

AGREEMENT NUMBER <b>08-027-250</b>
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:  


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 STATE AGENCY'S NAME  
 State Water Resources Control Board  


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 CONTRACTOR'S NAME  
 County of El Dorado
- The term of this Agreement is: July 1, 2008 through June 30, 2009
- The maximum amount of this Agreement is: \$ 118,700  
 One Hundred Eighteen Thousand, Seven Hundred Dollars
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work	15 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Exhibit B – Budget Attachment I	1 page
Exhibit C* – General Terms and Conditions	GTC 307
Exhibit D – Additional Provisions	4 pages

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.documents.dgs.ca.gov/ols/GTC-307.doc>

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		<b>California Department of General Services Use Only</b>
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) County of El Dorado		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 2850 Fairlane Court Placerville, CA 95667		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME State Water Resources Control Board		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Esteban Almanza, Deputy Director, Division of Administrative Services		
ADDRESS 1001 I Street, 18 <sup>th</sup> Floor Sacramento, CA 95814		

Exempt per:

**EXHIBIT A**  
Scope of Work

**1. Service Overview**

The Contractor agrees to provide to the State Water Resources Control Board (State Water Board) services described herein:

The Contractor shall oversee corrective action and perform regulatory and administrative activities to implement the oversight of corrective action of unauthorized releases from Underground Storage Tanks (USTs).

**2. Service Location**

The Contractor services provided to oversee UST corrective action shall be performed in the respective County. Contractor training classes and/or meetings may be attended within the State.

**3. Service Hours**

The services shall be provided during Contractor working hours.

**4. Project Representatives**

A. The project representatives during the term of this agreement will be:

<b>State Water Resources Control Board</b>	<b>Contractor Name</b>
George W. Lockwood, Contract Manager	Dave Johnston, Project Director
Telephone: (916) 341-5752	Telephone: (530) 621-5896
Fax: (916) 341-5808	Fax: (530) 295-2747
E-mail: Glockwood@waterboards.ca.gov	E-mail: davej@co.el-dorado.ca.us

B. Direct all inquiries to:

<b>State Water Resources Control Board</b>	<b>Contractor Name</b>
Division of Water Quality – Underground Storage Tank Section	County of El Dorado, Environmental Management Department
Attention: Jenniffer Jordan, Program Analyst	Dave Johnston, Admin Contact
P.O. Box 2231 Sacramento, CA 95812	2850 Fairlane Ct Placerville, CA 95667
Telephone: (916) 341-5826	Telephone: (530) 621-5896
Fax: (916) 341-5808	Fax: (530) 295-2747
E-mail: jjorden@waterboards.ca.gov	E-mail: davej@co.el-dorado.ca.us

C. Either party may make changes to the information above by giving ten (10) days written notice to the other party. Said changes shall not require an amendment to this agreement.

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**5. Definitions**

The term “Regional Water Board” is defined to mean “California Regional Water Quality Control Board.” Under this agreement, the appropriate Regional Water Board is: Central Valley, or Lahontan Region which has jurisdiction at a release site.

Unless otherwise specifically provided herein, any reference to “UST” means a petroleum UST as defined in Health and Safety Code (H&SC) Section 25299.24, and any reference to an “unauthorized release” or “release” refers to an unauthorized release of petroleum from a UST.

**6. Background**

Substances hazardous to the public health and safety and to the environment are stored prior to use or disposal in thousands of underground locations in the State. Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

H&SC Section 25297.1 authorizes the State Water Board to “implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies.” Additionally, H&SC Section 25296.35 requires the State Water Board to maintain a system for storing and retrieving data pertaining to the cleanup of unauthorized releases from USTs. GeoTracker is a state-wide historical database designed to be accessible to government agencies and the general public to meet data system requirements. This contract implements the Local Oversight Program (LOP) for leaking USTs and ensures that records are maintained in GeoTracker.

In addition, and as part of this effort, the State and Regional Water Boards will provide technical assistance and training as follows:

- 1) Provide reasonable and appropriate technical assistance to the Contractor to aid in the cleanup of sites. This assistance shall include providing available information on (1) chemical constituents, (2) toxicology, (3) environmental fate, and (4) risk appraisal. In addition, guidance documents shall be prepared as needed;
- 2) Research available information as requested by the Contractor regarding constituents of petroleum products stored in USTs. This information may include chemical/physical properties, environmental fate properties, toxicity, flammability, corrosiveness, and applicable laws, regulations, and regulatory criteria;
- 3) Use in-house information to assist Contractor to evaluate risk appraisals to be used in making cleanup decisions for petroleum unauthorized release cases. The risk appraisal will analyze the behavior of the constituents of petroleum products in the subsurface environment and evaluate the resulting exposure and health risk;
- 4) Prepare appropriate guidance documents to assist the Contractor performing work covered under this agreement. These documents shall consist of the LOP Guidebook, along with manuals and references to be used in the field, laboratory, and office. Guidance letters will also be prepared in response to the need for interpretation of laws and regulations pertaining to UST cleanup; and

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- 5). Provide annual training courses on (1) UST site inspection, monitoring, corrective action, and closure procedures, and (2) health and safety procedures for employees of the Contractor.

Additional examples of training courses that will be provided to the Contractor are (1) annual CUPA/UST Conference, (2) ad hoc roundtable meetings, and (3) other classes related to site cleanup of UST unauthorized releases.

