trash capture Devices for FY 2016/17. Funding will be from the Stormwater Maintenance Fund.

Recommendation

Staff recommends that the City Council adopt the resolution approving the agreement with the Revel Environmental Manufacturing, Inc. for an annual cost of \$3,402 and authorizing the City Manager to execute the agreement.

Attachments

1. O & M Services Agreement
2. Resolution

**SHORT FORM
SERVICES AGREEMENT BETWEEN
THE CITY OF OAKLEY AND
REVEL ENVIRONMENTAL MANUFACTURING, INC.**

THIS SERVICES AGREEMENT for Operation & Maintenance of Storm Water Filters is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and Revel Environmental Manufacturing, Inc., a California Corporation (hereinafter referred to as "Contractor") effective as of July 1, 2016 ("Effective Date").

Section I. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Proposal for Operation & Maintenance attached hereto and incorporated herein as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the date first noted above and shall continue through June 30, 2018.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the general geographical area of the City. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

Section 2. COMPENSATION. City hereby agree to pay Contractor a sum not to exceed the amount described in Exhibit A. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. These payments shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit invoices to City each month for services provided.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Invoices.** Contractor shall submit invoices, not more often than once per quarter during the term of this Agreement. Invoices shall be on Contractor's Letterhead (or formal invoice form) and contain the following information:
 - The beginning and ending dates of the billing period;
 - A description of services for which payment is requested;
 - Amount due;
 - The Contractor's signature.

- 2.2 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

- 2.3 **Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all amounts due for work satisfactorily completed as of the date of written notice of termination.

- 2.4 **Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 4. RECYCLING REQUIREMENTS. Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:

a. **Construction and Demolition.** Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a "self-hauler" as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box, that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.

b. **Commercial Self-Haul.** Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, greenwaste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website www.cccounty.us/depart/cd/recycle/.

c. **Road Maintenance and Construction Projects.** Contractor agrees to recycle greenwaste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.

d. **Office Recyclables.** If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.

e. **Special Waste Materials.** Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility

operating within Contra Costa County which may be found at www.cccrecycle.org.

f. Universal Waste. Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

Section 5. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached hereto and incorporated herein as Exhibit B.

- 5.1 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.
- 5.2 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five calendar days after Contractor is notified of the change in coverage.
- 5.3 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:
- Obtain such insurance and deduct and retain the amount of

the premiums for such insurance from any sums due under the Agreement;

- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 6. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES

- 6.1.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.
- 6.2.** In the event that Contractor or any employee, agent, sub-Contractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-Contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 6.3.** Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.
- 6.4.** By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material

element of consideration, and that these provisions survive the termination of this Agreement.

Section 7. STATUS OF CONTRACTOR.

7.1 Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement, Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

7.2 Contractor, Not Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 8. LEGAL REQUIREMENTS.

8.1 Governing Law. The laws of the State of California shall govern this Agreement.

8.2 Compliance with Applicable Laws. Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

8.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

8.4 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

8.5 Nondiscrimination and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 9. TERMINATION AND MODIFICATION.

9.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

9.2 Amendments. The parties may amend this Agreement only by a writing signed by all the parties.

- 9.3 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 9.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 9.5 Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City may immediately terminate the Agreement.

Section 10. KEEPING AND STATUS OF RECORDS.

- 10.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 10.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or

for any longer period required by law, from the date of final payment to the Contractor to this Agreement,

- 10.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 11 MISCELLANEOUS PROVISIONS.

- 11.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 11.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 11.5 Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 11.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform

Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 et. Seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code

§ 1090 and, if applicable, will be disqualified from holding public office in the State of California.

11.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

11.8 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

11.9 Contract Administration. This Agreement shall be administered by the City Engineer ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

11.10 Notices.

Any written notice to Contractor shall be sent to:

Revel Environmental Manufacturing, Inc.
Attn: Marcel Sloan
960-B Detroit Avenue
Concord, CA 94518

Any written notice to City shall be sent to:

City of Oakley
Attn: City Engineer
3231 Main St.
Oakley, CA 94561

11.11 Integration. This Agreement, including the attached exhibits, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

11.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

11.13 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Agreement as of the Effective Date.

