

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: ENVIRONMENTAL RESOURCES KMW

BOARD AGENDA # *B-7

Urgent Routine x

AGENDA DATE September 18, 2001

CEO Concurs with Recommendation YES ph NO
(Information Attached)

4/5 Vote Required YES NO ✓

SUBJECT:

APPROVAL OF UNDERGROUND STORAGE TANK LOCAL OVERSIGHT
PROGRAM CONTRACT No. 01-019-550-0 WITH THE STATE WATER
RESOURCES CONTROL BOARD

STAFF
RECOMMEN-
DATIONS:

1. APPROVE LOCAL OVERSIGHT PROGRAM CONTRACT No. 01-019-550-0 WITH THE STATE WATER RESOURCES CONTROL BOARD.
2. AUTHORIZE THE DIRECTOR OF ENVIRONMENTAL RESOURCES TO SIGN THE CONTRACT AND PURCHASE THE SUPPLIES AND EQUIPMENT INCLUDED IN THE CONTRACT BUDGET.
3. AUTHORIZE THE DIRECTOR OF ENVIRONMENTAL RESOURCES TO APPROVE ANY FUTURE AMENDMENTS TO CONTRACT No. 01-019-550-0 NOT EXCEEDING THE ORIGINAL CONTRACT AMOUNT.

FISCAL
IMPACT:

The contract provides for reimbursement of approximately \$258,000.00 in County Costs incurred by the Local Oversight Program. Reimbursed funds will be placed in the Underground Storage Tank Pilot Program Budget Index No. 0034210. This amount was included in the 2001-2002 fiscal year budget.

BOARD ACTION

No. 2001-707

On motion of Supervisor Simon, Seconded by Supervisor Caruso
and approved by the following vote,

Ayes: Supervisors: Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: Mayfield

Abstaining: Supervisor: None

1) X Approved as recommended

2) Denied

3) Approved as amended

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Christine Ferraro Deputy

File No.

APPROVAL OF UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM
CONTRACT WITH THE STATE WATER RESOURCES CONTROL BOARD
PAGE 2

DISCUSSION: Stanislaus County has contracted with the State Water Resources Control Board since 1988 to oversee the investigation and cleanup of leaking underground storage tanks in the county. Contract No. 0-020-550-0, which covered fiscal year 2000-2001, expired on June 30, 2001. The State Water Resources Control Board has submitted a new contract for fiscal year 2001-2002 to the county for consideration. The total amount of the contract is \$258,000.00. The Department and County Counsel have reviewed the contract and concurs with the contract language. There are two notable changes from the previous contract. The County must consider the methods described in the MTBE Guidelines and implement the time frames for site investigation and cleanup. The other change requires our Department to use the new statewide GEIMS GeoTracker database. GeoTracker is a Internet-based geographic information system database providing online access to environmental data.

The Department recommends the Director of Environmental Resources sign Contract No. 01-019-550-0, a copy which is available for review from the Clerk of the Board, and marked Attached "A". The State requires the Department to submit documentation of the Board's authorization to execute the contract and any amendments thereto.

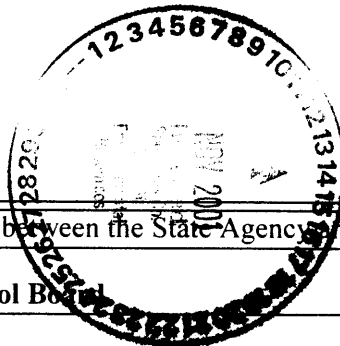
To facilitate future amendments to the contract, we are requesting authority for the director of Environmental Resources to approve future amendments to the contract. Contract amendments are usually made to change contract terms or to extend the contract.

POLICY
ISSUE:

The Board approval of this request will allow the Department and the County to continue participating in a state wide underground storage tank local oversight program and take a major role in addressing serious soil and groundwater contamination in the County. The Board's approval of this report is consistent with its goal of a safe and healthy community.

STAFF
IMPACT:

Included in the final Department Budget is one additional staff member. The cost will be covered within the \$258,000.00 contract agreement with the SWRCB. Future contract agreements will continue to cover the cost for the position.



AGREEMENT NUMBER 01-019-550-0	AMENDMENT NUMBER
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- This Agreement is entered into between the State Agency and the Contractor named below
 STATE AGENCY'S NAME
State Water Resources Control Board
 CONTRACTOR'S NAME
County of Stanislaus
- The term of this Agreement is: **July 1, 2001 through June 30, 2002**
- The maximum amount of this Agreement is: **\$ 258,000.00**
Two hundred fifty eight thousand 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	(<u>12</u> Pages)	
Exhibit B – Budget and Payment Provisions	(<u>4</u> Pages)	
* Exhibit C – General Terms and Conditions	GTC201 (Number)	2/2001 (Dated)
Exhibit D - SWRCB Additional Provisions	5 Pages	
Exhibit E - Federal Provisions	3 Pages	

**View at www.dgs.ca.gov/contracts*

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of Stanislaus		<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="margin: 0;">APPROVED</p> <p style="margin: 0; font-size: 1.2em;">NOV 6 2001</p> <p style="margin: 0; font-size: 0.8em;">DEPT OF GEN SERVICES</p> </div> <div style="font-size: 2em; margin-top: 20px; text-align: center;"> </div>
BY (Authorized Signature) <i>Kevin M. Williams</i>	DATE SIGNED (Do not type) <i>10/1/01</i>	
PRINTED NAME AND TITLE OF PERSON SIGNING KEVIN M. WILLIAMS		
ADDRESS 3800 Cornucopia Way, Suite C Modesto, CA 95358		
STATE OF CALIFORNIA		
AGENCY NAME State Water Resources Control Board		
BY (Authorized Signature) <i>Bill Brown</i>	DATE SIGNED (Do not type) <i>10/22/01</i>	
PRINTED NAME AND TITLE OF PERSON SIGNING Bill Brown, Chief, Division of Administrative Services		
ADDRESS 1001 I Street, Sacramento, CA 95814		
		<input type="checkbox"/> Exempt per

1. Project Officials:

- A. The State Water Board's Contract Manager shall be **Lori Casias** of the Division of Clean Water Programs. The Contract Manager shall be the day-to-day representative for administration of this agreement, and, except as otherwise specifically provided, shall have full authority to act on behalf of the State Water Board's Executive Director, or designee, may also perform any and all acts which could be performed by the Contract Manager under this agreement. Except as otherwise expressly provided, all communications relative to this agreement shall be given to the Contract Manager.
- B. The Contractor's Project Director shall be **Kevin Williams**. The Project Director shall be the Contractor's representative for the agreement and shall have full authority to act on behalf of the Contractor. All communications given to the Project Director shall be as binding as if given to the Contractor.
- C. The parties may change their Contract Manager or Project Director upon providing ten (10) days written notice to the other party.