7. **Program Priorities**

The State Water Board UST Cleanup Program is targeting as priorities the following:

- 1) Expedite any case that threatens public health and safety or the environment.
- 2) Enforce removal of free product within two years of discovery.
- 3) Close cases no longer requiring corrective action (monitoring is corrective action).
- 4) Respond to work plans and closure requests within 30 to 60 days.
- 5) Review all open cases at least once per year.
- 6) Receive/deny Electronic Submittal of Information (ESI) documents within 30 to 60 days.
- 7) Enforce compliance with GeoTracker Reporting Requirements.
- 8) Provide quality data input to GeoTracker.
- 9) Involve the UST Cleanup Fund throughout the corrective action process

8. **Work To Be Performed**

The Contractor's Project Director shall promptly notify the State Water Board's Contract Manager of events or proposed changes that could affect the scope, budget, or schedule of work performed under this agreement.

The Contractor agrees to provide all labor, materials, and equipment necessary to conduct an UST corrective action program to identify and oversee the investigation and cleanup of unauthorized releases from petroleum USTs within its jurisdiction and to maintain records in GeoTracker in accordance with the terms and conditions contained herein and all exhibits attached hereto. Performance of services pursuant to the requirements of this agreement shall conform to high professional standards, including applicable portions of the State Water Board's Incompatible Activities Statement ([www.swrcb.ca.gov/water\\_laws/docs/incompatible\\_activities\\_statement.doc](http://www.swrcb.ca.gov/water_laws/docs/incompatible_activities_statement.doc)).

The Contractor shall, at all times, comply with all applicable State laws, rules, regulations, and local ordinances specifically, including but not limited to, environmental, procurement and safety laws, rules, regulations, and ordinances. The Contractor shall obtain the services of a Professional Geologist or Engineer, Civil (PG/PE-Civil) to comply with the applicable requirements of the Business and Professions Code, Sections 7800 et seq. implementing regulations for geological or engineering analysis and interpretation for each site in the LOP. All documents prepared for others by the Contractor that reflect or rely upon geological or engineering interpretations by the Contractor shall be signed or stamped by the PG/PE-Civil indicating her/his responsibility for them as required by the Business and Professions Code.

The Contractor further agrees to provide services in accordance with the State Water Board's most recent LOP Guidebook, which is hereby incorporated by reference and which may be subject to changes annually at contract renewal.

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**Task 1 - Cleanup Process**

The Contractor shall be responsible for identifying, issuing directives, and providing a completion certification to Responsible Parties for the cleanup of an unauthorized release from USTs. This work includes overseeing the planning, scheduling, and performance of all work as set forth herein below, including but not limited to, the maintenance of site specific records and the preparation of reports as specified in Task 3. The Contractor shall maintain the official site-specific records pertaining to each site placed in the LOP and provide for public access to those records for review and copying. At a minimum during this contract period, the Contractor shall upload the following documents to GeoTracker for permanent public access: Directive Letters (i.e., letters issued to Responsible Parties regarding the planning, scheduling, and performance of work), Case Closure Summaries, and Remedial Action Completion Certifications.

The Contractor shall require Responsible Party or Parties to submit data electronically to GeoTracker in compliance with Electronic Submittal of Information Underground Tank Regulations, Section 2729 (i.e., submittals shall include Site Map and Product Thickness). The Contractor shall receive or deny data submitted by a Responsible Party electronically to GeoTracker.

The Contractor shall require the Responsible Parties or their consultants to send copies of all UST unauthorized release related correspondence to the Regional Water Board unless the Regional Water Board states that it does not want to receive copies. This will include copies of all technical reports, feasibility studies and remedial action plans. The Contractor shall require the Responsible Parties and their consultants to upload such information directly into GeoTracker as required by Chapter 30, Division 3, Title 23 of the California Code of Regulations.

The Contractor shall, at a minimum, consider methods described in the updated LUFT Manual, MTBE Guidelines provided as a staff final draft by the State Water Board on March 27, 2000, or other Regional Water Board MTBE guidelines, and direct responsible parties to conform to all local, State, and federal rules and regulations when performing investigation and remedial work under this agreement. The Contractor shall direct Responsible Parties to implement the time frames for site investigation and cleanup established in the MTBE guidelines. The Contractor can determine to use shorter time frames based upon regional and site-specific water quality and public health concerns.

Before performing any oversight activities funded through this agreement at military installations, the Contractor shall consult with the appropriate Regional Water Board to determine whether the cleanup is funded through the Defense Environmental Restoration Account (DERA) or through the Base Realignment and Closure (BRAC) Program. Any cleanup identified as DERA or BRAC funded sites shall be immediately referred to the Regional Water Board for oversight. Any cleanup at military installations which is not DERA or BRAC funded, and is otherwise eligible for the LOP, may remain in the LOP.

**For Each Suspected Site**

**Task 1.1: Confirm Unauthorized Release (here after release)**

- a) In conjunction with the Unified Program Agencies (UPAs), the Contractor shall oversee confirmation of all suspected UST release sites within its programmatic jurisdiction. Included in this task is the inspection of an excavation pit or borings during removal or in-place closure of a UST associated with a suspected release. Suspected release does not include failure of a precision test unless other evidence exists supporting the conclusion that an unauthorized release may have occurred. The existence of a leak shall be confirmed by testing or inspection of the tank and appurtenant

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plumbing or sampling adjacent soil or water including any necessary uncovering of the UST and/or associated plumbing. In conjunction with the UPAs, the Contractor shall verify that an Unauthorized Release Form has been filed by the Responsible Party for each new release. The Contractor shall fill out an electronic Unauthorized Release Form in the format provided in GeoTracker (see Section 5 of the Guidebook) to create a new case in the database by entering and editing data via the Internet or by an alternate method agreed to by the Contractor and State Water Board Contract Manager. Activities normally associated with the UST permit program such as oversight of routine tank testing or retesting performed as part of a UST monitoring program are not covered under this agreement.

