INSERT DATE

**BY EMAIL**

**ATTENTION [insert name]**

INSERT COMPANY NAME

INSERT ADDRESS

INSERT EMAIL

Dear **[insert name]**

Sydney Water Corporation (SWC) - Out of Scope Building Plan Review Cost Recovery Agreement with [*insert company name, with ABN)*] (Applicant) – [insert case #reference]   
Project: [insert details]

We refer to the above case reference.

As you are aware your Water Servicing Co-Ordinator (**WSC**) has identified your building plans to be an Out of Scope Building Plan Approval (**OOS BPA**) and as required by SWC, the WSC has referred your building plans to us for a detailed review. This is because:

1. The proposed building works will affect or will likely affect any of the following:

* Wastewater pipes larger than 300 mm in size
* Pressure wastewater pipes
* Drinking water or recycled water pipes
* Our property boundary
* An easement in our favour
* Stormwater infrastructure within 10m of your property boundary

and / or

1. The building plans include:

* Construction of a retaining wall over, or within the zone of influence of our assets
* Excavation of a basement or building over, or adjacent to, one of our assets
* Dewatering – removing water from solid material or soil

The detailed review by us consists of a review of your building plans, your engineer’s assessment and other documentation provided as part of your submission to ensure:

* our assets will not be damaged during, or because of the construction of your development, and
* we can access our assets in the future for operation and maintenance.

The costs for us to review your building plans is determined by the number of hours it takes SWC to process and assess those plans and associated documentation. Every review requires specialised skills from our teams and may also require outsourced specialist skills.

Hourly rates are as follows:

* Hourly rates for SWC staff are in line with our IPART determined price for SWC hourly rate as published on our website. The published rate includes GST.
* Hourly rates for SWC’s external engineering specialists are based on tendered costs for each engineering qualification as shown in the table below.

|  |  |
| --- | --- |
| **Engineering Qualification** | **Hourly Rate (excl GST)** |
| Civil Engineering – C1 | $118.32 |
| Civil Engineering – C2 | $160.23 |
| Civil Engineering – C3 and C4 | $283.91 |
| Geotechnical Engineering – G4 | $283.91 |
| Structural Engineering – S4 | $283.91 |
| Mechanical Engineering – M3 | $283.91 |

By signing and returning this letter to us, the Applicant acknowledges and agrees that:

1) costs are being incurred by SWC in relation to the Project; and

2) the Applicant will pay SWC's Costs on the terms set out in this letter; and

3) SWC’s Costs for the Application will be based on the application being identified as falling within one of the following categories: **[Select one]**

Tier 1 – Pipelines Minor (requiring review by C1 / C2 qualified engineers)

Based on the complexity of the assets, the maximum costs you should expect to incur is $5,000 (excl GST) (Upper Limiting Fee)

Tier 1 assets include:

* Buried sewer reticulation pipes ≤ DN300 and < 6m in depth where covered by prescriptive standards
* Buried water reticulation pipes and sewer pressure mains ≤ DN300 where covered by prescriptive standards
* Low pressure sewerage systems serving up to 5 properties

Tier 2 – Pipelines Medium (requiring review by C2 / C3 qualified engineers)

Based on the complexity of the assets, the maximum costs you should expect to incur is $10,000 (excl GST) (Upper Limiting Fee)

Tier 2 assets include:

* Buried water/sewer/stormwater pipes DN375 – DN750 at depth ≤ 15m
* Pipes ≤ DN300 and design pressure > 120m
* Trenchless installations (e.g. HDD, micro-tunnelling etc) ≤ DN300
* Pipes in mine subsidence areas ≤ DN300
* Reticulation sewers in basements ≤ DN300
* Aqueducts ≤ DN300
* Pipes ≤ DN300 in soft or compressible soils prone to significant settlement and/or instability such as landslide risk
* Pipes in contaminated ground ≤ DN300
* Asset impact assessment and structural assessment of existing buried pipes ≤ DN300
* Trenchless rehabilitation of existing buried pipes ≤ DN300
* Pipes ≤ DN300 at depth 6 – 15m

Tier 3 – Pipelines Major and Complex (requiring review by C3 / C4 qualified engineers)

Due to the complexity of these asset, SWC will provide a Quote the assessment of your application. You will be asked to accept the quote, in writing, prior to SWC progressing with assessing your application.

Tier 3 assets include:

* Buried water/sewer/stormwater pipes ≥ DN750 at depth ≤ 15m
* Pipes ≥ DN375 and design pressure > 120m
* Pipes in mine subsidence areas ≥ DN375
* Trenchless installations ≥ DN375
* Aqueducts ≥ DN375
* Pipes ≥ DN375 in poor/unstable ground soft or compressible soils prone to significant settlement and/ or instability such as landslide risk
* Pipes in contaminated ground ≥ DN375
* Asset impact assessment and structural assessment of existing buried pipes ≥ DN375
* Trenchless rehabilitation of existing buried pipes ≥ DN375
* Pipes at depth > 15m.

Please note that the cost estimate above only includes the forecast time required by our review team to complete the review. Should you or your WSC want to meet with our review team to discuss the project, you will also need to pay us for the costs associated with SWC’s representatives, including our external engineering specialists, attending the meeting(s).

1. Interpretation
   1. In this letter:
      1. **Costs** includes any charge, expense or other outgoing of any nature reasonably incurred and whether direct or indirect, payable or paid, internal or third party costs arising out of or in connection with SWC’s assessment of the Project including any engineering consultancy fees associated with the assisting SWC to assess and advise on the impact of the Project on SWC Assets.
      2. **Application** means the application submitted by the Applicant’s WSC for the Project for the OOS BPA.
      3. **Letter of Conditions** means a letter issued by SWC to the WSC, following the payment of the Costs, detailing SWC’s requirements to allow the WSC issue a Building Plan Approval for the Project.
      4. **SWC Assets** means the Works forming part of SWC's potable water, wastewater, recycled water and stormwater networks, including any SWC land or easements which will or may be affected by the Project Works and are the subject the Application.
      5. **Term** means the period commencing on the date of this letter and expiring upon the issue of a Letter of Conditions to the WSC
      6. **Works** has the meaning in the *Sydney Water Act 1994* (NSW).
   2. A reference to a party to this letter includes a reference to that party’s administrators, successors, substitutes (including by novation) and assigns.
   3. A singular word includes the plural, and vice versa.
2. Obligations
   1. The obligations under this clause 2 commence on the date this letter is executed by the Applicant and continue until the expiry of the Term.
   2. SWC will review the Applicant’s OOS BPA to enable the Applicant to progress the Project including but not limited to providing advice on the impact of the project on SWC Assets using a risk based approach including considering the predicted ground movement impacts due to any excavation and/or tunnelling.
   3. SWC will issue the Applicant with an itemised tax invoice for SWC’s Costs.
   4. The Applicant must pay SWC’s Costs:
      1. incurred from when the Application is submitted to the issue of a Letter of Conditions responding to the Application; and
      2. within 20 days of receipt of a tax invoice, or failing which, on demand as a debt due and payable to SWC.
   5. The Applicant acknowledges and agrees that until such time as SWC’s Costs are paid by the Applicant under clause 2.3, then Sydney Water will not issue the Letter of Conditions to the WSC.
3. GST
   1. In this clause 3, **GST Law** has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth), and terms used which are not defined in this Agreement, but which are defined in the GST Law, have the meanings given in the GST Law. Unless stated otherwise, all consideration provided under this Agreement is exclusive of GST. If GST is payable by the party making the supply (**supplier**), the recipient must, upon receipt of a tax invoice from the supplier, pay the supplier an amount equal to the GST payable on that supply.

1. Resolution of disputes
   1. A party claiming that a dispute has arisen in connection with this letter (**first party**) must give notice to the other party designating a representative with authority to settle the dispute (**Dispute Notice**). The other party must, within 7 days of receipt of the Dispute Notice, give notice to the first party and each other party acknowledging the dispute and designating a corresponding representative.
   2. The parties must ensure that the designated persons referred to in clause 4.1 (**Representatives**) within 14 days of notice being given of the last designation required by clause 4.1, meet and use their best endeavours to resolve the dispute.
   3. If the dispute is not resolved within the 14 day period referred to in clause 4.2 (or within any further period agreed by the Representatives in writing) the parties may agree on the method and process to resolve the dispute or commence litigation.
   4. Except where a party seeks urgent interlocutory relief, neither party may commence litigation relating to any dispute arising out of or in connection with this letter unless and until it has complied with clauses 4.1, 4.2 and 4.3.
   5. The parties must continue to comply with their obligations in accordance with this letter notwithstanding that the parties are participating in dispute resolution.
2. General
   1. This letter may be executed in any number of counterparts.
   2. This letter, once executed, will take effect as an agreement and will be governed by the laws of New South Wales.
   3. The signatories to this agreement each separately acknowledge and warrant that they hold the appropriate authority to bind the respective party.

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| --- | --- | --- | --- | --- |
| Executed as an agreement  Signed on behalf of **SYDNEY WATER CORPORATION** by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |  | |  |
| Signature of witness | |  | | Signature |
| Print name | |  | | Print name |
|  | |  | |  |
|  | |  | |  |
| **[insert signature block of Applicant]** |  | |