2. Regional Board:

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

3. Work To Be Performed:

The Contractor agrees to provide all labor, materials and equipment necessary to conduct an underground storage tank corrective action program to identify and oversee the investigation and cleanup of unauthorized releases from petroleum underground storage tanks within its jurisdiction 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.

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 Registered Geologist or Professional Engineer to comply with the applicable requirements of the Business and Professions Code for engineering or geologic analysis and interpretation.

Contractor further agrees to provide services in accordance with the Local Oversight Program Guidebook (LOP Guidebook) which is hereby incorporated by reference and which may be subjected to changes from time to time.

4. Scope of Work:

The Contractor shall be responsible for overseeing the planning, scheduling and performance of all work set forth hereinbelow, including but not limited to, the maintenance of site specific records, as described in Exhibit B, and the preparation of reports as specified in Exhibit A, Reports. Contractor shall maintain the official site-specific records pertaining to each site placed in the Local Oversight Program (LOP) and provide for public access to those records for review and copying. Contractor's Project Director shall promptly notify the State Water Board's Contract Manager of events or proposed changes which could affect the scope, budget, or schedule of work performed under this agreement. Contractor shall, at a minimum, consider methods described in the Leaking Underground Fuel Tank (LUFT) Field Manual and the MTBE Guidelines provided as a staff draft by the Board in March 2000 and conform with all local air quality maintenance district rules and regulations when performing investigation and remedial work under this agreement. The contractor shall 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 local agency shall consult with the appropriate Regional Board to determine whether the cleanup is funded through the Defense Environmental Restoration Account (DERA) or through Base Realignment Closure (BRAC). Any cleanup identified as DERA or BRAC funded shall be immediately referred to the Regional 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.

Task 1: Confirm Release and Determine Funding Source

- A. Contractor shall oversee confirmation of all suspected Underground Storage Tank (UST) release sites within its jurisdiction. Included in this task are 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 plumbing or sampling adjacent soil or water including any necessary uncovering of the UST and/or associated plumbing. Contractor shall verify that a Unauthorized Release Form has been filed by the responsible party for each new release. 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. 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 Board to transfer lead status of a site to the Regional Board. Contractor shall notify the State Water Board of any transfer agreement. If the Contractor and Regional Board cannot reach agreement, the State Water Board's Contract Manager must be informed.

EXHIBIT A - SCOPE OF WORK

SWRCB No. 01-019-550-0
County of Stanislaus

- C. Federal Petroleum Trust Fund moneys may only be used at sites which involve petroleum releases from a UST as defined by Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code, as added by the Hazardous and Solid Waste Amendment of 1984 (P.L. 98-616), or as it may subsequently be amended or supplemented, and the regulations adopted pursuant thereto. For purposes of this agreement and use of Federal Petroleum Trust Fund, such a UST includes any one or a combination of tanks (including underground pipes connected thereto) which is or was used to contain an accumulation of petroleum where the volume of the UST (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground.

Such a UST does not include:

- 1) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes; nor
- 2) a tank of any capacity which stores heating oil for consumptive use on the premises where stored; nor
- 3) a tank with a capacity of 110 gallons or less; nor
- 4) storage tanks situated in an underground area such as a basement or cellar if the storage tank is situated upon or above the surface of the floor; nor
- 5) any other facilities specifically excluded from the definition of a UST by Subchapter IX (commencing with Section 6991) of Title 42 of the United States Code and regulations in implementation thereof.

Federal Petroleum Trust Funds may be used at either publicly or privately owned sites which otherwise fulfill the federal definition of a UST.

- D. State funds may only be used at sites which involve petroleum releases from a UST as defined by Section 25299.24 of the California Health and Safety Code. 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 2621 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 which 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 which is located at the residence of a person which has a capacity of 1,100 gallons or less which 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 specifically excluded from the definitions of a UST by Section 25281(x) of the California Health and Safety Code or excluded from regulation under 25283.5 of California Health and Safety Code.

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:

EXHIBIT A - SCOPE OF WORK

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- 1) 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;
- 2) cannot be located on a farm or property that was used for agricultural purposes since January 1, 1985;
- 3) cannot have been used for agricultural purposes since January 1, 1985; and
- 4) must be located at the residence (owner occupied single family dwelling or duplex) when the release was discovered.

State funds may be used at a private or locally owned site which meets the state definition above but may not be used for state or federally owned sites.

- E. Unless prior approval to use state funds is given by the State Water Board's Contract Manager, all site-specific work shall be federally funded. In the event that the site in question does not involve a petroleum UST which meets the definition in Subchapter IX (commencing with Section 6991) of Title 42 of the United States Code and regulations in implementation thereof, Contractor shall advise the State Water Board's Contract Manager of the situation and seek authority from the State Water Board's Contract Manager for use of state funds for site work at such site. State funds shall not be used at such a site without prior approval of the State Water Board's Contract Manager.
- F. Sites which involve actual or suspected nonpetroleum releases shall not be the subject of any work under this agreement, except that those sites which involve nonpetroleum releases associated with petroleum releases may be the subject of work under this agreement. Site specific costs for sites of commingled petroleum and nonpetroleum releases where the tank involved meets the definition of a petroleum UST under Subchapter IX (commencing with Section 6991) of Title 42 of the United States Code shall be federally funded. The Contractor shall seek prior authority from the State Water Board's Contract Manager for use of state funds at all other commingled release sites. Any and all site costs at sites which are ultimately determined not to involve petroleum releases are ineligible for reimbursement under this agreement. Such sites shall be referred to the Regional Boards or handled by the local agency at its own expense.
- G. Local agency program management costs shall be funded from either state or federal funds as from time to time directed by the State Water Board's Contract Manager based on remaining fund balances in state and federal accounts.
- H. The State Water Board shall have the right to redirect funding sources for all agreement work at any time at the discretion and option of the State Water Board.

Task 2: Identify and Notify Owner

- A. Contractor shall identify the Responsible Party or Parties and conduct an appropriate investigation to make such identification. This investigation shall, at minimum, include a review of land title records at the County Recorder's Office to identify the last assessee of record. Work shall not take place at any site prior to the time that a Responsible Party has been identified.

- B. In all cases proposed for funding from the Federal Petroleum Trust Fund, the Contractor shall attempt to identify at least one party who is designated as a Responsible Party under the federal Resource Conservation and Recovery Act (RCRA). When such party or parties have been identified, the Contractor shall broaden the identification process to include identification of all other Responsible Parties. If no apparent RCRA Responsible Party can be located, the site shall be considered abandoned for purposes of use of Federal Petroleum Trust Fund monies and any other Responsible Parties shall be identified by Contractor. Upon such identification federal monies may be used for necessary site work.
- C. Prior to initiating work at a site, Contractor, using language specified by the State Water Board (see Section 8 of LOP Guidebook), shall notify each Responsible Party who has been identified of his or her 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. Contractor shall notify each Responsible Party of the names and addresses of other Responsible Parties on those sites which have multiple Responsible Parties and the criteria by which a determination of secondary responsibility may be made. If a responsible Party requests that they be considered secondarily responsible, then 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.

