



**TOWN OF TAOS  
EMERGENCY DETERMINATION FORM**

**AMENDED**

The emergency procurement method (NMSA 1978, Section 13-1-127) may only be used when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. the functioning of government;
2. the preservation or protection of property; or
3. the health or safety of any person.

I. Name of Department: Public Works  
 Director/Supervisor Name: Francisco Espinoza

II. Name of Contractor: ACTenviro  
 Address of Contractor: 208 Murray Road SE  
 Albuquerque, NM 87105

Amount of prospective contract: <sup>50,452</sup> \$44,000 + GRT

Term of prospective contract: through 12/30/19

III. Please thoroughly list the services (scope of work), construction or items of tangible personal property of the contract:

Removal, transportation and disposal of approximately 3,300 gallons of 70-100% sulfuric acid in accordance with EPA and DOT regulations.

IV. Provide an explanation for the justification of the procurement including a description of the emergency condition(s) requiring use of emergency procurement and the practicable competition utilized in compliance with NMSA 1978, Section 13-1-127.

Several years ago the wastewater treatment plant ran a program to turn sludge into fertilizer. After that program came to an end the acids used in creating the fertilizer remained onsite in storage tanks. Those tanks are now failing and the acid must be removed and packaged in a manner that is environmentally safe. The chemical must then be removed from the site and disposed of according to EPA and DOT regulations.

The Public Works Department contacted Souder Miller and Associates who are unable to perform the work, ACTenviro, and Clear Harbors who did not respond.


- V. Please describe what measures are being taken to minimize the duration and effect of this particular emergency procurement (for example: is the emergency only in place until a competitive process can be completed, etc.).

Competitive process will be completed for future phases of the site clean-up that do not pose an imminent hazard.

- VI. Describe what measures the Agency will take in the future to prevent/mitigate use of an emergency procurement under similar circumstances.

Ensure that upon the departure of department head the parameters of existing contracts and the status of their completion is passed on to management.

**Submitted by:**

  
 \_\_\_\_\_  
 Department Head

Date: 11-6-19

**Approved by:**

  
 \_\_\_\_\_  
 Town Manager

Date: 11-8-19

**Certified by:**

\_\_\_\_\_  
 Town of Taos Procurement Officer

Date: \_\_\_\_\_



**TOWN OF TAOS  
EMERGENCY DETERMINATION FORM**

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1. the functioning of government;
2. the preservation or protection of property; or
3. the health or safety of any person.

I. Name of Department: Public Works

Director/Supervisor Name: Francisco Espinoza

II. Name of Contractor: ACTenviro  
Address of Contractor: 208 Murray Road SE  
Albuquerque, NM 87105

Amount of prospective contract: \$10,259.20 + GRT

Term of prospective contract: through 6/30/19

III. Please thoroughly list the services (scope of work), construction or items of tangible personal property of the contract:

Removal of approximately 3,300 gallons of 70-100% sulfuric acid into 275 gallon totes, stage totes on site for later shipment. Clean sulfuric acid tank and stage on site for later shipment. Clean secondary containment and visually assess for safety of phosphoric acid storage.

IV. Provide an explanation for the justification of the procurement including a description of the practicable competition utilized.

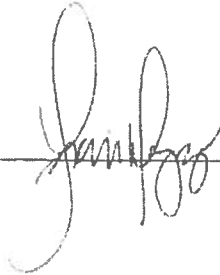
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manner that is environmentally safe.

The Public Works Department contacted Souder Miller and Associates who are unable to perform the work, ACTenviro who provided an estimate of \$10,259.20, and Clear Harbors who did not respond.

**Submitted by:**

\_\_\_\_\_  
Department Head



Date: 5/7/19

**Approved by:**

\_\_\_\_\_  
Town Manager

Date: \_\_\_\_\_

**Certified by:**

\_\_\_\_\_  
Town of Taos Procurement Officer

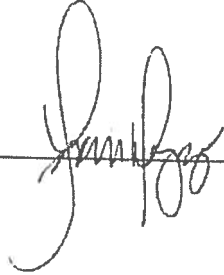
Date: \_\_\_\_\_

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The Public Works Department contacted Souder Miller and Associates who are unable to perform the work, ACTenviro who provided an estimate of \$10,259.20, and Clear Harbors who did not respond.

**Submitted by:**

\_\_\_\_\_  
Department Head



Date: 5/7/19

**Approved by:**

\_\_\_\_\_  
Town Manager



Date: 5-9-19

**Certified by:**

\_\_\_\_\_  
Town of Taos Procurement Officer

Date: \_\_\_\_\_

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**INTEROFFICE MEMORANDUM**

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**TO:** FINANCE DEPARTMENT  
**FROM:** PUBLIC WORKS DEPARTMENT  
**SUBJECT:** ACTENVIRO  
**DATE:** 12/3/19

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Please find attached the requisition for ACTenviro under contract TT-20-112. The delay in processing is due primarily to miscommunication in regard to proposals received and turnover in staff at ACTenviro.