- b) The Contractor shall oversee investigation and remediation on all leaking UST sites eligible for funding under the agreement unless agreement is reached between the Contractor and appropriate Regional Water Board to transfer lead status of a site to the Regional Water Board. The Contractor shall notify the State Water Board of any transfer agreement. Site transfer can occur during any phase of the cleanup project upon mutual agreement between the Contractor and the Regional Water Board. If the Contractor has determined that it cannot reach an agreement with the Regional Water Board, the State Water Board's Contract Manager must be informed immediately in writing.
- c) State funds may only be used for sites which involve releases from a UST as defined by H&SC Section 25299.24. For purposes of this agreement, such UST includes any one or a combination of tanks, including pipes connected thereto, which is or was used for the storage of petroleum and which is substantially beneath the surface of the ground as defined in Section 2611 of Title 23, Division 3, Chapter 16 of the California Code of Regulations. "Substantially beneath the surface of the ground" means that at least ten percent (10%) of the UST volume, including connected piping, is below the ground surface.

Such a UST does not include:

- (1) a tank or combination of manifolded tanks with a combined capacity of 1,100 gallons or less which is located on a farm and which stores motor vehicle fuel used primarily for agricultural purposes and not for resale; nor
- (2) a tank that is located on a farm which has a capacity of 1,100 gallons or less and which stores home heating oil for consumptive use on the premises where stored; nor
- (3) a tank that is located at the residence of a person which has a capacity of 1,100 gallons or less that stores home heating oil for consumptive use on the premises where stored unless it meets the criteria of small heating oil tank as defined below; nor
- (4) any other facilities or structures specifically excluded from the definitions of a UST by H&SC Section 25281(y) or excluded from regulation under H&SC Section 25283.5.

In addition to USTs as defined above which require a permit to own or operate, State funds may be used when non-permitted tanks qualify as a "small home heating oil tank." In order to qualify as a small home heating oil tank, the tank:

- (5) must have a capacity of 1,100 gallons or less and have been used exclusively since January 1, 1985 to store home heating oil for consumptive use on the property where the tank is located;
- (6) cannot be located on a farm or property that was used for agricultural purposes since January 1, 1985;
- (7) cannot have been used for agricultural purposes since January 1, 1985; and
- (8) must be located at the residence (owner occupied single family dwelling or duplex) when the release was discovered.

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Funds may be used at a private- or locally-owned site that meets H&SC Section 25299.24 definition above as well as at State- or federally-owned sites.

- d) Sites which involve actual or suspected non-petroleum releases from underground tanks shall not be the subject of any work under this agreement, except for those sites that involve actual or suspected commingling between non-petroleum releases and petroleum releases may be the subject of work under this agreement. The Contractor shall seek prior authority from the State Water Board's Contract Manager for use of contract funds at commingled release sites. Any and all site costs at sites that are ultimately determined not to involve petroleum releases are ineligible for reimbursement under this agreement. Such sites shall be referred to the Regional Water Board or handled by the local agency at its own expense.

Task 1.2: Identify and Notify Responsible Party(s) and Owner(s)

- a) The Contractor shall identify the Responsible Party or Parties and conduct an appropriate investigation to make such identification. This investigation shall, at a minimum, include a review of land title records at the County Recorder's Office, or equivalent (e.g., Dataquik), to identify the last assessee of record. Work shall not take place at any site before a Responsible Party has been identified.
- b) Prior to initiating work at a site, the Contractor, using language specified by the State Water Board (see Section 8 of the LOP Guidebook), shall notify each Responsible Party who has been identified of Responsible Party's obligation to investigate and remedy UST releases. Each notice must be sent to the Responsible Party or Parties by way of certified mail return receipt requested. The Contractor shall notify each Responsible Party of the names and addresses of other Responsible Parties on those sites that have multiple Responsible Parties. If a Responsible Party requests that they be considered secondarily responsible, then the Contractor shall make a determination of secondary responsibility only if:
  - (1) The primary Responsible Party is performing corrective action, and
  - (2) It is clear that the party seeking secondary status did not, in any way, initiate or contribute to the actual discharge.

If the primary Responsible Party fails to perform corrective action, then the secondary Responsible Party or Parties will be considered a primary Responsible Party. The Contractor shall provide notification to the affected Responsible Party or Parties for primary responsibility. If the Contractor makes a change in the determination as to who is a Responsible Party, the previously notified Responsible Parties must be notified of the change and the basis for such change, by certified mail return receipt requested.

H&SC Section 25297.15 requires the primary or active Responsible Party to notify all current record owners of fee title for real properties affected before the local agency considers cleanup or site closure proposals or issues a "Remedial Action Completion Certification" as identified in Section 6 of the LOP Guidebook. H&SC Section 25297.15 also requires the primary or active Responsible Party to provide the local agency with a list of said owners. For purposes of implementing this section, the local agency shall determine who will be the primary or active Responsible Party. The Contractor shall inform the primary or active Responsible Party of these requirements with the language provided in Section 8 of the LOP Guidebook. The Contractor shall require the primary or active Responsible Party to comply with H&SC Section 25297.15.

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Task 1.3: Oversee Preliminary Site Assessment

- a) The Contractor shall oversee performance of a preliminary assessment of UST sites when unauthorized releases have been confirmed and Responsible Party or Parties identified. Preliminary assessment includes, at a minimum, initial site investigation, initial abatement actions, and initial site characterization. The purpose of the preliminary assessment is to determine the extent of existing soil contamination and its impact on ground water. Soil samples shall be obtained to determine the concentration of pollutants in the soil and the vertical and lateral extent of contaminated soil. Oversight of preliminary site assessment also includes oversight of the following work: (1) removal or in-place closure of the UST and inspection of any related excavation pit or borings, (2) excavation and disposal or on-site treatment of contaminated backfill and surrounding native soils, (3) removal of any floating product and/or free product discovered during tank removal and soil excavation, and (4) drilling of ground water wells as necessary to determine whether ground water has been affected. Oversight of preliminary site assessment does not include oversight of long term investigation and cleanup after the extent and nature of the release has been determined.
- b) During preliminary site assessment, the Contractor shall follow procedures established by the State Water Board in the LUFT Manual to document information gathered at the site.
- c) If at any time during the preliminary assessment it becomes evident to the Contractor that work beyond preliminary assessment will be necessary, the Contractor shall proceed to Tasks 1.5 through 1.10 as appropriate.