The notice to each Responsible Party shall indicate that, if the primary Responsible Party fails to perform corrective action, then the secondary Responsible Party or Parties will be considered a primary Responsible Party. If the determination as to who is a Responsible Party should change, the previously notified Responsible Parties must be notified of the change and the basis for such change, by certified mail return receipt requested.

Section 25297.15 of the Health and Safety Code requires the primary or active Responsible Party to notify all current record owners of fee title 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. 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. This language is in Section 8 of the LOP Guidebook, and informs the Responsible Party of these requirements.

Task 3: Preliminary Site Assessment

EXHIBIT A - SCOPE OF WORK

SWRCB No. 01-019-550-0
County of Stanislaus

- A. The Contractor shall oversee performance of a preliminary assessment of UST sites when unauthorized releases of petroleum have been confirmed. 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, Contractor shall follow procedures established by the State Water Board 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, Contractor shall proceed to Tasks 4 through 9, as appropriate.

Task 4: Determine Site Status And Notify State Water Board

Based on data collected and analyzed during the preliminary site assessment, 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 investigation and cleanup action. Upon making this determination, Contractor shall take one of the following actions:

- A. If the site has been satisfactorily cleaned up, Contractor shall certify that fact as specified in "TASK 8: CERTIFICATION" and provide the appropriate Regional Boards 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 site investigation and cleanup is indicated, Contractor shall continue with TASKS 5 through 9.

Task 5: Conduct Remedial Investigation, Develop Feasibility Study And Approve Corrective Action Plan

- A. 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 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. Contractor shall seek concurrence on determination of beneficial uses from the Regional Board.

Whenever dissolved product is present in the ground or surface water or there is a risk that this may occur or for other good cause as determined by Contractor, a soil and water investigation shall be performed in accordance with California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, Section 2725. 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. Contractor shall oversee the preparation of a feasibility study report which identifies and evaluates feasible alternatives for cleaning up the site and remedying 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. In addition, improved technologies (technologies that are proven but currently used today only on a limited basis) may be used to speed up site assessment and remediation.
- C. 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. Contractor shall concur on the corrective action plan only after 1) considering all input and recommendations from any responsible landowner, and 2) concluding that implementation of the plan will adequately protect human health, safety, and the environment.
- D. The schedule, format and procedure for concurrence on the corrective action plan is to be established by Contractor. One or more documents may be used to meet all requirements for the corrective action plan.

Task 6: Deleted

Task 7: Remedial Action

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

Task 8: Post Remedial Action Monitoring

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

Task 9: 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 and will be provided on GEIMS Geotracker. This form must be signed by the Environmental Health Director (or equivalent) and forwarded to the appropriate Regional Board Executive Officer and to all Responsible Parties and landowners identified pursuant to Sections 25297.1 and 25297.15 of the Health and Safety Code. Signature authority may be delegated to a qualified individual within Contractor's organization upon written notification from the Environmental Health Director (or equivalent) to the State Water Board Contract Manager. If the Regional Board and Contractor agree that Regional Board review of closure data for soil only sites is not necessary, Contractor shall submit copies of the Case Closure Summary to the Regional Board as specified in TASK 5.
- B. Case Closure Summary must be submitted to the Regional Board and must be complete. Additional information may be submitted with mutual agreement between Regional Board staff and the Contractor. Qualified Regional Board staff shall have 30 calendar days from date of receipt of the Case Closure Summary to determine whether there are problems with closure. If the Regional Board does not notify Contractor of concerns within the 30-day period, the case is considered closed and Contractor shall certify that remedial action is complete and provide the State and appropriate Regional Board with documentation to that effect.
- C. If Regional Board staff express concerns with a proposed closure, Contractor must respond to the concerns prior to site closure. Such concerns shall be detailed in written correspondence addressed to Contractor by the Regional Board Executive Officer. The Regional Board must forward a copy of all such correspondence to the State Water Board Contract Manager. Should the Regional Board need additional information that will extend the 30-day review period, a new Regional Board review period shall be mutually agreed to by the Contractor and Regional Board and identified in the letter. Disputes regarding closures that are not resolved between Contractor and Regional Board staff shall be referred to the State Water Board Contract Manager. Cases may be closed sooner than the 30-day period if Contractor is so notified by a qualified staff person from the Regional Board.
- D. Before issuing the closure letter 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 diesel or jet fuel site if there is evidence that MTBE may have been, or is, present at the site.
- E. The Remedial Action Completion Certification shall be identical to the language specified in Section 6 of the LOP Guidebook. The letter shall be signed by the Environmental Health Director and mailed to the Responsible Party or Parties for the site. Contractor shall submit copies of the Case Closure Summary and Remedial Action Completion Certification to the appropriate Regional Board and UST Cleanup Fund Program Manager at the time the letter is mailed to the Responsible Party.

Task 10: Review Of Closed Sites

Based on criteria provided by the State Water Board, Contractor shall review the files on previously closed sites that need to be reopened due to concerns about MTBE and other oxygenates. Contractor shall reopen previously closed cases where necessary to perform additional corrective action.

5. Enforcement:

All necessary and warranted enforcement actions should be taken by the Contractor. Where action is not feasible or not timely, Contractor should seek enforcement actions through the appropriate Regional Board. Any sites referred to the Regional Board for enforcement should remain in the Local Oversight Program.

6. REPORTS AND REPORTING DATES:

- A. Contractor shall submit reports in accordance to the schedule outlined in Section 10 of the LOP Guidebook. Site-specific information must be provided to the appropriate Regional Board.
- B. Contractor shall submit a regular, quarterly written summary to the State Water Board. Said report shall be in a standard format as described in Section 5 of the LOP Guidebook. Contractor shall use the GEIMS Geotracker data dictionary, fields, and valid values, either by entering and editing data via the Internet or by uploading data weekly using database tools provided by the SWRCB. Until the SWRCB has provided the tools necessary for contracting agencies that will be uploading data, those agencies do not have to change their data management system.
- C. Contractor shall ensure the appropriate Regional Board receives copies of all UST release related correspondence with Responsible Parties or their consultants unless the Regional Board states that it does not want to receive copies. This will include copies of all technical reports, feasibility studies and remedial action plans. Contractor may direct the responsible parties and their consultants to submit such information directly to the Regional Board.
- D. Contractor shall report to the State and Regional Boards 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. State Water Board will make a decision on a case-by-case basis, regarding the disposition of those sites.
- E. Contractor shall cease all work at Local Oversight Program sites that are being relinquished under Health and Safety Code, Division 20, Chapter 6.7 and with respect to such will advise the State Water Board of all site addresses, Responsible Parties and Responsible Party addresses.
- F. Prior to Contractor submitting data to GEIMS Geotracker electronically, on a quarterly basis, Contractor shall provide the appropriate Regional Board with a list of all sites where MTBE was detected during that quarter. The list shall also include the highest recorded concentration at each site.
- G. Contractor shall provide to the State Water Board by September 30, 2001 information regarding its utilization of Minority Business Enterprises and Women Business Enterprises (MBE/WBE) during fiscal year 2001/2002 with regard to any subcontract work or supplies/equipment purchased. Transmission of this information to the State Water Board shall be in accordance with Section 12 of the LOP Guidebook.