Advanced Chemical Transport, Inc.  
 DBA ACTenviro  
 967 Mabury Road  
 San Jose, CA 95133

# Invoice

**Date**  
06/30/19

**No.**  
240041

**BILL TO**

Town of Taos - Public Works  
 Francisco Espinoza  
 400 Camino De La Placita  
 Taos, NM 87571  
 USA

**JOB SITE**

Town of Taos - Public Works  
 182 LOS CORDOVAS ROAD  
 RANCHOS DE TAOS, NM 87557  
 USA

P.O. NO.	TERMS	REP	COUNTY	JOB DATE	WORK ORDER	ACT CONTACT
19-58107	NET 30	ZG-N	Bernalillo	05/29/19	205527	Gentzler, Zane

**QTY Description**

QTY	Description	Size	Profile	Manifest	Rate	Amount
1	Forklift	Each			1,250.00	1,250.00 T
6400	Fuel & Energy Recovery Fee - 12%	Each			0.12	768.00 T
1	Manifest Fee	Each			30.00	30.00 T
2	Gear Truck Use - > 50 miles Trans	Each			850.00	1,700.00 T
2	Transportation & Labor (to TSD site)	Each			3,200.00	6,400.00 T
9	SULFURIC ACID	275	070-1477	012265431FLE	1,600.00	14,400.00 T
8	SULFURIC ACID	275	070-1477	012265432FLE	1,600.00	12,800.00 T

PLEASE REMIT TO: 967 Mabury Road, San Jose  
 CA 95133 AR Contact - (408) 548-5050 Jeremy J.

<b>Subtotal</b>	<b>37,348.00</b>
Sales Tax (6.4375%)	2,404.28
<b>PAY THIS AMOUNT</b>	<b>39,752.28</b>

<b>WEB SITE</b>
<a href="http://www.actenviro.com">www.actenviro.com</a>



Advanced Chemical Transport, Inc.  
 DBA ACTenviro  
 967 Mabury Road  
 San Jose, CA 95133

# Invoice

Date  
05/31/19

No.  
237007

**BILL TO**  
 Town of Taos - Public Works  
 Francisco Espinoza  
 400 Camino De La Placita  
 Taos, NM 87571  
 USA

**JOB SITE**  
 Town of Taos - Public Works  
 182 LOS CORDOVAS ROAD  
 RANCHOS DE TAOS, NM 87557  
 USA

P.O. NO.	TERMS	REP	COUNTY	JOB DATE	WORK ORDER	ACT CONTACT
19-58107	NET 30	ZG-N	Bernalillo	05/29/19	205533	Gentzler, Zane

QTY	Description	Size	Profile	Manifest	Rate	Amount
1	55 Gallon Recon Poly Drum UN1H2 - Open Top with Le	Each			85.00	85.00 T
9	275 Gallon Totes	Each			280.00	2,520.00 T
1	Compressor	Each			650.00	650.00 T
1	Double Diaphragm Chemical Pump Kit	Each			1,000.00	1,000.00 T
1	Equipment	Each			2,900.00	2,900.00 T
11305	Energy Recovery Fee	Each			0.12	1,356.60 T
3	Per Diem	Each			150.00	450.00 T
14	Labor - Project Manager	Hour			80.00	1,120.00 T
20	Labor - Technician	Hour			60.00	1,200.00 T
1	Supplies	Each			500.00	500.00 T
2	Visqueen Roll (10 mil)	Each			320.00	640.00 T
3	Personal Protective Equipment Misc.	Each			80.00	240.00 T

PLEASE REMIT TO: 967 Mabury Road, San Jose  
 CA 95133 AR Contact - (408) 548-5050 Jeremy J.

<b>Subtotal</b>	<b>12,651.60</b>
Sales Tax (6.4375%)	815.09
<b>PAY THIS AMOUNT</b>	<b>13,476.69</b>

WEB SITE
www.actenviro.com





5/28/2019 REV 2

<b>To:</b>	<b>French Espinoza</b>
<b>Tel Number:</b>	<b>575 770 1977</b>
<b>Organization:</b>	<b>Taos WWTP</b>
<b>Title/Dept</b>	
<b>Email:</b>	<b><a href="mailto:fespinoza@taosgov.com">fespinoza@taosgov.com</a></b>

<b>From:</b>	<b>Zane Gentzler</b>
<b>Phone:</b>	<b>505 273 1255</b>
<b>Return Fax:</b>	<b>505 349 5236</b>
<b>Email:</b>	<b><a href="mailto:zgentzler@actenviro.com">zgentzler@actenviro.com</a></b>

**Regarding:** Waste Disposal

Thank you for the opportunity to quote on your project.

Attached is our best estimate for performance of the Statement of Work (SOW), on a time and materials basis. We believe the total is adequate to complete the task as described and we commit to contact you for approval prior to exceeding the total billing. However, work of this type is occasionally subject to change orders because of the uncertainty of volumes and prices involved. Consequently, you are requested to provide and an authorized representative, accessible to the job to negotiate and authorize change orders, should they be required to complete the work. There will be a \$100 cancelation fee on all new orders.

Please see any comments that may be noted on page 2 of the the quote.

ACT's credit terms are net 30 days on approved credit. Upon acceptance of our quote, you will be provided a credit application to complete and return to our credit person listed on the application, it will be processed in three work days or less.