Task 1.4: Determine Site Status and Notify State Water Board

Based on data collected and analyzed during the preliminary site assessment, the Contractor shall make a determination as to whether: (1) the UST site has been adequately cleaned up by a Responsible Party through initial removal or remedial actions carried out during the preliminary site assessment, or (2) the UST site requires more extensive corrective action. Upon making this determination, the Contractor shall take one of the following actions:

- a) If the site has been satisfactorily cleaned up, the Contractor shall certify that fact as specified in "Task 1.10: Certification" and provide the Regional Water Board with documentation to that effect. Documentation shall be in a standard format as specified in Sections 6 and 9 of the LOP Guidebook.
- b) If additional corrective action is indicated, the Contractor shall continue with Tasks 1.5 through 1.10.

Task 1.5: Oversee Investigation, Feasibility Study, and Corrective Action Plan

- a) The Contractor shall oversee an investigation of the site to determine the hydrogeological characteristics, the lateral and vertical extent of contamination, the sensitivity of the site, and the potential threat of exposure to humans.

In cases affecting surface or ground water, monitoring wells shall be properly installed and used to obtain samples to: (1) detect any free product, (2) define the plume of contaminated water, and (3) monitor concentrations of hazardous substances dissolved in water. In cases where ground water is at risk, the investigation shall determine: (1) distance to nearest surface water, (2) depth to the highest ground water, (3) direction and rate of ground water flow, (4) the structure and



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composition of subsurface materials for the area affected, and (5) the current and potential beneficial uses of affected areas and contiguous surface and ground water. The Contractor shall seek concurrence on determination of beneficial uses from the Regional Water Board.

Whenever dissolved product is determined to be present in the ground or surface water or there is a risk that this may occur or for another good cause as determined by the Contractor, a soil and water investigation shall be performed in accordance with Section 2725, Article 11, Title 23, Division 3, Chapter 16 of the California Code of Regulations. This investigation shall, at a minimum, include analysis of the beneficial uses of water at risk (for example, such an investigation might assess the population using the threatened water supply and the proximity of public and private water supply wells or other exposure pathways). The results of the investigation shall be used in evaluating cleanup and remedial action alternatives.

- b) The Contractor shall oversee the preparation of a feasibility study report that identifies and evaluates feasible alternatives for cleaning up the site and remedying current and future threats to public health and safety. The effectiveness of an alternative shall be evaluated using the following primary criteria: (1) human health and safety risk, (2) ground or surface water polluted, (3) beneficial uses affected, (4) carcinogenicity of pollutant, and (5) threat of contamination to ground or surface water. Secondary criteria shall also be evaluated and shall include consideration of: (1) availability of an alternative water supply, and (2) vulnerability of the water supply. Cleanup and remedial action options may include the following or other actions, in any combination: (1) excavation, (2) leave in place, (3) enhanced bio-degradation, (4) soil venting, (5) free product removal, (6) air stripping, (7) treatment at individual water supply hookup, (8) replacement of water supply, and (9) relocation of residents. Other "proven" technologies (proven but currently used only on a limited basis) may be used to speed up site assessment and remediation.
- c) The Contractor shall oversee the preparation of a corrective action plan that identifies the selected remedial action alternative and sets forth the details for implementation of the selected action. The Contractor shall concur on the corrective action plan only after: (1) taking all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process, (2) considering all input and recommendations from any responsible landowner wishing to participate, and (3) concluding that implementation of the plan will adequately protect human health, safety, and the environment.
- d) The Contractor shall oversee the establishment of the schedule, format, and procedures for the corrective plan. One or more documents may be incorporated to meet all requirements of the corrective action plan.

Task 1.6: Provide Public Participation Opportunity

- a) The Contractor shall comply with provisions of Article 11, Section 2728, Public Participation requirements of the Underground Storage Tank Regulations,
- b) The Contractor shall design and implement a UST release case reporting procedure which complies with requirements of H&SC Section 25180.7.
- c) The Contractor shall certify, on all UST release reports submitted, that the reporting requirements of H&SC Section 25180.7 have been met. Such certification does not mean that the release has been determined to pose a significant threat to human health or safety, only that notification procedures have been followed, if they were required.

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Task 1.7: Reopen Closed Case

The Contractor shall reopen a closed case if the Contractor obtains “new” information that it considers sufficient justification to reopen the case. The Contractor shall “not” reopen a case that has been closed by the State Water Board, unless the Contractor identifies “new” data that was not available and previously considered when the State Water Board ordered case closure. A violation of this provision constitutes a failure by the Contractor to perform in accordance with this agreement and shall be grounds for the State Water Board to order the Contractor to suspend work under this agreement and terminate this agreement.

Task 1.8: Oversee Remedial Action

- a) The Contractor shall oversee implementation of the corrective action plan. The Contractor shall establish a schedule and format for the Responsible Party to monitor, evaluate, and report the results of implementing the corrective action plan.
- b) Interim remedial action is corrective action that takes place outside of the corrective action plan, either because it was needed as determined by the Contractor earlier in the investigative process or conditions developed to protect public health and safety or the environment that required immediate cleanup. Interim remedial action can occur concurrently with any phase of corrective action.

Task 1.9: Oversee Post Remedial Action Monitoring

The Contractor shall, when appropriate, oversee periodic ground water or other monitoring of the site, as necessary, following remedial action.