7. Public Participation:

- A. Contractor shall comply with provisions of Underground Storage Tank Regulations, Article 11, Section 2728, Public Participation requirements.

EXHIBIT A - SCOPE OF WORK

**SWRCB No. 01-019-550-0
County of Stanislaus**

- B. Contractor shall design and implement a UST release case reporting procedure which complies with requirements of Health and Safety Code, Section 25180.7.
- C. Contractor shall certify on all UST release reports submitted pursuant to Exhibit A, Reports that the reporting requirements of Health and Safety Code 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 required.

8. Quality Assurance:

- A. State Water Board's "Quality Assurance Project Plan for Laboratory Contracts to Provide Services for the Underground Storage Tank Cleanup Local Oversight Program" (QAPP) has been approved by USEPA, and addresses the following areas: intended use by local agencies, quality assurance personnel, quality assurance objectives, sampling procedures, sample custody, analytical procedures, data reduction and validation, reporting, checks and audits, preventative measures, quality control procedures, and corrective action.
- B. Contractor must comply with all applicable QAPP requirements when using agreement funds for taking soil or water samples.

9. Petition:

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, Contractor shall provide a copy of the complete site file to the State Water Board.

When 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 Department Director level.

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 Board, must be set forth in a written agreement between the Regional 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 be 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 Contractor denies that request, the following paragraph shall be included in Contractor's letter to Responsible Party:

"This decision is subject to appeal to the Manager of the Underground Storage Tank Cleanup Fund, pursuant to Section 25299.39.2(b) of the Health and Safety Code (Thompson-Richter Underground Storage Tank Reform Act - Senate Bill 562). Please contact the Fund at (800) 813-FUND for information regarding the appeal process."

10. Technical Assistance and Training:

- A. The State and Regional Boards will:

EXHIBIT A - SCOPE OF WORK

SWRCB No. 01-019-550-0
County of Stanislaus

- provide reasonable and appropriate technical assistance to the Contractor to aid in the cleanup of sites. This assistance will include, providing available information on (1) chemical constituents, (2) toxicology, (3) environmental fate, and (4) risk appraisal. In addition, guidance documents will be prepared as needed;
 - research available information as requested by the Contractor regarding constituents of petroleum products stored in underground tanks. This information may include chemical/physical properties, environmental fate properties, toxicity, flammability, corrosiveness, and applicable laws, regulations and regulatory criteria;
 - use in-house information to assist in conducting risk appraisals to be used in making cleanup decisions for petroleum 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; and
 - prepare appropriate guidance documents to assist the Contractor performing work covered under this agreement. These documents will 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.
- B. The State Water Board will provide annual training courses on (1) UST site inspection, monitoring, cleanup and closure procedures and (2) health and safety procedures for employees of the Contractor. Such training will be provided at least once each year at locations in both northern and southern California.

11. Suspension of Work:

- A. 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.
- B. 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 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.

EXHIBIT A - SCOPE OF WORK

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- C. 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.
- D. 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.
- E. 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 paragraph B above.

2001-2002 AGREEMENT BUDGET**A. BUDGET**

SALARIES AND BENEFITS:

0.03	PROGRAM SUPERVISOR	(\$9,222.22/ MONTH)	\$ 3,320
0.50	HAZMAT SPECIALIST	(\$5,811.83/ MONTH)	34,871
0.42	HAZMAT SPECIALIST	(\$4,329.96/ MONTH)	21,823
0.50	HAZMAT SPECIALIST	(\$6,676.83/ MONTH)	40,061
0.11	SECRETARY	(\$3,360.61/ MONTH)	4,436
1.00	REGISTERED GEOLOGIST	(\$5,816.67/ MONTH)	69,800
0.50	CLERICAL ASSISTANT (CONTRACT EMPLOYEE) 500 hrs @ \$10 per hr		<u>5,000</u>
TOTAL SALARIES & BENEFITS			\$ 179,311

INDIRECT COSTS: (38.42% of Salaries and Benefits **excluding Clerical Assistant**) \$ 66,970

SERVICES AND SUPPLIES:

Audit	\$ 1,000
Training/Conferences	2,700
Sampling	2,000
Personal Safety Equipment/Supplies	350
County Transportaion Cost	<u>410</u>
TOTAL SERVICES/SUPPLIES	\$ 6,460

PROPERTY BUDGET:

2 Computers (Standard) w/tax	\$ 3,600
2 Digial Camera w/Adobe Photo Deluxe w/tax	<u>1,659</u>
	\$ 5,259
TOTAL BUDGET	\$ 258,000

In the event the funds provided by the SWRCB are used for this agreement or future amendments to this agreement for procurement of goods or subcontracted services, such procurements shall be made in accordance with the Contractor's federally approved or State-based purchasing system.

B. LIMITATION FOR FUNDING

The maximum amount payable under this agreement shall not exceed \$258,000.

Limitation of State Liability: The maximum amount to be encumbered under this agreement for the 2001 fiscal year ending June 30, 2002 shall not exceed \$258,000.

If funding for this fiscal year is reduced or deleted by the Legislature for purposes of this program, the state shall have the option to either: cancel this agreement with no liability occurring to the State, or offer a amendment to the Contractor to reflect the reduced amount.

C. INVOICING PROCEDURES

Contractor shall be paid no more frequently than monthly nor less frequently than quarterly in arrears upon submission of an invoice which properly details all expenses, both direct and indirect. Invoices shall be submitted to:

Cheryle Redmond
Underground Storage Tank Program
Division of Clean Water Programs
1001 I Street, 17th Floor
Sacramento, CA 95814

OR

redmondc@cwpswrcb.ca.gov

1. The approved copy of the invoice or payment request will be forwarded to the State Water Board's Accounting Operations Section by the Contract Manager. Contractors who are certified as a small business or recognized as non-profit organizations by the Office of Small Business Certification and Resources (OSBCR) will be paid in accordance with California Government Code, Title 1, Section 926.15. Invoices for all other contractors shall be paid within 45 calendar days. In either situation, payment of any invoice will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice or payment request. Failure to use the address exactly as provided above may result in return of the invoice or payment request to the Contractor. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. All invoices must be approved by the Contract Manager.
2. The invoice shall contain the following information:
 - (a) The word "**INVOICE**" should appear in a prominent location at the top of the page(s);
 - (b) Printed name of the Contractor;
 - (c) Business address of the Contractor, including P.O. Box, City, State, and Zip Code;
 - (d) Name of State Water Board being billed;
 - (e) The date of the invoice;
 - (f) The number of the agreement upon which the claim is based; and
 - (g) An itemized account of the services for which the State Water Board is being billed;
 - (1) The time period covered by the invoice, i.e., the term "from" and "to";
 - (2) The method of computing the amount due. On cost reimbursable agreements, invoices must be itemized based on the categories specified in the Budget. The amount claimed for salaries/wages/consultant fees must also be explained, i.e., hours or days worked times the hourly or daily rate = the total amount claimed;
 - (3) The total amount due, this should be in a prominent location in the lower right-hand portion and clearly distinguished from other figures or computations appearing on the invoice; the total amount due shall include all costs incurred by the Contractor under the terms of this agreement; and
 - (4) Original signature of Contractor (not required of established firms or entities using preprinted letterhead invoices).