If all is in order, you can accept this quotation by signing at the bottom of this page and providing a PO number or credit card information and returning to my attention. Please call if I can clarify anything at all. Thank you.

Sincerely,  
Zane Gentzler  
ADVANCED CHEMICAL TRANSPORT

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**PO # or Credit Card #**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Exp. Date**                      **3 digit code**

**Quotation**

**proposal # 1**

**Prepared For: Taos WWTP**

Thank you for the opportunity to quote on your project. Attached is our best estimate for performance of the SOW **Time and Materials Basis**. We believe the total is adequate to complete the task as described. However, work of this type is occasionally subject to change orders because of the uncertainty of volumes and prices involved. Consequently, you are requested to provide an authorized representative, accessible to the job to negotiate and authorize change orders, should they be required to complete the work.

**Scope Of Work**

**TRANSPORT AND DISPOSE WASTE ACCORDING TO E.P.A. AND D.O.T. REGULATIONS.**

**Assumptions**

**DISPOSAL BASED ON PROFILE APPROVAL. ANY RESULTING CHANGE ORDERS WILL REQUIRE SIGN OFF BY TAOS WWTP AND ACT REPRESENTATIVES. PER DIEM IF NEEDED IS \$150 PER NIGHT PER PERSON.**

**Price**

Category	Item	Comments	Cost	Units	Amount	Extended
DISPOSAL	275 GALLON TOTE	SULFURIC ACID 76%	\$1,600.00	EACH	17	\$ 27,200.00
TRANSPORTATION	MOBILIZATION		\$850.00	EACH	2	\$ 1,700.00
TRANSPORTATION	TO DISPOSAL SITE		\$ 3,200.00	EACH	2	\$ 6,400.00
ENERGY RECOVERY FEE		OF OUTBOUND TRANS RATE	12%	EACH	6400	\$ 768.00
EQUIPMENT	FORKLIFT		\$ 1,250.00	EA	1	\$ 1,250.00
SUPLIES	EPA MANIFEST FEE		\$ 30.00	EA	1	\$ 30.00
					<b>Subtotal</b>	<b>\$ 37,348.00</b>
					<b>Tax 6.4375%</b>	<b>\$ 2,404.28</b>
					<b>Total</b>	<b>\$ 39,752.28</b>

**ENERGY RECOVERY FEE\* DESCRIPTION PRICE**

Diesel Fuel Price < \$3.50 8 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$3.501 - \$3.75 10 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$3.751 - \$4.00 12 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.001 - \$4.25 13 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.251 - \$4.50 14 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.501 - \$4.75 15 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.751 - \$5.00 16 % Additional Fee on Invoice Costs  
 \* West Coast Retail Diesel Price, as Reported by U.S. Energy Information Admin at  
[https://www.eia.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_r50\\_w.htm](https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r50_w.htm)

Sincerely,

*Zane Gentzler*

Zane Gentzler

Account Manager

**1.0 GENERAL PROVISIONS**

**1.1** ACT is a corporation engaged in the business of environmental management, including, but not limited to, the packaging, transportation and disposal of hazardous waste; general and specific environmental, health and safety compliance; chemical relocations; facility decontaminations; and on-site staffing of environmental professionals.