Task 1.10: Issue Certification

- a) Upon completion of all remedial action at a site, the Contractor shall summarize closure data on the Case Closure Summary currently identified in Section 9 of the LOP Guidebook. This form must be signed by the Environmental Health Director (or equivalent) and forwarded to the appropriate Regional Water Board Executive Officer (or designee) and to all Responsible Parties and landowners identified pursuant to H&SC Sections 25297.1 and 25297.15. Signature authority may be delegated to a qualified individual within the Contractor’s organization upon written notification from the Environmental Health Director (or equivalent) to the State Water Board Contact Manager. If the Regional Water Board and the Contractor agree that Regional Water Board review of closure data for soil-only sites is not necessary, the Contractor shall submit copies of the Case Closure Summary to the Regional Water Board as specified in Task 1.10, Item e).
- b) The signed Case Closure Summary must be complete and must be provided to the Regional Water Board. Qualified Regional Water Board staff shall have 30 calendar days from date of receipt of the Case Closure Summary to determine whether they have concerns with the closure. If the Regional Water Board does not notify the Contractor of concerns within the 30-day period, the LOP agency may close the case. To close a case, the Contractor shall certify that remedial action is complete by using the “Remedial Action Completion Certification” form found in Section 6 of the Local Oversight Program Guidebook. The Contractor shall also provide the State and appropriate Regional Water Board with documentation to that effect.

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- c) If Regional Water Board staff expresses concerns with a proposed closure, the Contractor must respond to the concerns prior to site closure. Such concerns shall be detailed in written correspondence addressed to the Contractor by the Regional Water Board Executive Officer. The Regional Water Board must forward a copy of all such correspondence to the State Water Board Contract Manager. If the Regional Water Board needs additional information that will extend the 30-day review period, a new Regional Water Board review period shall be mutually agreed to by the Contractor and Regional Water Board and identified in a letter from the Contractor to the Regional Water Board and copy sent to the State Water Board Contract Manager. If disputes arise regarding closures that cannot be resolved between the Contractor and Regional Water Board staff, the Contractor may transfer the site to the Regional Water Board for further oversight. Cases may be closed sooner than the 30-day period if the Contractor is so notified by a qualified staff person from the Regional Water Board.
- d) Before issuing the Remedial Action Completion Certification specified in Item e) below, each site must be tested for the presence of MTBE, except diesel fuel and jet fuel sites where the Contractor is certain that MTBE was never present. The Contractor may require testing for MTBE at a diesel or jet fuel site if there is evidence that MTBE may have been, or is, present at the site.
- e) As mentioned in Item b) above, the Remedial Action Completion Certification shall be identical to the language specified in Section 6 of the LOP Guidebook. The certification shall be signed by the Environmental Health Director (or equivalent) and mailed to the Responsible Party or Parties for the site. Signature authority on this certification “cannot” be delegated. The Contractor is required to upload signed copies of the Final Case Closure Summary and Remedial Action Completion Certification (in “pdf” format) to GeoTracker. The Contractor shall also submit copies of the certification to the appropriate Regional Water Board and UST Cleanup Fund Manager at the time the certification is mailed to the Responsible Party.

**Task 2 – Exercise Enforcement Action**

All necessary and warranted enforcement actions shall be taken by the Contractor including referral to the appropriate local prosecutorial agency. If local action is not feasible or timely, the Contractor should seek enforcement actions through the Regional Water Board. Any site referred to the Regional Water Board for enforcement shall be removed from the Local Oversight Program and the Regional Water Board shall become the lead agency, unless both the Contractor and the Regional Water Board agree to keep the site in the Local Oversight Program.

The Contractor shall notify the State and Regional Water Board whenever it determines that a release site involves (1) an insolvent Responsible Party, or (2) a Responsible Party who refuses to take action to remedy the site at the direction of the Contractor. The State Water Board will make a decision, on a case-by-case basis, regarding the disposition of those sites.

**Task 3 – Submit Reports and Data**

- 3.1. The Contractor shall submit written reports in accordance to the schedule outlined in Section 10 of the LOP Guidebook unless the Contractor certifies that all required fields in GeoTracker are current and correct. Site-specific information shall be sent to the Regional Water Board unless the Regional Water Board requests otherwise.
- 3.2. The Contractor shall submit a regular, quarterly written summary to the State Water Board Contract Manager unless the Contractor certifies that all required fields (described in 3.4 below)

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are current and correct for open cases in GeoTracker. Said report shall be in a standard format as described in Section 5 of the LOP Guidebook.

- 3.3. The Contractor shall maintain the case management data in GeoTracker using the GeoTracker data dictionary, fields, and valid values, either by entering and editing data “realtime” via the Internet or by weekly uploads of data to GeoTracker (or an alternate schedule agreed to by the Contractor and the State Water Board Contract Manager). At a minimum, the fields identified in Section 5 of the LOP Guidebook must be filled out and updated.
- 3.4. For each site, payment of the Contractor’s invoices for site specific work may be withheld until the following current information for that site is in GeoTracker. Subset of required fields:

Field	LOP DTS Field Name	GeoTracker Screen Name	GeoTracker Screen Field Name
Case Status	STATUS	Cleanup Status	Status
Case Status Begin Date	STATUS_BEGIN	Cleanup Status	Begin Date
Case Type	CASE_TYPE	Risk Management	Case Type
City	CITY	Physical Address	City
County	COUNTY	Physical Address	County
Facility Name	FAC_NAME	Physical Address	Business Name
Funding Cleanup	FUNDING_CL	Case Information	Funding for Cleanup
Funding Oversight	FUNDING_OVER	Case Information	Funding for Regulatory Oversight
Lead		Case Number Alias	Lead
Lead Date	LEAD_DATE	Case Number Alias	Lead Date
Lead Organization	LEAD_AG	Case Number Alias	Organization Name
Local Case Number	LOC_ID	Case Number Alias	Case Number
MTBE Threat Class	MTBE_THREAT	Risk Management	MTBE Threat Classification
Program	PROGRAM	Case Information	Regulatory Oversight Program
Release Type	RELEASE_TYPE	Substances Released	Release Type
Report Date	REPORT_DATE	Substances Released	Report Date
Street Name	ST_NAME	Physical Address	Street Name
Street Number	ST_NUMBER	Physical Address	Street #
Substance Released	SUBSTANCE	Substances Released	Substance Released
Responsible Party	CONT_NAME	Contact Manager	Contact Name
	CONT_TYPE	Contacts	Legally Named RP
	PRIMARY_RP	Contacts / Legally Named RP Information	Primary/Secondary
Enforcement _ Action	ENFOR	Enforcement / Regulatory Action	Enforcement Type
Enforcement _ Action	ENFOR_ISSUD	Enforcement / Regulatory Action	Issue date
Remedial _Action	REMED_ACT	Remedial Action <sup>1</sup>	Method
Compliance Tracking	RESP_TYPE	Enforcement / Regulatory Action	Received Date
<sup>1</sup> For sites with a current Cleanup Status = Remediation			

**EXHIBIT A**  
Scope of Work

- 3.5. The Contractor shall cease acting as the lead agency for the LOP on UST cleanup sites that are relinquished to a Regional Water Board and with respect to such will advise the Regional Water Board and the State Water Board of all site addresses, Responsible Parties, and Responsible Party addresses. Contractor shall provide all files for relinquished sites that are maintained by the LOP to the Regional Water Board to the extent the files are not duplicative of Regional Water Board files for the relinquished site.
- 3.6. Using the form and instructions contained in Section 4 of the LOP Guidebook, the Contractor shall provide an informational report on each of the training courses taken by technical staff as completed per Task 5. The report shall be submitted to the State Water Board Contract Manager with each invoice. Information provided on the form must include course title and course date.

**Task 4 – Petition Response**

In accordance with procedures established by the State Water Board in Resolution 88-23 (see Section 11 of the LOP Guidebook), any Responsible Party may petition the State Water Board for review of any action or inaction by the Contractor under the agreement. Upon request from the Petitioner, as discussed in Section 11 of the LOP Guidebook, or the State Water Board's Contract Manager, the Contractor shall provide a copy of the complete site file to the State Water Board.

When the Contractor is requested by the State Water Board to provide a response to a petition, the response must be signed by a representative at the Contractor's Environmental Health Director level (or equivalent). Signature authority may be delegated to a qualified individual within the Contractor's organization upon written notification from the Environmental Health Director (or equivalent) to the State Water Board Contract Manager.

The State Water Board retains final authority for disposition of Responsible Party petitions; however, nothing in this agreement prevents the Contractor from establishing an intermediate process for resolving disputes at the local level. Any intermediate petition process that includes review by a Regional Water Board must be set forth in a written agreement between the Regional Water Board and the Contractor. The agreement must be consistent with the terms of this agreement and provide a means for ensuring that copies of any petition are provided to the State Water Board within ten (10) days of receipt by the Contractor.

When a Responsible Party believes it has satisfactorily implemented the corrective action plan for a site and requests site closure, if the Contractor denies that request, the following paragraph shall be included in the Contractor's letter to the Responsible Party:

"This decision is subject to appeal to the State Water Resources Control Board (State Water Board), pursuant to H&SC Section 25296.40(a) (1), (Thompson-Richter Underground Storage Tank Reform Act - Senate Bill 562). Please contact the State Water Board Underground Storage Tank Program at (916) 341-5752 or visit the State Water Board internet website at <http://www.waterboards.ca.gov/ust/cleanup/petitions.html> for information regarding the appeals process."

**EXHIBIT A**  
Scope of Work

**Task 5 – Complete UST Technical Training Requirement**

All Contractor staff performing case management and oversight activities covered by this contract are required to attend a minimum of 16-hours of UST technical training per year (including 8 hours of Health and Safety Training or Refresher course) covering cleanup site investigation and remediation. The State Water Board will provide annual training courses on (1) cleanup UST site inspection, monitoring, cleanup and closure procedures and (2) health and safety procedures (this is not considered to count towards the 8-hour minimum of cleanup site investigation and remediation training referenced above) for employees of the Contractor. The Contractor shall provide a report which lists, by technical staff person, training courses attended and hours. This report shall be submitted pursuant to Task 3.

**Task 6 - Achieve Performance Measures**

Contractor agrees to exert its best efforts to achieve the following performance measures in so far as practicable:

- 6.1. The Contractor projects that 2 cases will be closed during this contract period. These cases will be counted in GeoTracker on the LOP workplan report.
- 6.2. The Contractor projects reviewing 100% of sites at least once during this contract period. The LOP workplan report in GeoTracker would show number of sites (hotlinks) that did not have at least one enforcement action, report review, site document upload, or status change during the fiscal year. Display percent of total sites.
- 6.3. The Contractor projects site status changes on 4 cases during this contract period. The LOP workplan report in GeoTracker would show how many sites are in each status and how many changed status during this contract period (hotlinks). The Contractor projects how many total status changes will occur for the year and the total changes and percent of projected would be displayed.
- 6.4. The Contractor projects that all sites in “remediation” status will also have a remedial method entered into GeoTracker. The LOP workplan report in GeoTracker would show how many sites are in the “Remediation” status and which of those sites do not have a remediation method listed (hotlinks). Display percent of totals.
- 6.5. The Contractor projects 90% Electronic Submission of Information (ESI) compliance for all Contractor lead sites in GeoTracker. The LOP workplan report in GeoTracker would show ESI compliance on how many sites have been claimed and have had at least one ESI submittal in the past 12 months as a percentage of the total sites. Display percent of totals. Develop a plan to reach 100% compliance.
- 6.6. The Contractor projects that the average and median age of cases will decrease during this fiscal year. The LOP workplan report in GeoTracker would calculate the average and median age of cases at the beginning of the fiscal year based on the lead agency date. Increase or decrease in the average and median age of cases would be displayed.
- 6.7. The Contractor projects that measurable free product in monitoring wells will be eliminated within two years from the time of discovery at each Contractor lead site. The LOP workplan report in GeoTracker would display all sites that have free product and count the number of sites having free product over two years old. The Contractor would need to enter date of free product discovery and thickness if not uploaded by the RP through the GeoWell file.