3. Adjustment invoices may be submitted during the term of the agreement. Adjustment invoices are subject to the \$128 limit as specified below under "Reimbursement Limitations."
4. Contractor must submit properly completed invoices in a standard format and using State Water Board forms as described in Section 1 of the LOP Guidebook.
5. All labor costs are limited to direct salary and benefits plus indirect costs not to exceed the proposed rate of **38.42%** percent of direct salary and benefits or proposed amount of **\$66,970.00** specified on the agreement budget, whichever is less. Indirect costs will be allowed in accordance with Office of Management and Budget Circular OMB A-87. OMB A-87 requires that local units of government annually prepare an indirect cost proposal. The component of the indirect billing rate consisting of County central service costs, derived from OMB A-87 Plan, shall not exceed the total approved by the cognizant Federal Agency. Prior to submittal of first invoice, Contractor shall submit documentation to the State Water Board supporting the indirect cost rate. The State Water Board retains the right to review and approve the proposed rate. All indirect cost payments shall be subjected to audit to verify the amount. It is the Contractor's responsibility to make certain that the rate is correct and was determined in accordance with the applicable federal guidelines.
6. Contractor shall maintain site-specific and such other records as are necessary to verify all hours worked and expenses incurred under this agreement. Contractor shall also maintain, as evidence of performance, records of amount of agreement funds received and expended, program income, direct and indirect cost totals, and property purchased or as an in-kind contribution. Such records shall be available for inspection at all reasonable times during the term of this agreement and for three (3) years following final settlement by the State Water Board, EPA or any designated representative.

D. REIMBURSEMENT LIMITATIONS:

1. 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.
2. Contractor shall be limited to reimbursement of costs actually incurred in administration of the LOP, provided the total reimbursement shall not exceed \$128 per hour multiplied by the total hours of site-specific oversight work performed. The \$128 maximum is based on a cumulative average of all current-year invoices submitted to date.

E. Prior to July 1, 2001 Language

1. It is mutually understood between parties that this agreement may have been written and executed prior to July 1, 2001 for the mutual benefit of both parties in order to avoid program and fiscal delays which could occur if the agreement were executed after July 1, 2001.
2. This agreement is valid and enforceable only if sufficient funds are made available by the Budget Act of 2001 for the Fiscal Year 2001-2002 for the purposes of this program. In addition, this agreement is subject to any additional restrictions, limitations, or condition enacted by the Legislature and contained in the Budget Bill or any statute enacted by the Legislature which may affect the provisions, terms, or funding of this agreement in any manner.
3. It is mutually agreed that if the Budget Act of 2001 does not appropriate sufficient funds for the program, this agreement shall be invalid and of no further force and effect. In this

event, the State Water Resources Control 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.

1. **DISPUTES:** Any dispute arising under or relating to the terms of this Agreement, or related to performance hereunder, which is not disposed of by Agreement shall be decided by the Contract Manager, who shall reduce such decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contract Manager shall be final and conclusive unless, within fifteen (15) calendar days from the date of receipt of such copy, the Contractor mails or otherwise delivers a written appeal to the State's Executive Director. The decision of the State's Executive Director, or authorized representative, on such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by any substantial evidence. In connection with any appeal under this Section, the Contractor shall be afforded an opportunity to be heard and to offer evidence and argument in support of the appeal. Pending final decision on any dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement work as directed by the Contract Manager unless the Contractor has received notice of termination. Decisions on any disputes hereunder may include decisions of both fact and law; provided, however, that nothing herein shall be construed as making final any decision on a question of fact or law in the event of any subsequent legal proceeding before a court of competent jurisdiction.

Authority to terminate performance under the terms of this Agreement is not subject to appeal under this Section. All other issues including, but not limited to, the amount of any equitable adjustment, and the amount of any compensation or reimbursement which should be paid to the Contractor shall be subject to the disputes process under this Section. (PCC 10240.5, 10381, 22200 et seq, 40 CFR 31.70)

2. **RIGHTS IN DATA:** The Contractor agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. (40 CFR 31.34, 31.36)
3. **PROPERTY ACQUISITIONS:** Property, as used in this section, shall include:
 - a. Equipment - Tangible property (including furniture) with a unit cost of \$5,000.00 or more and a useful life of four (4) years or more. Actual cost includes the purchase price plus all costs to acquire, install and prepare the equipment for its intended use.
 - b. Furniture - Standard office furnishings including desks, chairs, bookcases, credenzas, tables, coat racks, etc.
 - c. Portable Assets - Items considered "highly desirable" because of their portability and value; e.g., calculators, typewriters, dictaphones, cameras and microscopes.
 - d. Electronic Data Processing (EDP) Equipment - All computerized and auxiliary automated information handling including system design and analysis, conversion of data, computer programming, information storage and retrieval, voice, video and data communications, requisite system controls, simulation and all related interactions between people and machines.

The Contractor may purchase property under this Agreement only if specified in Exhibit "B" (Budget and Payment Provisions). Any property purchased by the Contractor with funds provided under this Agreement shall be the property of the State during the customary depreciable life

thereof. The Contractor shall promptly report any such purchase to the Contract Manager and to the State's Property Officer (Property Officer). Should this Agreement be terminated for any reason, or upon expiration and failure to negotiate renewal hereof, all such property shall be returned to the State within the timeframe negotiated between the Contractor and the State.

Prior written authorization by the Contract Manager shall be required before the Contractor will be reimbursed for any property purchases not specified in the Budget. The Contractor shall provide to the Contract Manager all particulars regarding the necessity for such property and the reasonableness of the cost.

Before property purchases made by the Contractor are reimbursed by the State, the Contractor shall submit paid vendor receipts identifying the Agreement number, purchase price, description of the item, serial number, model number, and location including street address where property will be used during the term of this Agreement. Said paid receipts shall be attached to Contractor's invoices.