- 1.2 Upon acceptance of the agreement, the parties agree to be bound by the terms of the Service Agreement. The parties understand that the terms of the agreement and the terms of the Service Agreement make up the entire contract of the parties.
- 1.3 ACT carries all permits and authorizations required to perform work for CUSTOMER.
- 1.4 The term of the agreement shall be for two (2) calendar years from the date of Acceptance.
- 1.4.1 Either party may terminate this agreement with or without cause by giving 90 days written notification to the other party.
- 1.4.2 CUSTOMER understands and agrees that early termination of the Contract will cause financial hardship to ACT, and CUSTOMER agrees to pay a cancellation fee, which shall be the sum of previous three (3) month's invoice totals associated with any work performed by ACT for CUSTOMER.
- 2.0 LAWFUL COMPLIANCE IN PERFORMANCE OF WORK**
- 2.1 ACT and CUSTOMER agree to comply with all applicable federal, state and local laws and ordinances and lawful orders, rules and regulations of any constituted authority that may pertain to the generation, collection, transportation, handling, storage or disposal of any of CUSTOMER'S waste. ACT and CUSTOMER have obtained all necessary permits, licenses and other forms of documentation required to perform their respective obligations hereunder and, upon request of the other party, each shall furnish copies thereof to such other party. CUSTOMER shall obtain generator EPA identification numbers and promptly notify ACT of such EPA identification numbers and any changes thereto. As it pertains to the transporting of the waste material, ACT, is acting as a common carrier and in no other capacity. ACT will not accept improperly identified and/or unidentified material for packaging, transportation and/or disposal.
- 2.2 CUSTOMER warrants that it is under no temporary or permanent injunction, administrative or court order or writ, which would prohibit or constrain the transportation, treatment, storage and/or disposal of such wastes by ACT in any manner whatsoever.
- 3.0 OWNERSHIP AND TITLE OF WASTE**
- 3.1 CUSTOMER warrants that it holds clear title to all the wastes to be packaged, transported, treated, stored and or disposed of as part of the work. CUSTOMER assumes responsibility, without limitation, as "Generator" (as defined in the applicable statutes and/or regulations) for compliance Nothing contained within this Contract shall be construed or interpreted as requiring ACT to assume the status of "Generator" as that term appears in RCRA, CERCLA, or any federal, state or local statute or ordinance or any treaty governing the generation, treatment, storage,
- 3.2
- 4.0 INSURANCE**
- 4.1 ACT maintains insurance at or above the required levels required by governing agencies for work performed for CUSTOMER.
- 4.2 Certificates of insurance will be provided upon request.
- 5.0 WASTE DISPOSAL**
- 5.1 CUSTOMER shall approve of the disposal facility to which the waste shall be taken. CUSTOMER acknowledges and agrees that CUSTOMER alone has reviewed and approved of the place of disposal, as indicated by CUSTOMER'S signature on relevant shipping documents.
- 6.0 NON-CONFORMING WASTE**
- 6.1 CUSTOMER understands that waste pricing is highly dependent on the constituents, and percentage of constituents, of the waste. CUSTOMER warrants that all wastes which may be serviced pursuant to this agreement shall materially conform to the WASTE DESCRIPTIONS in the If CUSTOMER ships waste outside of the parameters set forth in the waste's profile, CUSTOMER understands additional charges may result, and agrees to pay the additional charges related to the packaging, transportation and disposal of the non-conforming waste.
- 6.2
- 7.0 PRICING AND COMPENSATION**
- 7.1 CUSTOMER agrees to compensate ACT pursuant to the parameters set forth in this agreement. ACT will invoice CUSTOMER as each stage of the project is completed. All invoices are due net thirty (30) days from date of issuance. ACT reserves the right to charge a 1½% finance charge per Pricing may be modified to (a) include pricing for new services and/or (b) adjust current pricing for existing services. If the pricing is modified, ACT shall provide CUSTOMER a Revised Pricing Schedule, which shall become effective upon date of receipt, indicated by signature of
- 7.2
- 8.0 INDEMNIFICATION**
- 8.1 ACT agrees, to the fullest extent permitted by law, to indemnify and hold harmless CUSTOMER from and against any liabilities, damages, and/or costs (including reasonable attorney's fees and cost of defense) arising out of the death or bodily injury to any person, or the destruction or damage to any property, to the extent caused, during performance of services under this Contract, by the negligent acts, errors and/or omissions of ACT or its officers, directors, principals, or employees, subject to the limitations set forth in the Section 9.0 (Limitation of Liability) of this Contract.
- 8.2 CUSTOMER agrees, to the fullest extent permitted by law, to indemnify and hold harmless ACT, its officers, directors, principals and employees, from and against any liabilities, damages, and/or costs (including reasonable attorney's fees and cost of defense) arising out of the death or bodily injury to any person, or the destruction or damage to any property, to the extent caused, during performance of services under this Contract, by the negligent acts, errors or omissions of the CUSTOMER or CUSTOMER'S contractors, consultants or anyone for whom CUSTOMER is legally responsible.
- 9.0 LIMITATION OF LIABILITY**
- 9.1 To the fullest extent permitted by law, the total liability of ACT and its officers, directors, principals, employees, and any of them, to CUSTOMER, and anyone claiming by or through CUSTOMER, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever, or claims or expenses, resulting from or in any way related to work performed for CUSTOMER, shall not exceed the total compensation received by ACT under this agreement, or the total amount of \$10,000 (Ten Thousand Dollars),

whichever is less, except for ACT's willful misconduct. It is intended that this limitation apply to any and all liability or cause of action, including ACT's negligent acts, errors and/or omissions, however alleged or arising, unless otherwise prohibited by law, and unless otherwise provided in this section.

9.2 CUSTOMER acknowledges and understands the inherent difficulty in packaging and moving materials in chemical relocation projects. Examples may include, but are not limited to, chemicals, media, live stock cultures, refrigerated material, research compounds and/or pharmaceutical related material. If any damage occurs to the materials during the packaging, shipment, unpacking and placement of the materials, CUSTOMER agrees to submit claims only for the replacement value of the materials, and in no circumstance shall such claim(s) exceed \$5,000 per project. CUSTOMER understands and agrees that \$5,000 is the maximum allowed claim for the replacement and damage of materials under this Contract, and that all other damage and/or replacement claims are hereby waived by CUSTOMER.

9.3 All materials with a value in excess of \$1,000 shall be identified to the ACT project manager. Any items damaged by ACT during relocation will have a maximum combined liability not to exceed \$1,000 unless identified to the ACT project manager in advance of start of work.

