

CITY OF HERMOSA BEACH

CONTRACT SERVICES AGREEMENT FOR

United Storm Water, Inc. (SHORT FORM)

THIS CONTRACT SERVICES AGREEMENT (herein "Agreement") is made and entered into this 23rd day of October, 2001, by and between the CITY OF HERMOSA BEACH, a municipal corporation, (herein "City") and United Storm Water, Inc. (herein "Contractor").

NOW, THEREFORE, the parties hereto agree as follows:

1.0 SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Contractor warrants that all work and services set forth in the "Scope of Services" will be performed in a competent, professional and satisfactory manner.

1.2 Compliance with Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolution, statutes, rules and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement.

2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference, but not exceeding the maximum contract amount of fourteen thousand nine hundred fifty-eight Dollars (\$14,958) ("Contract Sum").

2.2 Method of Payment. Provided that Contractor is not in default under the terms of this Agreement, Contractor shall be paid on net 30-day terms.

3.0 COORDINATION OF WORK

3.1 Representative of Contractor. Edward Castellanos is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith.

3.2 Contract Officer. Michael Flaherty is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith ("Contract Officer"). The City Manager of the City shall have the right to designate another Contract Officer by providing written notice to the Contractor.

3.3 Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

3.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City and shall remain under only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City.

4.0 INSURANCE AND INDEMNIFICATION

4.1 Insurance. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than either (i) a combined single limit of \$500,000.00 or (ii) bodily injury limits of \$250,000.00 per person, \$500,000.00 per occurrence and \$500,000.00 products and completed operations and property damage limits of \$100,000.00 per occurrence and \$100,000.00 in the aggregate.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Contractor and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily injury liability limits of \$250,000.00 per person and \$500,000.00 per occurrence and property damage liability limits of \$100,000.00 per occurrence and \$250,000.00 in the aggregate of (ii) combined single limit liability of \$500,000.00. Said policy shall include coverage for owned, non-owned, leased and hired cars.

All of the above policies of insurance shall be primary insurance and shall name the City, its officers, employees and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or canceled without providing thirty (30) days prior written notice by registered mail to the City. In the event any of said policies of insurance are canceled, the Contractor shall prior to the cancellation date, submit new evidence of insurance in conformance with this Section 4.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City.

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY A (30) DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed] _____
Agent Initials

The Contractor agrees that the provisions of this Section 4.1 shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances.

4.2 Indemnification. Contractor agrees to indemnify the City, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Contractor, its agents, employees, subcontractor, or invitees, provided for herein, or arising from the negligent acts or omissions of Contractor hereunder, or arising from Contractor's negligent performance of or failure to perform any term, provision covenant or condition of this Agreement, but excluding such claims or liabilities to the extent caused by the negligence or willful misconduct of the City.

5.0 TERM

5.1 Term. Unless earlier terminated in accordance with Section 5.2 below, this Agreement shall continue in full force and effect until June 30, 2002.

5.2 Termination Prior to Expiration of Term. Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the other party. Upon receipt of the notice of termination, the Contractor shall immediately cease all work or services hereunder except as may be specifically approved by the Contract Officer. In the event of compensation for all services rendered prior to the effectiveness of the notice of termination and for such additional services specifically authorized by the Contract Officer and City shall be entitled to reimbursement for any compensation paid in excess of the services rendered.

6.0 MISCELLANEOUS

6.1 Covenant Against Discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex marital status, national origin or ancestry.

6.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Contractor, or to its successor, or for breach of any obligation of the terms of this Agreement.

6.3 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement or which effects his financial interest or the financial interest of any corporation, partnership in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

6.4 Notice. Any notice, demand, request, document, consent, approval or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, City of Hermosa Beach, 1315 Valley Drive, Hermosa Beach, California,

90254, and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement.

6.5 Interpretation. The terms of this Agreement shall be constructed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

6.6 Integration Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understanding, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

6.7 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

6.8 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.9 Attorney's Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

6.10 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

CITY:

City of Hermosa Beach, California
A Municipal Corporation

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CONTRACTOR:

Untied Storm Water, Inc.

BY: _____
Name: Paul Corn
Title: Director of Operations

BY: _____
Name: Edward Castellanos
Title: Project Manager

Address:

14000 E. Valley Boulevard

City of Industry, CA 91746

[END OF SIGNATURES]

EXHIBIT A

Scope of Work

United will supply all necessary equipment and personnel to maintain 45 catch basins with 56 drainpac storm drain filter inserts. United will provide maintenance two times in a one year period as described in the STORM DRAIN WASTE WATER INLET LINER SERVICE AGREEMENT. Given the nature of this project, particularly the uncertainty as to the state and amount of waste material involved, this project is being bid on a time-plus-materials basis at the rates stated in Exhibit B. Although estimated quantities are shown, the City of Hermosa Beach shall be billed for the actual quantities used to complete this project at the unit rates shown.

EXHIBIT B

PRICE LIST

Clean DrainPac storm drain filtration liners:

Scheduled Cleaning (Minimum of 20 drains)	\$ 60/DrainPac
Non-Scheduled Cleaning	\$ 80/DrainPac

Laboratory Analysis:

Basic Analysis (Title 22 TTLC metals & Hydrocarbons, gas, diesel and oil)	\$175/sample
Metals STLC Analysis	\$ 65/sample
Metals TCLP Analysis	\$ 65/sample

Transportation and Disposal:

Non-Hazardous (Waste stored in roll-off bins)	\$ 60/ton
California Hazardous (Waste stored in roll-off bins)	\$125/ton
Federal Hazardous (Waste stored in roll-off bins)	\$200/ton
Non-Hazardous (Waste stored in drums)	\$ 65/drum
California Hazardous (Waste stored in drums)	\$ 90/drum
Federal Hazardous (Waste stored in drums)	\$150/ton

Clean drums for waste storage

Delivered during scheduled pick-up	\$40 each
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Cost of agreement based upon scheduled cleanings:

Maintain 56 drainpacs (2 times/year for 1 year)	112	each	\$ 60	\$ 6,720
Maintain 45 catch basins (2 times/year for 1 year)	90	each	40	3,600
Lab Analysis	2	each	175	350
TRANS & DISPOSAL (NON-RCRA)	2	each	2,000	<u>4,000</u>
Sub-Total				\$14,670
Sales Tax (on 2nd item only)				<u>288</u>
Total				\$14,958