**EXHIBIT A**  
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**Task 7 - Suspend Work**

- 7.1. The State Water Board may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work under this agreement for such period of time as the State Water Board determines to be appropriate for the convenience of the State Water Board or because of alleged failure of the Contractor to perform in accordance with the provisions of this agreement. The Contractor shall suspend, delay, or interrupt work as directed in such written order and shall resume the suspended work only upon receipt of written notice to proceed from the State Water Board.
- 7.2. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted for the convenience of the State Water Board, or by an act of the State Water Board in violation of State Water Board obligations under this agreement, or by failure of the State Water Board to act within the time specified in this agreement, an equitable adjustment shall be made for any increase in the cost of performance of work under this agreement (excluding profit) caused by such unreasonable suspension, delay, or interruption and the agreement shall be modified in writing accordingly. No equitable adjustment shall be made under this "Exhibit" for any suspension, delay, or interruption to the extent that (1) performance would have been so suspended, delayed, or interrupted by any other cause, including fault or negligence on the part of the Contractor, or (2) to the extent that performance is suspended, delayed, or interrupted due to failure or default of the Contractor in fulfillment of any obligation under this agreement, or (3) for which an equitable adjustment is provided for or excluded under any other provision of this agreement.
- 7.3. No Contractor claim under "**Suspension of Work**" for alleged increase in costs due to suspension, delay, or interruption of work shall be allowed (1) for any costs incurred more than ten (10) days prior to written notice from the Contractor stating that the Contractor asserts that an act or failure to act by the State Water Board has or is suspending, delaying, or interrupting work under the agreement (but this requirement shall not apply to a written suspension order issued by the State Water Board), and (2) unless the amount of monetary claim by the Contractor is asserted in writing and provided to the State Water Board as soon as practical after the termination of such suspension, delay, or interruption.
- 7.4. No suspension order issued by the State Water Board because of alleged fault or negligence on the part of the Contractor, or because of alleged failure or default of the Contractor in fulfillment of any obligation under this agreement, shall be deemed to preclude the State Water Board from thereafter terminating this agreement for the same fault, negligence, failure, or default which gave rise to the suspension order.
- 7.5. If it is ultimately determined that alleged fault or negligence on the part of the Contractor did not occur, and that the Contractor was not guilty of any failure or default in fulfillment of agreement obligations, the suspension order shall be deemed to have been given for the convenience of the State Water Board and the agreement price shall be equitably adjusted as provided in Task 7.2 above.

**Task 8 – Oversee Open Case Planning**

- 8.1. The Contractor shall review each open case and oversee the development of an Open Case Plan within this contract period. The Open Case Plan will consist of a determination of site status and

**EXHIBIT A**  
Scope of Work

a work plan including schedule and timeline (Gantt Chart) for all site activities/work through issuance of a no further action letter [H&SC 25296.1 (c) (2)].

8.2. The Contractor shall upload all Contractor's correspondence to GeoTracker monthly.

**Deliverables**

8.1 Open Case Plan

8.2 Upload all Contractor's correspondence to GeoTracker monthly

**9. Schedule of Completion Dates**

Task 8.1	Open Case Plan	June 30, 2009
Task 8.2	Upload all Contractor's correspondence to GeoTracker	Monthly FY 08-09



**Exhibit B**  
**Budget Detail and Payment Provisions**

**1. Invoicing**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State Water Board agrees to compensate the contractor for actual expenditures incurred in accordance with the budget(s) attached hereto.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than quarterly in arrears to:

Jennifer Jorden, Program Analyst  
State Water Resources Control Board  
Division of Water Quality  
1001 I Street, 15<sup>th</sup> Floor  
Sacramento, CA 95814

- C. Invoices shall:
  - 1) Be prepared on agency letterhead. If invoices are not on produced letterhead, invoices must be signed by an authorized official, employee, or agent certifying that the expenditures claimed represent actual expenses for the service performed under this contract.
  - 2) Bear the contractor's name as shown on the agreement.
  - 3) Identify the billing and/or performance period covered by the invoice.
  - 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Only those costs and/or cost categories expressly identified as allowable in this agreement may be reimbursed.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State Water Board shall have no liability to pay any funds whatsoever to the contractor or to furnish any other considerations under this Agreement and the contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State Water Board shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the contractor to reflect the reduced amount.

**3. Payment**

- A. Costs under this agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.

**B. Advance Payment**

No advance payment is allowed under this agreement.

**4. Timely Submission of Final Invoice**

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this Agreement, unless a

**Exhibit B**  
**Budget Detail and Payment Provisions**

later or alternate deadline is agreed to in writing by the Contract Manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of the State Water Board under this Agreement have ceased and that no further payments are due or outstanding.

- B. The State Water Board may, at its discretion, choose not to honor any delinquent final invoice if the contractor fails to obtain prior written State Water Board approval of an alternate final invoice submission deadline. Written State Water Board approval shall be sought from the Contract Manager prior to the expiration or termination date of this Agreement.