#### 10.0 INDEPENDENT CONTRACTORS

10.1 CUSTOMER understands and acknowledges, and ACT hereby agrees that this agreement shall not render the agents of ACT as employees of CUSTOMER for any purpose. The agent of ACT is and will remain an agent of ACT in his or her relationship to CUSTOMER. Consequently, CUSTOMER shall not be responsible for withholding taxes with respect to the agent's compensation. The agent shall have no claim against CUSTOMER hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

#### 11.0 RESTRICTIVE COVENANT CONVERSION/RITE TO HIRE

11.1 If CUSTOMER wishes to hire or otherwise engage an ACT employee as an employee, consultant, independent contractor, or in any other way utilize a person employed by ACT, or hire, contract or in any other way utilize a person employed by ACT within the previous 3 years of the date of said hiring, contracting or utilization, CUSTOMER agrees to pay ACT a personnel acquisition fee equal to one year (2060 Hours) of the individual's highest customer hourly billing rate.

#### 12.0 SUBCONTRACTORS

12.1 CUSTOMER understands and agrees that ACT may assign and subcontract certain portions of the work performed for CUSTOMER. However, ACT warrants that all work performed for CUSTOMER by ACT subcontractors shall carry all protections, restrictions and limitations as if ACT performed the work.

#### 13.0 ATTORNEY'S FEES

13.1 In any litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Contract, the prevailing party shall be awarded its reasonable attorney fees, and costs and expenses incurred.

#### 14.0 NOTICE

14.1 Any notices required or permitted to be given under this agreement shall be given in writing and shall be delivered (a) in person, (b) by a commercial overnight courier that guarantees next day delivery and provides a receipt or (c) by or prepaid certified mail, return receipt requested to both: Advanced Chemical Transport 1210 Elko Dr. Sunnyvale, CA 94089, Attn: Walter Singer, President, and Advanced Chemical Transport Inc.

#### 15.0 CONFIDENTIALITY

15.1 All information and material that may be disclosed by one party to the other in the course of performance of this Contract is considered confidential and proprietary and will not be used by the receiving party other than for the purposes under this agreement for which it was disclosed. The receiving party will protect such information from disclosure to third parties and hold it as confidential using the same degree of care as that party uses to protect its own confidential or proprietary material of like importance, but at least reasonable care. This obligation will continue for a period of two (2) years following receipt of the material and will survive any termination of this Contract, but it will not cover any information which is disclosed to a third party by the disclosing party without restrictions on disclosure, any information that has been or is developed independently by the receiving party without violation of obligations of confidentiality, any information that falls into the public domain without fault of the receiving party, any information that is rightly obtained by the receiving party from a third party without restriction, or any information that is rightly in the possession of the receiving party at the time of disclosure by the disclosing party.

#### 16.0 FORCE MAJEURE

16.1 Neither party shall be liable in damages or have the right to terminate this agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

#### 17.0 SEVERABILITY

17.1 If any provision or provisions of this agreement shall be held to be invalid, illegal, and unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

#### 18.0 ENTIRE CONTRACT

- 18.1 This agreement, including the Scope of Work, Revised Pricing Schedule, Waste Profile Sheet(s) and any other schedule or exhibit referred to in this agreement, constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this agreement and supersedes all prior and contemporaneous understandings or agreements, whether oral or written, of the parties. This agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements.
- 18.2 No party has been induced to enter into this agreement by, nor is any party relying on, any representation, understanding, agreement, commitment or warranty outside those expressly set forth in this agreement.
- 18.3 No modification shall be binding on ACT unless in writing and signed by both parties. In no event shall the conflicting terms or conditions found on any CUSTOMER purchase or work order be considered an amendment or modification to this agreement.
- 19.0 **GOVERNING LAW**
- 19.1 The laws of the State of California shall govern the validity and interpretation of this agreement, without regard for conflicts of law principles of this, or any other, jurisdiction.
- 20.0 **MISC FEES**

ADDITIONAL FEES	DESCRIPTION	PRICE
	Cancellation Fee <24 hours notice or < 1 business day	Minimum Charge of \$ 250.00 or Cost of labor/ equipment/ materials for 1st day of work, whichever is greater
Rush Pickups or Projects <24 hours' notice or <1 business day notice		Minimum Fee of \$ 250.00 plus additional charges for service
Over pack Surcharge		\$100.00 plus cost of over pack
Return Drum Fee		\$200.00 per occurrence
Manifest Correction Fee		\$ 75.00 per occurrence
Off Spec Fees		\$TBD Based on material shipped
Advanced Chemical Transport	1210 Elko Drive, Sunnyvale, CA 94089	www.advancedchemical.net
		CUSTOMER INITIALS



5/28/2019 REV 2

<b>To:</b>	<b>French Espinoza</b>
<b>Tel Number:</b>	<b>575 770 1977</b>
<b>Organization:</b>	<b>Taos WWTP</b>
<b>Title/Dept</b>	
<b>Email:</b>	<a href="mailto:fespinoza@taosgov.com">fespinoza@taosgov.com</a>

<b>From:</b>	<b>Zane Gentzler</b>
<b>Phone:</b>	<b>505 273 1255</b>
<b>Return Fax:</b>	<b>505 349 5236</b>
<b>Email:</b>	<a href="mailto:zgentzler@actenviro.com">zgentzler@actenviro.com</a>

**Regarding:** Waste Disposal

Thank you for the opportunity to quote on your project.