The Contractor shall keep adequate and appropriate records of all property purchased with Agreement funds and at the time of purchase prepare a "Property Purchased with State Funds" (Form SWRCB 3-016) and submit one copy to the Contract Manager and one copy to the Property Officer. A copy must be retained by the Contractor.

The State reserves the right at any time to evaluate the cost of property and reimburse at an amount equal to costs reflected in but not limited to Agreements the State Department of General Services, Office of Procurement has negotiated with vendors who supply the same type of property.

All property shall be tagged after acquisition by Contractor in accordance with instructions provided. The purpose of tagging assets is to designate the assets as belonging to the State.

Whenever property is lost, stolen, or destroyed, the Contractor shall immediately report the loss, theft or destruction to the local law enforcement agency (or the California Highway Patrol (CHP) if the crime occurs on either state-owned or state leased property) and to the Contract Manager and prepare a Property Survey Report. In the case of stolen property, the Contractor shall also complete a CHP Report of Crime on State Property form (Std. 99), obtain a copy of the law enforcement agency's report and submit these to the Contract Manager. The Contractor shall adjust its property accounting records and retain a copy of the Property Survey Report as documentation.

Losses of State property due to fraud or embezzlement shall be reported in the same manner as described above. The Contractor shall be charged with any loss and damages to State property due to the Contractor's negligence. Contractor shall, at the request of the State, submit an inventory of property furnished or purchased under the terms of this Agreement. Such inventory will be required not more frequently than annually.

Upon termination, expiration or failure to negotiate renewal of this Agreement, all property purchased with Agreement funds shall promptly be returned to the State. The Contractor shall prepare an "Inventory of State Furnished Property" (Form SWRCB 3-017) and submit to the State and shall at that time query the Contract Manager as to the State's requirements, including the manner and method, in returning said property to the State. Final disposition of such property shall be at State expense in accordance with instructions from the Contract Manager to be issued immediately after receipt of the final inventory.

State policies and procedures applicable to procurement with nonfederal funds shall apply to procurement by Contractor under this Agreement provided that procurements conform to applicable State law and the standards identified in this section. These include but are not limited

to statutes applicable to State agencies, statutes applicable to State college and university public works projects, the California Constitution governing University of California contracting, the State Administrative Manual (SAM), statutes applicable to specific local agencies, applicable city and county charters and implementing ordinances including policies and procedures incorporated in local government manuals or operating memoranda. (40 CFR 31.36) (SCM 7.29)

4. **INCOME RESTRICTIONS:** The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to the State, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the State under this Agreement.
5. **DISCLOSURE REQUIREMENTS:** Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through Agreement with the State. The disclosure statement shall include the Agreement number and dollar amount of all Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report.

If the Contractor or subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports.

The Contractor shall include in each of its subcontracts for work under this Agreement a provision which incorporates the requirements stated within this Section. (Gov. Code 7550, 40 CFR 31.20)

6. **PERMITS, SUBCONTRACTING, WAIVER, REMEDIES AND DEBARMENT:** The Contractor shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Any subcontractors, outside associates, or consultants required by the Contractor in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the Contract Manager during the performance of this Agreement. Any substitutions in, or additions to, such subcontractors, associates, or consultants, shall be subject to the prior written approval of the Contract Manager.

Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter.

Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law.

Contractor shall not subcontract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". Contractor shall not subcontract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477)

7. **TRAVEL AND PER DIEM:** Any reimbursement for necessary traveling and per diem shall be at rates not to exceed those amounts paid to the State's represented employees under collective bargaining Agreements currently in effect. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.

- 8. NOVATION: If the Contractor proposes any novation Agreement, the State shall act upon the proposal within 60 days after receipt of the written proposal. The State may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection may be made orally within the 60-day period, and confirmed in writing within five days. No novation shall become operative or otherwise binding on the State pursuant to this paragraph in the absence of a formal Agreement amendment which has been approved in accordance with all applicable State policy, laws and procedures.

- 9. PRIORITY HIRING CONSIDERATIONS: Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the California Welfare and Institutions Code in accordance with Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institution Code. (PCC 10353 W&I 11200, 11349, 2CCR, 1896.30 SCM 5.3)

- 10. CONTRACT MODIFICATIONS: A contract modification may be used to make minor changes in the work to be performed under this contract if the modified work is within the general scope of work in Exhibit A. The contract modification cannot change the budget, the term, or the method or manner for the performance of the work. The contract modification may be initiated by either project official. The contract modification must be in writing stating the changes and must be signed by both project officials.

- 11. TERMINATION: The State Water Board may terminate performance of work under this agreement upon 30 days written notice.

Any termination shall be effected by written notice to the Contractor, either hand-delivered to the Contractor or sent certified mail, return receipt requested. The notice of termination shall specify the effective date of termination.

Upon receipt of notice of termination, and except as otherwise directed in the notice, the Contractor shall:

- a. Stop work on the date specified in the notice;

- b. Place no further orders or enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the agreement up to effective date of termination;

- c. Terminate all orders and subcontracts;

- d. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;

- e. Deliver or make available to the State Water Board all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the Contractor under this agreement, whether completed, partially completed, or in progress.

In the event of termination, an equitable adjustment in the price provided for in this agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials supplied, and expenses incurred pursuant to this agreement prior to the effective date of termination. (PCC 10253, G.C. 11010.5, 40 CFR 31.36)

12. BUDGET FLEXIBILITY: Subject to the prior review and approval of the contract manager, line items shifts of up to \$25,000 or ten percent of the annual contract total, whichever is less, may be made up to a cumulative maximum of \$50,000 per fiscal year. 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 per fiscal year.

13. COMPUTER SOFTWARE: Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

1. Utilization of Small, Minority, and Women's Businesses: The Contractor agrees that affirmative steps will be taken to assure that qualified small, minority, and women's businesses are used when possible as sources of supplies, construction and services in the performance of United States Environmental Protection Agency (USEPA) grant assisted Agreements and subcontracts. Affirmative steps taken shall include the following:
 - a. Including qualified small, minority, and women's businesses on solicitation lists;
 - b. Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation of small, minority, and women's businesses;
 - d. Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;
 - e. Using the services and assistance of the Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and the State Office of Small Business Certification and Resources (OSBCR) as appropriate; and
 - f. If the Contractor awards subcontracts, requiring the subcontractor to take the affirmative steps in paragraphs a. through e. of this Section. (40 CFR 31.36 (e))

2. Disclosure Requirements: Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through Agreement with the State. The disclosure statement shall include the Agreement number and dollar amount of all Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report.

If the Contractor or subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports.

Any documents which are published by the Contractor shall contain the following statement:

This project has been funded wholly or in part by the USEPA Assistance Agreement. The contents of this document do not necessarily reflect the views and policies of the USEPA, the State, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

The Contractor shall include in each of its subcontracts for work under this Agreement a provision which incorporates the requirements stated within this Section. (Gov. Code 7550, 40 CFR 31.20)

3. Privity: This agreement is funded in whole or in part by a grant from the USEPA. Neither the United States nor any of its departments, agencies, or employees are, or will be, a party to this agreement or any lower tier subcontract nor to any solicitation or request for proposal.