CITY:

City of Oakley, a municipal corporation
In the State of California

By: _____
Bryan H. Montgomery, City Manager

CONTRACTOR:

Revel Environmental
Manufacturing, Inc., a California
Corporation

By: _____

Name: _____

Title: _____

Attest:

Libby Vreonis, City Clerk

Approved as to Form:

Derek P. Cole, City Attorney

EXHIBIT A

Proposal for Operation & Maintenance



Revel Environmental Manufacturing Inc.

960-B Detroit Avenue
Concord, California 94518

sales@remfilters.com
www.remfilters.com

Phone (888) 526 4736

Phone (925) 676 4736

Fax (925) 676 8676

Lic. No. 857419

February 10, 2016

Keith Coggins
Engineering Development Manager
City of Oakley,
3231 Main Street
Oakley, CA 94561

SUBJECT: Proposal for Operation & Maintenance (O&M) of the Twenty-seven REM TRITON Storm Water Filters installed in the City of Oakley.

Dear Mr. Coggins:

Thank you for the opportunity to provide a proposal for the Operation & Maintenance of the REM filters.

REM TRITON Filters O&M – 27 Units

Performed three times (3X) per year.

Scope of work performed:

- Remove and dispose of all captured debris and material in accordance with all laws and regulations. (Materials are disposed of at a Class II Hazardous Materials facility.)
- Vacuum and power-wash filters at each service visit.
- Inspect each filter for system operation.
- Replace and recharge BFTG filter media as necessary. Spent REM FOG media (if applicable) shall be manifested and recycled at a Cal EPA approved processing facility.
- A bright-yellow Dated Service Lock-out Tag shall be attached to each catch basin after the service is completed. The "date" corresponds to a REM Service Report.
- Provide Trash Capture Device Maintenance Report tailored to meet the requirements set forth by the Bay Area Trash Capture Project/SFEP.
- REM municipal reporting is archived for future reference.
- REM warrants TRITON Filters an additional **Five** years beyond the one-year standard product warranty at **no additional charge**.

The work shall be scheduled and performed at **\$42/Filter three times per year**.

960-B Detroit Ave. Concord CA 94518 PH: (888) 526-4736 FAX: (925) 676-8676

Cost Summary:

Annual Services Provided	Total Cost
Complete Maintenance \$1,134 (27 units x \$42/ filter) x 3/yr	\$3,402
Debris Removal & Disposal	Included
Media Recharge & Recycle	Included
Dated Lock-out Service Tags	Included
3rd Party Reporting & Archiving	Included
Six-year Filter Warranty	Included
Total Annual Cost	\$3,402

Site Location: City of Oakley

Contact Ref: Keith Coggins
 Engineering Development Manager

 3231 Main Street
 Oakley, CA 94561

 Ph: (925) 625-7155 Fax: (925) 625-9194
 Email: coggins@ci.oakley.ca.us

Service Dates: Feb/March - O&M Service
 June/July/Aug - O&M Service
 Dec - O&M Service
 (Filter Media Recharge/Replacement as required)

Estimate Date: February 10, 2016 (Estimate valid for 60 days)

The Terms and Conditions attached constitute a part of this agreement.