Attached is our best estimate for performance of the Statement of Work (SOW), on a time and materials basis. We believe the total is adequate to complete the task as described and we commit to contact you for approval prior to exceeding the total billing. However, work of this type is occasionally subject to change orders because of the uncertainty of volumes and prices involved. Consequently, you are requested to provide and an authorized representative, accessible to the job to negotiate and authorize change orders, should they be required to complete the work. There will be a \$100 cancelation fee on all new orders.

Please see any comments that may be noted on page 2 of the the quote.

ACT's credit terms are net 30 days on approved credit. Upon acceptance of our quote, you will be provided a credit application to complete and return to our credit person listed on the application, it will be processed in three work days or less.

If all is in order, you can accept this quotation by signing at the bottom of this page and providing a PO number or credit card information and returning to my attention. Please call if I can clarify anything at all. Thank you.

Sincerely,  
Zane Gentzler  
ADVANCED CHEMICAL TRANSPORT

---

**Print Name**

---

**PO # or Credit Card #**

---

**Signature**

---

**Exp. Date** **3 digit code**

**Quotation**

proposal # 1

Prepared For: Taos WWTP

Thank you for the opportunity to quote on your project. Attached is our best estimate for performance of the SOW **Time and Materials Basis**. We believe the total is adequate to complete the task as described. However, work of this type is occasionally subject to change orders because of the uncertainty of volumes and prices involved. Consequently, you are requested to provide an authorized representative, accessible to the job to negotiate and authorize change orders, should they be required to complete the work.

**Scope Of Work**

**MOBILIZATION TO TAOS NM, PUMP CONTENTS FROM SECOND ACID TANK THAT FAILED. ESTIMATED 9 X 275 GALLON TOTES REQUIRED FOR WASTE STORAGE.**

**Assumptions**

**Price**

Category	Item	Comments	Cost	Units	Amount	Extended
SUPPLIES	55 GALLON DF OT	FOR PPE DEBRIS	\$ 85.00	EACH	1	\$ 85.00
SUPPLIES	275 GALLON TOTE		\$ 280.00	EACH	9	\$ 2,520.00
SUPPLIES	COMPRESSOR		\$ 650.00	EACH	1	\$ 650.00
SUPPLIES	CHEMICAL PUMP		\$ 1,000.00	EACH	1	\$ 1,000.00
EQUIPMENT	EXTENDED BOMB LIFT		\$ 2,900.00	DAY	1	\$ 2,900.00
PER DIEM			\$ 150.00	DAY	3	\$ 450.00
LABOR	PROJECT LEAD		\$ 80.00	HOUR	14	\$ 1,120.00
LABOR	HAZARDOUS WASTE TECHNICIAN		\$ 60.00	HOUR	20	\$ 1,200.00
SUPPLIES	POWER HAND TOOLS / GENERATORS		\$ 500.00	EACH	1	\$ 500.00
SUPPLIES	SPILL CONTAINMENT	VISQUEEN	\$ 320.00	EA	2	\$ 640.00
PPE			\$ 80.00	EACH	3	\$ 240.00
ENERGY RECOVERY FEE			12%	EACH	14991.66	\$ 1,799.00

Subtotal \$ 13,104.00  
 Tax 6.4375% \$ 843.57  
**Total \$ 13,947.57**

Sincerely,

*Zane Gentzler*  
 Zane Gentzler

**ENERGY RECOVERY FEE\* DESCRIPTION PRICE**

Diesel Fuel Price < \$3.50 8 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$3.501 - \$3.75 10 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$3.751 - \$4.00 12 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.001 - \$4.25 13 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.251 - \$4.50 14 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.501 - \$4.75 15 % Additional Fee on Invoice Costs  
 Diesel Fuel Price \$4.751 - \$5.00 16 % Additional Fee on Invoice Costs  
 \* West Coast Retail Diesel Price, as Reported by U.S. Energy Information Admin. at  
[https://www.eia.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_r50\\_w.htm](https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r50_w.htm)

\$ 12661.66



**1.0 GENERAL PROVISIONS**

- 1.1 ACT is a corporation engaged in the business of environmental management, including, but not limited to, the packaging, transportation and disposal of hazardous waste; general and specific environmental, health and safety compliance; chemical relocations; facility decontaminations; and on-site staffing of environmental professionals.
- 1.2 Upon acceptance of the agreement, the parties agree to be bound by the terms of the Service Agreement. The parties understand that the terms of the agreement and the terms of the Service Agreement make up the entire contract of the parties.
- 1.3 ACT carries all permits and authorizations required to perform work for CUSTOMER.
- 1.4 The term of the agreement shall be for two (2) calendar years from the date of Acceptance.

1.4.1 Either party may terminate this agreement with or without cause by giving 90 days written notification to the other party.

1.4.2 CUSTOMER understands and agrees that early termination of the Contract will cause financial hardship to ACT, and CUSTOMER agrees to pay a cancellation fee, which shall be the sum of previous three (3) month's invoice totals associated with any work performed by ACT for CUSTOMER.

**2.0 LAWFUL COMPLIANCE IN PERFORMANCE OF WORK**

- 2.1 ACT and CUSTOMER agree to comply with all applicable federal, state and local laws and ordinances and lawful orders, rules and regulations of any constituted authority that may pertain to the generation, collection, transportation, handling, storage or disposal of any of CUSTOMER'S waste. ACT and CUSTOMER have obtained all necessary permits, licenses and other forms of documentation required to perform their respective obligations hereunder and, upon request of the other party, each shall furnish copies thereof to such other party. CUSTOMER shall obtain generator EPA identification numbers and promptly notify ACT of such EPA identification numbers and any changes thereto. As it pertains to the transporting of the waste material, ACT, is acting as a common carrier and in no other capacity. ACT will not accept improperly identified and/or unidentified material for packaging, transportation and/or disposal.
- 2.2 CUSTOMER warrants that it is under no temporary or permanent injunction, administrative or court order or writ, which would prohibit or constrain the transportation, treatment, storage and/or disposal of such wastes by ACT in any manner whatsoever.

**3.0 OWNERSHIP AND TITLE OF WASTE**

- 3.1 CUSTOMER warrants that it holds clear title to all the wastes to be packaged, transported, treated, stored and or disposed of as part of the work. CUSTOMER assumes responsibility, without limitation, as "Generator" (as defined in the applicable statutes and/or regulations) for compliance.
- 3.2 Nothing contained within this Contract shall be construed or interpreted as requiring ACT to assume the status of "Generator" as that term appears in RCRA, CERCLA, or any federal, state or local statute or ordinance or any treaty governing the generation, treatment, storage,

**4.0 INSURANCE**

- 4.1 ACT maintains insurance at or above the required levels required by governing agencies for work performed for CUSTOMER.
- 4.2 Certificates of insurance will be provided upon request.

**5.0 WASTE DISPOSAL**

- 5.1 CUSTOMER shall approve of the disposal facility to which the waste shall be taken. CUSTOMER acknowledges and agrees that CUSTOMER alone has reviewed and approved of the place of disposal, as indicated by CUSTOMER'S signature on relevant shipping documents.

**6.0 NON-CONFORMING WASTE**

- 6.1 CUSTOMER understands that waste pricing is highly dependent on the constituents, and percentage of constituents, of the waste. CUSTOMER warrants that all wastes which may be serviced pursuant to this agreement shall materially conform to the WASTE DESCRIPTIONS in the
- 6.2 If CUSTOMER ships waste outside of the parameters set forth in the waste's profile, CUSTOMER understands additional charges may result, and agrees to pay the additional charges related to the packaging, transportation and disposal of the non-conforming waste.

**7.0 PRICING AND COMPENSATION**

- 7.1 CUSTOMER agrees to compensate ACT pursuant to the parameters set forth in this agreement. ACT will invoice CUSTOMER as each stage of the project is completed. All invoices are due net thirty (30) days from date of issuance. ACT reserves the right to charge a 1½% finance charge per
- 7.2 Pricing may be modified to (a) include pricing for new services and/or (b) adjust current pricing for existing services. If the pricing is modified, ACT shall provide CUSTOMER a Revised Pricing Schedule, which shall become effective upon date of receipt, indicated by signature of

**8.0 INDEMNIFICATION**



- 8.1 ACT agrees, to the fullest extent permitted by law, to indemnify and hold harmless CUSTOMER from and against any liabilities, damages, and/or costs (including reasonable attorney's fees and cost of defense) arising out of the death or bodily injury to any person, or the destruction or damage to any property, to the extent caused, during performance of services under this Contract, by the negligent acts, errors and/or omissions of ACT or its officers, directors, principals, or employees, subject to the limitations set forth in the Section 9.0 (Limitation of Liability) of this Contract.
- 8.2 CUSTOMER agrees, to the fullest extent permitted by law, to indemnify and hold harmless ACT, its officers, directors, principals and employees, from and against any liabilities, damages, and/or costs (including reasonable attorney's fees and cost of defense) arising out of the death or bodily injury to any person, or the destruction or damage to any property, to the extent caused, during performance of services under this Contract, by the negligent acts, errors or omissions of the CUSTOMER or CUSTOMER'S contractors, consultants or anyone for whom CUSTOMER is legally responsible.
- 9.0 LIMITATION OF LIABILITY**
- 9.1 To the fullest extent permitted by law, the total liability of ACT and its officers, directors, principals, employees, and any of them, to CUSTOMER, and anyone claiming by or through CUSTOMER, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever, or claims or expenses, resulting from or in any way related to work performed for CUSTOMER, shall not exceed the total compensation received by ACT under this agreement, or the total amount of \$10,000 (Ten Thousand Dollars), whichever is less, except for ACT's willful misconduct. It is intended that this limitation apply to any and all liability or cause of action, including ACT's negligent acts, errors and/or omissions, however alleged or arising, unless otherwise prohibited by law, and unless otherwise provided in this section.
- 9.2 CUSTOMER acknowledges and understands the inherent difficulty in packaging and moving materials in chemical relocation projects. Examples may include, but are not limited to, chemicals, media, live stock cultures, refrigerated material, research compounds and/or pharmaceutical related material. If any damage occurs to the materials during the packaging, shipment, unpacking and placement of the materials, CUSTOMER agrees to submit claims only for the replacement value of the materials, and in no circumstance shall such claim(s) exceed \$5,000 per project. CUSTOMER understands and agrees that \$5,000 is the maximum allowed claim for the replacement and damage of materials under this Contract, and that all other damage and/or replacement claims are hereby waived by CUSTOMER.
- 9.3 All materials with a value in excess of \$1,000 shall be identified to the ACT project manager. Any items damaged by ACT during relocation will have a maximum combined liability not to exceed \$1,000 unless identified to the ACT project manager in advance of start of work.
- 10.0 INDEPENDENT CONTRACTORS**
- 10.1 CUSTOMER understands and acknowledges, and ACT hereby agrees that this agreement shall not render the agents of ACT as employees of CUSTOMER for any purpose. The agent of ACT is and will remain an agent of ACT in his or her relationship to CUSTOMER. Consequently, CUSTOMER shall not be responsible for withholding taxes with respect to the agent's compensation. The agent shall have no claim against CUSTOMER hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- 11.0 RESTRICTIVE COVENANT CONVERSION/RITE TO HIRE**
- 11.1 If CUSTOMER wishes to hire or otherwise engage an ACT employee as an employee, consultant, independent contractor, or in any other way utilize a person employed by ACT, or hire, contract or in any other way utilize a person employed by ACT within the previous 3 years of the date of said hiring, contracting or utilization, CUSTOMER agrees to pay ACT a personnel acquisition fee equal to one year (2060 Hours) of the individual's highest customer hourly billing rate.
- 12.0 SUBCONTRACTORS**
- 12.1 CUSTOMER understands and agrees that ACT may assign and subcontract certain portions of the work performed for CUSTOMER. However, ACT warrants that all work performed for CUSTOMER by ACT subcontractors shall carry all protections, restrictions and limitations as if ACT performed the work.
- 13.0 ATTORNEY'S FEES**
- 13.1 In any litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Contract, the prevailing party shall be awarded its reasonable attorney fees, and costs and expenses incurred.
- 14.0 NOTICE**
- 14.1 Any notices required or permitted to be given under this agreement shall be given in writing and shall be delivered (a) in person, (b) by a commercial overnight courier that guarantees next day delivery and provides a receipt or (c) by or prepaid certified mail, return receipt requested to both: Advanced Chemical Transport 1210 Elko Dr. Sunnyvale, CA 94089, Attn: Walter Singer, President, and Advanced Chemical Transport Inc.
- 15.0 CONFIDENTIALITY**

- 15.1 All information and material that may be disclosed by one party to the other in the course of performance of this Contract is considered confidential and proprietary and will not be used by the receiving party other than for the purposes under this agreement for which it was disclosed. The receiving party will protect such information from disclosure to third parties and hold it as confidential using the same degree of care as that party uses to protect its own confidential or proprietary material of like importance, but at least reasonable care. This obligation will continue for a period of two (2) years following receipt of the material and will survive any termination of this Contract, but it will not cover any information which is disclosed to a third party by the disclosing party without restrictions on disclosure, any information that has been or is developed independently by the receiving party without violation of obligations of confidentiality, any information that falls into the public domain without fault of the receiving party, any information that is rightly obtained by the receiving party from a third party without restriction, or any information that is rightly in the possession of the receiving party at the time of disclosure by the disclosing party.
- 16.0 **FORCE MAJEURE**
- 16.1 Neither party shall be liable in damages or have the right to terminate this agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
- 17.0 **SEVERABILITY**
- 17.1 If any provision or provisions of this agreement shall be held to be invalid, illegal, and unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 18.0 **ENTIRE CONTRACT**
- 18.1 This agreement, including the Scope of Work, Revised Pricing Schedule, Waste Profile Sheet(s) and any other schedule or exhibit referred to in this agreement, constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this agreement and supersede all prior and contemporaneous understandings or agreements, whether oral or written, of the parties. This agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements.
- 18.2 No party has been induced to enter into this agreement by, nor is any party relying on, any representation, understanding, agreement, commitment or warranty outside those expressly set forth in this agreement.
- 18.3 No modification shall be binding on ACT unless in writing and signed by both parties. In no event shall the conflicting terms or conditions found on any CUSTOMER purchase or work order be considered an amendment or modification to this agreement.
- 19.0 **GOVERNING LAW**
- 19.1 The laws of the State of California shall govern the validity and interpretation of this agreement, without regard for conflicts of law principles of this, or any other, jurisdiction.
- 20.0 **MISC FEES**

ADDITIONAL FEES	DESCRIPTION	PRICE
	Cancellation Fee <24 hours notice or < 1 business day	Minimum Charge of \$ 250.00 or Cost of labor/ equipment/ materials for 1st day of work, whichever is greater
Rush Pickups or Projects <24 hours' notice or <1 business day notice		Minimum Fee of \$ 250.00 plus additional charges for service
Over pack Surcharge		\$100.00 plus cost of over pack
Return Drum Fee		\$200.00 per occurrence
Manifest Correction Fee		\$ 75.00 per occurrence
Off Spec Fees		\$TBD Based on material shipped
Advanced Chemical Transport	1210 Elko Drive, Sunnyvale, CA 94089	www.advancedchemical.net
		CUSTOMER INITIALS