4. Compliance with Federal Regulations: The Contractor understands that the State is obligated, in accordance with its assistance agreement with USEPA to comply with the provisions of federal regulations contained in Title 40 CFR and any conditions in the grant agreement and any amendments thereto. In order to ensure that the State can meet these obligations, the Contractor

warrants, represents, and agrees that it and its subcontractors, employees, and representatives will comply with (1) all applicable provisions of Title 40 CFR and (2) all general and special conditions contained in the USEPA Assistance Agreement.

- 5. Copyrights: The Contractor agrees to and does hereby grant to USEPA a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - a. The copyright in any work developed under this agreement; and
 - b. Any rights of copyright which the Contractor purchases, in whole or in part, with funds provided by this agreement.

- 6. Standards for Financial Management System: The Contractor and all subcontractors shall maintain fiscal control and accounting procedures which are sufficient to:
 - a. Permit preparation of reports required by 40 CFR Part 31 (including those required by 40 CFR Part 31.40 and 31.41) and statutes authorizing the grant.
 - b. Permit tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

A requirement to this effect shall be placed in all subcontracts related to performance of work under this agreement.

- 7. Applicable Cost Principles: The cost principles for this agreement are applicable as set forth below:

- OMB Circular A-87 for State, local or Indian tribal governments,
 - OMB Circular A-133 for Audits of States, Local Governments, and Non-Profit Organizations
 - OMB Circular A-21 for Educational Institutions, or
 - 48 CFR Part 31 for For-profit organizations.

Funds provided under this agreement shall not be used for payment of salaries to individual consultants retained by the Contractor or any subcontractors in excess of the rate for Level 4, Federal Executive Schedule. The limit expressed herein does not include transportation and subsistence costs for necessary travel for work required under this agreement.

- 8. Contingent Funding: It is mutually understood between the parties that this agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays which would occur if the agreement were executed after that determination was made.

This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal year(s) covered by this agreement for the purposes of this program. In addition, this agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this agreement in any manner.

It is mutually agreed that if the Congress does not appropriate sufficient funds for the agreement, the agreement shall be amended to reflect any reduction in funds. The State has the option to

terminate the agreement under the termination clause or to amend the agreement to reflect any reduction of funds.

- 9. Environmental Quality: (For agreements in excess of \$100,000) Contractor and subcontractors shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368) Executive Order 11738, and USEPA regulations (40 CFR Part 15).

Contractor shall comply with mandatory standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Conservation Act (Pub. L.94-163).

- 10. Recycled Paper: Contractor agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to the State. This requirement does not apply to reports which are prepared on forms supplied by USEPA. This requirement applies even when the cost of recycled paper is higher than that of virgin paper.
- 11. Single Audit Act: To the extent applicable, the Contractor shall be subject to and shall comply with the provisions and requirements of the Single Audit Act of 1984 (Pub. L. 98-502) and implementing policies, procedures and guidelines, including applicable circulars issued by the Federal Office of Management and Budget.



State Water Resources Control Board

Lucy



Gray Davis
Governor

Division of Administrative Services

1001 I Street • Sacramento, California 95814 • (916) 341-5082 • FAX (916) 341-5060

Mailing Address: P.O. Box 100 • Sacramento, California 95812-0100

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Winston H. Hickox
Secretary for
Environmental
Protection

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>.*

MAY 31 2002

Kevin M. Williams
County of Stanislaus
3800 Cornucopia Way, Suite C
Modesto, CA 95358

RE: AGREEMENT NO. **01-019-550-1 (amendment #1)**

Enclosed for your records is a fully executed copy of the above referenced agreement. Please take a few minutes to thoroughly read through it to be sure you understand all the terms and conditions.

Request for payment of services completed outside the term of this contract WILL NOT BE PAID. It is imperative that you notify your State Water Resources Control Board Contract Manager immediately, in writing, of any changes or delays that may impact the scope of work or term of this agreement.

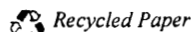
If you have any questions about this agreement, please contact the State Water Resources Control Board Manager responsible for this agreement.

Contracts Section
Division of Administrative Services

Enclosure(s)

SWRCB (Rev. 1/99)

California Environmental Protection Agency



9-18-01
KRM

STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
 STD. 213 A (Rev 9/01)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 3 Pages

AGREEMENT NUMBER 01-019-550-0	AMENDMENT NUMBER 1
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- This Agreement is entered into between the State Agency and Contractor named below:
 STATE AGENCY'S NAME
State Water Resources Control Board
 CONTRACTOR'S NAME
County of Stanislaus
- The term of this Agreement is **July 1, 2001** through **June 30, 2002**
- The maximum amount of this Agreement after this amendment is: **\$258,000.00**
Two hundred fifty eight thousand dollars
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

Standard Agreement #01-019-550-0 originally made and entered into on July 1, 2001 is hereby amended on April 18, 2002 in the following particulars and no others:

Exhibit B - "Budget Detail and Payment Provisions" is hereby amended to read as follows: (deletions are indicated by strikethrough, revisions are bold, and underlined).

All other terms and conditions shall remain the same.

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

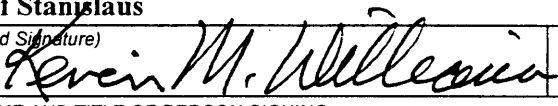
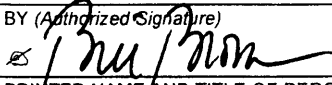
CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of Stanislaus		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 5/9/02	<div style="border: 1px solid black; padding: 5px; text-align: center;"> RECEIVED MAY 28 2002 DEPT OF GENERAL SERVICES </div>
PRINTED NAME AND TITLE OF PERSON SIGNING Kevin M. Williams		
ADDRESS 3800 Cornucopia Way, Suite C Modesto, CA 95358		
STATE OF CALIFORNIA		
AGENCY NAME State Water Resources Control Board		<input type="checkbox"/> Exempt per:
BY (Authorized Signature) 	DATE SIGNED (Do not type) 5/20/02	
PRINTED NAME AND TITLE OF PERSON SIGNING Bill Brown, Chief, Division of Administrative Services		
ADDRESS 1001 I Street Sacramento, CA 95814		

EXHIBIT B - BUDGET & PAYMENT PROVISIONS

**SWRCB No. 01-019-550-01
County of Stanislaus**

2001-2002 AGREEMENT BUDGET

A. BUDGET

SALARIES AND BENEFITS:

0.03	PROGRAM SUPERVISOR	(\$9,222.22/ MONTH)	\$ 3,320
0.50	HAZMAT SPECIALIST	(\$5,811.83/ MONTH)	34,871
0.42	HAZMAT SPECIALIST	(\$4,329.96/ MONTH)	21,823
0.50	HAZMAT SPECIALIST	(\$6,676.83/ MONTH)	40,061
0.11	SECRETARY	(\$3,360.61/ MONTH)	4,436
4.00	REGISTERED GEOLOGIST (CONTRACT EMPLOYEE)		69,800 50,000
0.50	CLERICAL ASSISTANT (CONTRACT EMPLOYEE) 500 hrs @ \$10 per hr		5,000
	<u>HAZMAT SPECIALIST (CONTRACT EMPLOYEE)</u>		0 21,667
TOTAL SALARIES & BENEFITS			\$179,341 <u>181,178</u>

INDIRECT COSTS: (38.42% of Salaries and Benefits **excluding Clerical Assistant**) **\$66,970 40,153**

SERVICES AND SUPPLIES:

Audit		\$1,000 15,000
Training/Conferences		2,700 10,000
Sampling		2,000
Personal Safety Equipment/Supplies		350 3,500
County Transportaion Cost		410
<u>Recruitment/Advertising</u>		0 500
TOTAL SERVICES/SUPPLIES		\$6,460 <u>31,410</u>

PROPERTY BUDGET:

2Computers (Standard) w/tax	\$3,600
2Digial Camera w/Adobe Photo Deluxe w/tax	1,659
	<hr/>
	\$5,259
TOTAL BUDGET	
	\$ 258,000

In the event the funds provided by the SWRCB are used for this agreement or future amendments to this agreement for procurement of goods or subcontracted services, such procurements shall be made in accordance with the Contractor's federally approved or State-based purchasing system.

B. LIMITATION FOR FUNDING

The maximum amount payable under this agreement shall not exceed \$258,000.

Limitation of State Liability: The maximum amount to be encumbered under this agreement for the 2001 fiscal year ending June 30, 2002 shall not exceed \$258,000.

If funding for this fiscal year is reduced or deleted by the Legislature for purposes of this program, the state shall have the option to either: cancel this agreement with no liability occurring to the State, or offer a amendment to the Contractor to reflect the reduced amount.

C. INVOICING PROCEDURES

Contractor shall be paid no more frequently than monthly nor less frequently than quarterly in arrears upon submission of an invoice which properly details all expenses, both direct and indirect. Invoices shall be submitted to:

Cheryle Redmond
Underground Storage Tank Program
Division of Clean Water Programs
1001 I Street, 17th Floor
Sacramento, CA 95814

OR

redmondc@cwpswrcb.ca.gov

1. The approved copy of the invoice or payment request will be forwarded to the State Water Board's Accounting Operations Section by the Contract Manager. Contractors who are certified as a small business or recognized as non-profit organizations by the Office of Small Business Certification and Resources (OSBCR) will be paid in accordance with California Government Code, Title 1, Section 926.15. Invoices for all other contractors shall be paid within 45 calendar days. In either situation, payment of any invoice will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice or payment request. Failure to use the address exactly as provided above may result in return of the invoice or payment request to the Contractor. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. All invoices must be approved by the Contract Manager.
2. The invoice shall contain the following information:
 - (a) The word "**INVOICE**" should appear in a prominent location at the top of the page(s);
 - (b) Printed name of the Contractor;
 - (c) Business address of the Contractor, including P.O. Box, City, State, and Zip Code;
 - (d) Name of State Water Board being billed;
 - (e) The date of the invoice;
 - (f) The number of the agreement upon which the claim is based; and
 - (g) An itemized account of the services for which the State Water Board is being billed;
 - (1) The time period covered by the invoice, i.e., the term "from" and "to";
 - (2) The method of computing the amount due. On cost reimbursable agreements, invoices must be itemized based on the categories specified in the Budget. The amount claimed for salaries/wages/consultant fees must also be explained, i.e., hours or days worked times the hourly or daily rate = the total amount claimed;
 - (3) The total amount due, this should be in a prominent location in the lower right-hand portion and clearly distinguished from other figures or computations appearing on the invoice; the total amount due shall include all costs incurred by the Contractor under the terms of this agreement; and
 - (4) Original signature of Contractor (not required of established firms or entities using preprinted letterhead invoices).
3. Adjustment invoices may be submitted during the term of the agreement. Adjustment invoices are subject to the \$128 limit as specified below under "Reimbursement Limitations."

4. Contractor must submit properly completed invoices in a standard format and using State Water Board forms as described in Section 1 of the LOP Guidebook.
5. All labor costs are limited to direct salary and benefits plus indirect costs not to exceed the proposed rate of 38.42% percent of direct salary and benefits or proposed amount of ~~\$66,970.00~~ 40,153.00 specified on the agreement budget, whichever is less. Indirect costs will be allowed in accordance with Office of Management and Budget Circular OMB A-87. OMB A-87 requires that local units of government annually prepare an indirect cost proposal. The component of the indirect billing rate consisting of County central service costs, derived from OMB A-87 Plan, shall not exceed the total approved by the cognizant Federal Agency. Prior to submittal of first invoice, Contractor shall submit documentation to the State Water Board supporting the indirect cost rate. The State Water Board retains the right to review and approve the proposed rate. All indirect cost payments shall be subjected to audit to verify the amount. It is the Contractor's responsibility to make certain that the rate is correct and was determined in accordance with the applicable federal guidelines.
6. Contractor shall maintain site-specific and such other records as are necessary to verify all hours worked and expenses incurred under this agreement. Contractor shall also maintain, as evidence of performance, records of amount of agreement funds received and expended, program income, direct and indirect cost totals, and property purchased or as an in-kind contribution. Such records shall be available for inspection at all reasonable times during the term of this agreement and for three (3) years following final settlement by the State Water Board, EPA or any designated representative.

D. REIMBURSEMENT LIMITATIONS:

1. 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.
2. Contractor shall be limited to reimbursement of costs actually incurred in administration of the LOP, provided the total reimbursement shall not exceed \$128 per hour multiplied by the total hours of site-specific oversight work performed. The \$128 maximum is based on a cumulative average of all current-year invoices submitted to date.

E. Prior to July 1, 2001 Language

1. It is mutually understood between parties that this agreement may have been written and executed prior to July 1, 2001 for the mutual benefit of both parties in order to avoid program and fiscal delays which could occur if the agreement were executed after July 1, 2001.
2. This agreement is valid and enforceable only if sufficient funds are made available by the Budget Act of 2001 for the Fiscal Year 2001-2002 for the purposes of this program. In addition, this agreement is subject to any additional restrictions, limitations, or condition enacted by the Legislature and contained in the Budget Bill or any statute enacted by the Legislature which may affect the provisions, terms, or funding of this agreement in any manner.
3. It is mutually agreed that if the Budget Act of 2001 does not appropriate sufficient funds for the program, this agreement shall be invalid and of no further force and effect. In this event, the State Water Resources Control 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.