This agreement is hereby accepted:

BY: _____
 Client Authorized Signature

DATE: _____

BY: _____
 REM Inc. Authorized Signature

DATE: _____

TERMS AND CONDITIONS

- This agreement shall remain in force unless canceled in writing with 60 day written notice by either party.
- Client or their representative agrees to provide unobstructed access to all storm water structures that are to be inspected and maintained. Subsequent site visits necessitated by the inability to complete services due to obstructed access may be subject to additional service charges.
- REM Inspection/Operation & Maintenance programs are based on a good faith estimate to predict labor, material, time, fuel, and disposal costs. Due to the possibility of extended periods between the estimate date and the commencement date of future clean/pump-out service work, price estimates are subject to unforeseen market cost fluctuations. REM shall notify owner in advance of any price change with an updated change order estimate in writing. Work shall commence only after REM receives owner's approval.
- REM endeavors to render prompt and efficient service hereunder, but it is expressly agreed that REM shall be held harmless for damages or loss due to delays in the performance of this agreement.
- REM is not responsible for damages resulting from the negligence or carelessness of others, including, but not limited to broken grates, damaged inlet structures, damaged swale grass, blocked or damaged drainage systems, the improper maintenance procedures by onsite personnel, erosion, or the absence of a maintenance performed.
- REM Filters and Inspection and O&M Programs do not guaranty that blockages, erosion or flooding may not occur during inclement weather. REM is not responsible for damages caused during (or after) storm events, natural causes, or any other "act of god" occurrences beyond REM's control.
- REM Filters and Inspection and O&M Programs do not guaranty that Client complies with current and future site EPA effluent benchmark requirements and discharge restrictions. REM shall be discharged from any claims thereof.
- Client shall be responsible for the removal and disposal of any found Class I Hazardous Waste material in accordance with all appropriate laws and regulations.
- REM warrants TRITON filters against any defect in material or workmanship subject to the terms described on the *REM Product Warranty*.
- The REM program services and maintains the catch basin filter device(s). The program does not include subterranean lateral lines. (Please contact REM directly for other services.)
- This agreement covers the complete understanding between the parties. No oral representations shall be binding by either party. This agreement shall become effective only when accepted by the Client and subsequently approved by an authorized representative of REM.
- Payment Terms: Net 30 Days.

Exhibit B

Insurance Requirements

Specific Insurance Requirements and Required Policy Limits

PROFESSIONAL SERVICES CONTRACTS:

Including, but not limited to architects, engineers, consultants, counselors, attorneys and accountants.

Consultant shall procure and maintain for the duration of its contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the consultant, his agents, representatives, employees or subcontractors.

Minimum scope of coverage

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.
4. Errors and Omissions liability insurance appropriate to the consultant's profession. Architects and Engineers coverage shall be endorsed to include contractual liability.

Minimum limits of insurance

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately for this project/location or the general aggregate limit shall be twice the required occurrence limit (e.g. \$2,000,000).
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

Other insurance provisions

The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of work or operations as performed by or on behalf of consultant; or automobiles owned, leased, hired or borrowed by the consultant.
2. For any claims related to this project, the consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be in excess of the consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Waiver of Subrogation

The Workers' Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

Deductibles and Self-Insurance Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or the consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved in writing by the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage

required by these specifications at any time.

Subcontractors

Consultants shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

RESOLUTION NO. XX -16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE OPERATION AND MAINTENANCE SERVICES AGREEMENT WITH REVEL ENVIRONMENTAL MANUFACTURING, INC. FOR OPERATION AND MAINTENANCE SERVICES TO CITY OWNED STORMWATER FILTERS AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City of Oakley entered into an agreement with the Association of Bay Area Governments which resulted in the installation of stormwater filters in several locations at no cost to the City; and

WHEREAS, part of the agreement with the Association of Bay Area Governments required the City to provide for the ongoing operation and maintenance of the filters; and

WHEREAS, on May 9, 2013 the City and Revel Environmental Manufacturing, Inc. (REM) executed an agreement for REM to provide the operation and maintenance services; and

WHEREAS, the City would like to continue having REM provide these services for FY 2016/17 and FY 2017/18;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the Operation and Maintenance Services agreement with Revel Environmental Manufacturing, Inc. is hereby approved and the City Manager is authorized to execute said agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on this 26th day of April, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

ATTEST:

Kevin Romick, Mayor

Libby Vreonis, City Clerk

Date