**5. Amounts Payable**

- A. The amounts payable under this agreement shall not exceed:  
  
\$118,700 for the budget period of July 1, 2008 through June 30, 2009.
- B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the State fiscal year in which services are performed and/or goods are received.

**6. Budget Flexibility**

- A. Subject to the prior review and approval of the Contract Manager, line item shifts of up to \$25,000 or 10% of the annual contract total, whichever is less, may be made up to a cumulative maximum of \$25,000 or 10%, whichever is less, for all line item shifts over the life of the contract.
- B. There must be a substantial business justification for any shifts made. Fund shifts which increase Indirect, Overhead or General Expense line items are prohibited.
- C. Line item shifts may be proposed/requested by either the State Water Board or the Contractor in writing and must not increase or decrease the total contract amount allocated. Any line item shifts must be approved in writing by the Deputy Director of the Division of Water Quality, or his or her designee, and must be sent to the Contracts Office within 10 days of approval for inclusion in the contract folder.
- D. If the contract is formally amended, any line item shifts agreed to by the parties must be included in the amendment.

**7. Reimbursement Limitations:**

- A. Contractor shall not be reimbursed for invoices submitted after September 30, 2009.
- B. Contractor shall not be reimbursed for any site activities for which local fees have been levied to cover Contractor expenses, e.g., oversight of the removal or in-place closure of the UST.
- C. Contractor shall be limited to reimbursement of costs actually incurred in administration of the LOP, provided the total reimbursement shall not exceed \$141 per hour multiplied by the total hours of site-specific oversight work performed. The \$141 maximum is based on a cumulative average of all current-year invoices submitted to date.

**Exhibit D**  
**Additional Provisions**

**1. Contract Amendments**

Should either party, during the term of this agreement, desire a change or amendment to the terms of this Agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by both parties and the Department of General Services (DGS), if DGS approval is required.

**2. Cancellation / Termination**

- A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from the State Water Board, County of Orange shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. County of Orange shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.

**3. Dispute Resolution Process**

If County of Orange believes there is a dispute or grievance between County of Orange and the State Water Board, both parties shall follow the two-step procedure outlined below.

- A. County of Orange should first discuss the problem informally with the State Water Board program contract manager. If the problem cannot be resolved at this stage, County of Orange must direct the grievance together with any evidence, in writing, to the program Section Chief. The grievance must state the issues in dispute, the legal authority or other basis for County of Orange position and the remedy sought. The Section Chief must make a determination on the problem within ten (10) working days after receipt of the written communication from County of Orange. The Section Chief shall respond in writing to County of Orange indicating the decision and reasons therefore. Should County of Orange disagree with the Section Chief's decision, County of Orange may appeal to the second level.
- B. County of Orange must prepare a letter indicting why the Section Chief's decision is unacceptable, attaching to it County of Orange original statement of the dispute with supporting documents along with a copy of the Section Chief's response. This letter shall be sent to the Division Chief of the division in which the section is organized within ten (10) working days from receipt of the Section Chief's decision. The Division Chief or designee shall meet with County of Orange to review the issues raised. A written decision signed by the Division Chief or designee shall be returned to County of Orange within twenty (20) working days of receipt of County of Orange's letter.

**Exhibit D**  
Additional Provisions

**4. Audit and Record Retention**

- A. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purposes of this provision.
- B. The Contractor's and/or Subcontractor's facility or office or such part thereof as may be engaged in the performance of this agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- C. Contractor agrees that the State Water Board, the Department of General Services, the Bureau of State Audits, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this agreement. (GC 8546.7, CCR Title 2, Section 1896).
- D. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this agreement, or by subparagraphs (1) or (2) below.
  - 1) If this agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - 2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- E. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- F. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this agreement, reduce its accounts, books and records related to this agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

**Exhibit D**  
Additional Provisions

**5. Performance Evaluation**

- A. The Contractor's performance under this agreement shall be evaluated at the conclusion of the term of this agreement. The evaluation shall include, but not be limited to:
- 1) Whether the contracted work or services were completed as specified in the agreement and reasons for and amount of any cost overruns.
  - 2) Whether the contracted work or services met the quality standards specified in the agreement.
  - 3) Whether the Contractor fulfilled all requirements of the agreement.
  - 4) Factors outside the control of the Contractor, which caused difficulties in contractor performance. Factors outside the control of the Contractor shall not include a Subcontractor's poor performance.
- B. The evaluation of the Contractor shall not be a public record.

**6. Progress Reports or Meetings**

- A. Contractor shall submit progress reports or attend meetings with state personnel at intervals determined by the State Water Board to determine if the Contractor is on the right track, whether the project is on schedule, provide communication of interim findings, and afford occasions for airing difficulties or special problems encountered so that remedies can be developed quickly.
- B. At the conclusion of this agreement and if applicable, Contractor shall hold a final meeting at which Contractor shall present any findings, conclusions, and recommendations. If required by this agreement, Contractor shall submit a comprehensive final report.

**7. Freeze Exemptions**

- A. Contractor agrees that any hiring freeze adopted during the term of this contract shall not be applied to the positions funded, in whole or part, by this contract.
- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this contract.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this contract shall not restrict travel funded, in whole or part, by this contract.
- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this contract shall not restrict or limit purchases funded, in whole or part, by this contract.

**8. Avoidance of Conflicts of Interest by Contractor**

- A. The State Water Board intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, State Water Board reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any

**Exhibit D**  
Additional Provisions

source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to the State Water Board review and prior approval.

B. Conflicts of interest include, but are not limited to:

- 1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the contract.
- 2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

C. If the State Water Board is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by the State Water Board to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by the State Water Board and cannot be resolved to the satisfaction of the State Water Board, the conflict will be grounds for terminating the contract. State Water Board may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

**9. Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact.