

**AMENDMENT NO. 3  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF CALISTOGA AND AMEC GEOMATRIX, INC.**

THIS AMENDMENT NO. 3 to the Professional Services Agreement between the City of Calistoga and AMEC Geomatrix, Inc. (previously Geomatrix Consultants) (hereinafter Amendment No. 3) is hereby entered into as of the 18th day of August, 2009, by and between the City of Calistoga, a municipal corporation (hereinafter referred to as "City") and AMEC Geomatrix, Inc. (hereinafter referred to as "Consultant").

**RECITALS**

WHEREAS, City and Consultant have previously entered into a Professional Services Agreement for corrective action consulting services in conjunction with the restoration of the beneficial use of the groundwater at the Public Works Corporation Yard (hereinafter referred to as "Agreement"); and

WHEREAS, City and Consultant have previously entered into Amendment No. 1 to the Professional Services Agreement on September 20, 2005; and

WHEREAS, City and Consultant have previously entered into Amendment No. 2 to the Professional Services Agreement on September 4, 2007; and

WHEREAS, City and Consultant now desire to enter into this Amendment No. 3 to provide the services described in the scope of work included in the proposal by Consultant dated April 30, 2009.

NOW, THEREFORE, the parties do hereby mutually agree to amend the Agreement as follows:

1. Paragraph 1 of the Agreement is hereby amended as follows:

1. Under Section 1, Scope of Services to be Performed, Subsection C is added as follows:

C. Additional services in conjunction with the restoration of the beneficial use of the groundwater at the Public Works Corporation Yard according to Consultants' proposal dated April 30, 2009. (Exhibit "A")

2. Under Paragraph 3, Compensation and Method of Payment, Subsection A and C are revised as follows:

A. Compensation. The compensation to be paid to Consultant shall be at the fees included in the Agreement and also as indicated in Exhibit "A," being the "Proposal from Consultants" dated April 30, 2009, attached hereto and incorporated herein by reference. However, in no event shall the total amount exceed Three Hundred Ninety Two Thousand Nine Hundred Ninety Dollars (\$392,990), with such amount including the original Agreement amount, Amendment No. 1, Amendment No. 2, and the additional fees associated with this Amendment No. 3. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of Three Hundred Ninety Two Thousand Nine Hundred Ninety Dollars (\$392,990) without prior written amendment to this Agreement.


3. Except as specifically modified by this Amendment No. 3, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the City and Consultant have executed this Amendment No. 3 as of the date first above written.

CITY OF CALISTOGA

AMEC GEOMATRIX, INC.

By: \_\_\_\_\_  
James C. McCann  
Title: City Manager

By: \_\_\_\_\_  
  
Scott D. Warner  
Title: Vice President

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Michelle Marchetta Kenyon  
City Attorney

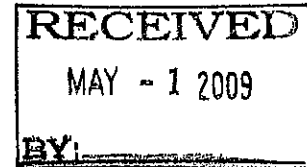
\_\_\_\_\_  
Su Sneddon  
City Clerk



April 30, 2009

Project 7531.002

Mr. Bill McBride  
Mr. Dan Takasugi  
Calistoga Public Works Department  
414 Washington Street  
Calistoga, California 94515



**Subject: Status of Work Performed in Fiscal Years 2007-2009 and Fiscal Year 2009-2010 Scope of Work and Budget Request**  
Groundwater Remediation Project  
Calistoga Public Works Yard, Calistoga, California

Dear Messrs. McBride and Takasugi:

Based on your request, AMEC Geomatrix, Inc., (AMEC), presents this project status update and budget request to perform work associated with the groundwater remediation project at the City of Calistoga (the City) Public Works (CPW) Yard (the site) during the 2009-2010 Fiscal Year (FY).

The goal, of work performed to date and planned future work, is to complete on-site remediation and monitoring of affected groundwater.

#### **STATUS OF WORK PERFORMED IN FISCAL YEARS 2007-2009**

Following is a summary of work performed per the FY 2007-2008 Scope of Work submitted to the City on July 30, 2007. This was the last approved budget request.

#### **Task 1: On-Site Monitoring Program**

This task included one year of semi-annual groundwater monitoring and reporting, according to the Revised On-Site Verification Monitoring Program (ROSVMP) approved by the NCDEM on June 26, 2007. Task monies were extended to cover through the upcoming Second Quarter 2009 monitoring following the Modified Site Monitoring Program (MSMP) which was approved by the NCDEM on December 23, 2008.

The ROSVMP and MSMP included two years of semi-annual monitoring of on-site wells and multiport wells located in Washington Street. As before, AMEC performed sampling activities and prepared semi-annual reports for submittal to the NCDEM. This task also included uploading site monitoring data to the Geotracker webpage.

This task will be completed following the upcoming Second Quarter 2009 monitoring event.

AMEC Geomatrix, Inc.  
2101 Webster Street, 12th Floor  
Oakland, California  
USA 94612-3068  
Tel (510) 663-4100  
Fax (510) 663-4141  
www.amecgeomatrixinc.com

**AMEC Geomatrix**

EXHIBIT "A"



Mr. Bill McBride  
Mr. Dan Takasugi  
Calistoga Public Works Department  
April 30, 2009  
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**Task 2: Project Management, Third Party Communications, General Consulting, and Correspondence**

This task included project meetings, regulatory correspondence, attending meetings and/or teleconferences as directed by the City during FYs 2007-2009, and providing general consulting as requested.

This task will be completed following preparation of an upcoming letter to the NCDEM requesting shut-down of the remaining on-site extraction system.

**PROPOSED SCOPE OF WORK IN FISCAL YEAR 2009-2010**

The goal for proposed work for FY 2009-2010 is to perform monitoring and reporting activities required by the NCDEM, and to request site closure, based on monitoring results.

The proposed scope of work has been divided into the following tasks:

- Task 1: Modified Site Monitoring Program
- Task 2: CPW Yard "No-Further-Action" Request
- Task 3: Project Management, Third Party Communications, General Consulting, and Correspondence

The above scope of work has been developed based on requirements set forth by the Modified Site Monitoring Program, which was approved by the NCDEM in a letter dated December 23, 2008, and communications with the City.

A cost estimate summarizing the proposed work is included as Table 1. The total estimated cost for work to be performed in FY 2009-2010 is \$46,300. Cost estimates have been developed using reasonable estimates of labor, materials, and subcontractor costs, and professional costs are based on the 2009 AMEC Geomatrix Standard Schedule of Charges and Conditions, which has been attached. The hourly rates shown on the 2009 Standard Schedule of Charges and Conditions will remain in place through FY 2009-2010. The scope of the proposed work for each task is discussed in detail below.

**Task 1: Modified Site Monitoring Program**

The scope of work for this task includes semi-annual groundwater monitoring and reporting, according to the Modified Site Monitoring Program (MSMP) which was approved by the NCDEM on December 23, 2008.

The MSMP includes one year of semi-annual monitoring of on-site wells (during Fourth Quarter 2009, and Second Quarter 2010). As before, AMEC will perform sampling activities and prepare semi-annual reports for submittal to the NCDEM. Also, this task includes uploading site monitoring data to the Geotracker webpage.



Mr. Bill McBride  
Mr. Dan Takasugi  
Calistoga Public Works Department  
April 30, 2009  
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The total estimated cost for this task is \$23,180. Table 2 provides details for costs associated with this task.

**Task 2: CPW Yard "No-Further-Action" Request**

Based on data gathered during the Q2 2009 through Q2 2010 monitoring period, we anticipate preparing a request to the NCDWM for "no-further-action" for the project during Q2 2010. The "no-further-action" request would include:

1. Request for cessation of the groundwater monitoring program;
2. Request to abandon all remaining monitoring and extraction wells;
3. Request to decommission all equipment and improvements related to the remediation project; and
4. Request for "No Further Action" for the project.

The total estimated cost for preparing the request is \$12,120. Table 3 provides details for costs associated with this task.

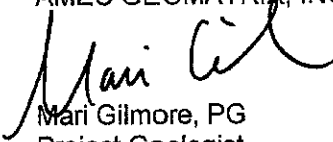
**Task 3: Project Management, Third Party Communications, General Consulting, and Correspondence**

This task includes project meetings, regulatory correspondence, attending meetings and/or teleconferences as directed by the City, and providing general consulting as requested.

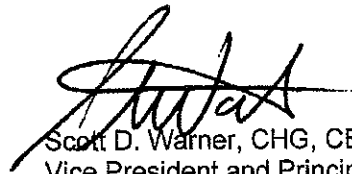
The total estimated cost for this task is \$11,000. Table 4 provides details for costs associated with this task.

AMEC appreciates the opportunity to continue working on behalf on the City as we continue to reach remedial goals stated in the Final Corrective Action Plan for the Calistoga Public Works Yard. Please contact any of the undersigned if you have any questions or require additional information.

Sincerely yours,  
AMEC GEOMATRIX, INC.



Mari Gilmore, PG  
Project Geologist



Scott D. Warner, CHG, CEG  
Vice President and Principal Hydrogeologist



Mr. Bill McBride  
Mr. Dan Takasugi  
Calistoga Public Works Department  
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Enclosure: Table 1 – Summary of Cost Estimate for Fiscal Year 2009-2010  
Table 2 – Cost Estimate for Task 1 – Modified Site Monitoring Program  
Table 3 – Cost Estimate for Task 2 – Project Management, Third Party  
Communications, General Consulting, and Correspondence  
Table 4 – Cost Estimate for Task 3 – Project Management  
2009 Schedule of Charges and Conditions



TABLE 1

SUMMARY OF COST ESTIMATE FOR FISCAL YEAR 2009-2010  
Calistoga Public Works Yard  
Calistoga, California

Task	Cost Estimate
1 - On-Site Verification Monitoring Program	\$23,180
2- CPW Yard No Further Action Request	\$12,120
2 - Project Management, Third Party Communications, General Consulting, and Correspondence	\$11,000
Total	\$46,300



TABLE 2

**COST ESTIMATE FOR TASK 1 -  
MODIFIED SITE MONITORING PROGRAM**  
Calistoga Public Works Yard  
Calistoga, California

Description	Rate	Unit	Unit Per GW Event	# GW Events	Cost
<b>ANTICIPATED LABOR HOURS</b>					
Principal	\$250	hour	6	2	\$3,000
Project II	\$140	hour	48	2	\$13,440
Senior Technician	\$93	hour	8	2	\$1,488
CAD	\$96	hour	3	2	\$576
Project Support	\$75	hour	8	2	\$1,200
<b>Labor Subtotal</b>					<b>\$19,704</b>
<b>OUTSIDE COSTS</b>					
VOC by 8260B (MTBE/BTEX)	\$110	sample	7	2	\$1,540
<b>Outside Costs Subtotal (including markup)</b>					<b>\$1,771</b>
<b>DIRECT COSTS</b>					
Reproduction	\$0.15	sheets	1000	2	\$300
Sampling Equipment and tools	\$600	event	1	2	\$1,200
Truck	\$100	day	1	2	\$200
<b>Direct Costs Subtotal</b>					<b>\$1,700</b>
<b>Total</b>					<b>\$23,180</b>





TABLE 3

**COST ESTIMATE FOR TASK 2 -  
CPW YARD NO FURTHER ACTION REQUEST**  
Calistoga Public Works Yard  
Calistoga, California

Description	Rate	Unit	Quantity	Cost
<b>ANTICIPATED LABOR HOURS</b>				
Principal	\$250	hour	16	\$4,000
Project II	\$140	hour	48	\$6,720
CAD	\$96	hour	8	\$768
Project Support	\$75	hour	8	\$600
<b>EQUIPMENT COSTS</b>				
Reproduction	\$0.12	sheets	250	\$30
<b>Total</b>				<b>\$12,120</b>



TABLE 4

**COST ESTIMATE FOR TASK 3 -  
PROJECT MANAGEMENT**

Calistoga Public Works Yard  
Calistoga, California

Description	Rate	Unit	Quantity	Cost
<b>ANTICIPATED LABOR HOURS</b>				
Principal	\$250	hour	18	\$4,500
Project II	\$140	hour	36	\$5,040
Project Support	\$75	hour	20	\$1,500
			<b>Total</b>	<b>\$11,000</b>

**AMEC GEOMATRIX, INC.  
SCHEDULE OF CHARGES**



**Effective March 27, 2009**

The Schedule of Charges applies to all services provided by and/or through AMEC Geomatrix, Inc. (AMEC). The schedule of charges may be revised periodically, as conditions require.

**LABOR:**

Labor charges are for technical work, including technical typing, editing, and graphics involved in the preparation of reports and correspondence and for the time associated with production of such documents. Direct charges are not made for secretarial service, office management, accounting, and maintenance, because these items are included in overhead. Labor category charge rates for AMEC are listed below. Regional and other factors may influence rates charged for certain individuals. Rates for individuals will be provided on request.

<u>LABOR CATEGORY</u>	<u>HOURLY RATE</u>
Principal	\$216 - 350
Senior Consultant	216 - 350
Senior Decision Analyst	216 - 350
Senior II	190 - 216
Senior I	185
GIS Programmer/Web Designer	144
Project II	140
Project I	130
Field Engineer	118
Staff II	118
Staff I	108
Senior Technician	93
Field Technician	88
CAD/Graphic Designer	96
Project Assistant	75
Technical Editor	91
Support Staff	67

Time spent in travel in the interest of the client will be charged at hourly rates, except that no more than 8 hours of travel time will be charged in any day. When it is necessary for an employee to be away from the office overnight, actual costs, or a negotiated rate, will be charged for living expenses. Employee expenses will be charged at cost plus 15%.

Charges for expert witness services will be at the hourly rates shown. However, for depositions and for court appearances, the rate is twice the amount shown. There will be a 4-hour minimum per-day charge for depositions and an 8-hour minimum per-day charge for court appearances. Special accounting services will be billed at the Support Staff rate.

**COMMUNICATIONS CHARGE:**

Four percent (4%) of Labor charges for routine photocopying, regular mail postage, and fax/telephone/cellular phone usage.

**OUTSIDE SERVICES:**

Outside services will be charged at cost plus 15%. Common outside items include: consultants, drilling services, laboratory testing, equipment and vehicle rental, printing and photographic work, postage and shipping, conference calls, travel and transportation.

**REIMBURSABLES:**

Non-routine Photocopies	\$0.12/sheet
Specialized Computer Applications	\$25.00/hour
Field equipment, vehicles, specialized reproduction	On request

**INVOICES:**

Invoices will be rendered at least monthly, either as a final or partial billing, and will be payable upon receipt. An additional late payment charge of 1 1/2% per month or the maximum charge allowed by law, whichever is less, will be payable on accounts not paid within 30 days from billing date.

*AMEC is an Equal Opportunity/Affirmative Action Employer, and as such adheres to all applicable federal, state, and local laws and regulations in this regard.*

**AMEC Geomatrix**

## STANDARD TERMS & CONDITIONS

- 1) **ENTIRE AGREEMENT.** Upon authorization by the CLIENT and commencement of performance hereunder, these terms and AMEC's Proposal constitute the entire agreement between the parties concerning its subject matter. Any changes or additional conditions proposed by CLIENT are hereby rejected, unless expressly stated in this Agreement or incorporated by a change order.
- 2) **CHANGES.** Upon receipt of notice from CLIENT of a change in the scope of the work hereunder, AMEC will promptly notify the CLIENT if there is an impact on the schedule, price or terms of the agreement. Thereafter, an estimate of any impact on the contract will be prepared and submitted to the CLIENT. The parties agree to promptly negotiate and implement changes to the Agreement. CLIENT acknowledges and agrees that its use of any purchase order or other form to procure services is solely for administrative purposes and in no event shall AMEC be bound to any terms and conditions on such form regardless of reference to or signature. CLIENT shall endeavor to reference this Agreement on any purchase order (or any other form), but CLIENT's failure to do so shall not operate to modify this Agreement.
- 3) **SITE INFORMATION AND ACCESS.** The CLIENT shall make available to AMEC all relevant information and documents under his control regarding past, present and proposed conditions of the site. The information shall include, but not be limited to, plot plans, topographic surveys, hydrologic data and previous soil and geologic data including borings, field or laboratory tests and written reports. The CLIENT shall immediately transmit to AMEC any new information that becomes available or any change in plans. The CLIENT shall also ensure uninterrupted site access for AMEC throughout performance of this Agreement.
- 4) **PERMITS AND UTILITIES.** Unless otherwise stated in the Proposal, the CLIENT shall apply for and obtain all required permits and licenses and shall make all necessary arrangements for right of entry to provide AMEC access to the site for all equipment and personnel at no charge to AMEC. The CLIENT shall also provide AMEC with the location of all underground utilities and structures in the exploration area. AMEC is not responsible for location or identification of utilities.
- 5) **PAYMENT.** Unless otherwise stated in the Proposal, invoices will be submitted by AMEC either at the completion of the work or on a monthly basis and will be due and payable on the invoice date. Invoices not paid within thirty (30) days of the invoice date shall be subject to a late fee of one and one-half percent (1.5%) per month computed at 31 days from the date of invoice. In addition, any collection fees, attorney's fees, court costs, and other related expenses incurred by AMEC in the collection of delinquent invoice amounts shall be paid by CLIENT.
- 6) **OWNERSHIP RIGHTS.** Any documents produced by AMEC shall be the sole property of AMEC. At the request and expense of the CLIENT, AMEC shall provide the CLIENT with copies of any or all drawings, specifications and other documents prepared by AMEC.
- 7) **ATTORNEY'S FEES.** In the event either party makes a claim or brings an action against the other for any act arising out of the performance or interpretation of this Agreement, including the payment of professional fees, the unsuccessful party shall pay all reasonable attorney's fees and legal costs incurred by the prevailing party in such claim or action.
- 8) **STANDARD OF CARE.** In the performance of professional services, AMEC will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the same or similar localities. No warranty, either express or implied, is made or intended by this Agreement or by furnishing oral or written reports of the findings. AMEC is to be liable only for damage proximately caused by the negligence of AMEC. The CLIENT recognizes that subsurface conditions may vary from those encountered at the location where borings, surveys or explorations are made by AMEC and that the data, interpretations and recommendation of AMEC are based solely on the information available to him. AMEC will not be responsible for the interpretation by others of the information developed.
- 9) **INSURANCE.** AMEC will maintain insurance for this Agreement in the following types: 1) worker's compensation insurance at statutorily required levels, 2) comprehensive general liability (CGL) insurance and 3) automotive insurance.
- 10) **ENVIRONMENTAL LIABILITY.** Because CLIENT owns and/or operates the site where work is being performed, CLIENT has and shall retain all responsibility and liability associated with the environmental conditions at the site. Unless specifically identified in AMEC's Proposal, CLIENT'S responsibility and liability includes the handling and disposal of any samples or hazardous materials generated on the site as a result of AMEC's performance hereunder.
- 11) **CONSEQUENTIAL DAMAGES.** AMEC shall NOT be responsible for any consequential, incidental or indirect damages.
- 12) **LIMITATION OF LIABILITY.** Notwithstanding any other provision of this Agreement, the total liability of AMEC, its officers, directors and employees for liabilities, claims, judgments, demands and causes of action arising under or related to this Agreement, whether based in contract or tort, shall be limited to the total compensation actually paid to AMEC for the Services or \$50,000, whichever is less. All claims by CLIENT shall be deemed relinquished unless filed within one (1) year after substantial completion of the Services.
- 13) **DISPUTES.** Any dispute arising hereunder shall first be resolved by taking the following steps, where a successive step is taken if the issue is not resolved at the preceding step: 1) by the technical and contractual personnel for each party performing this Agreement, 2) by executive management of each party, 3) by mediation, 4) by arbitration if both parties agree or 5) through the court system of the jurisdiction of the AMEC office that entered this Agreement. CLIENT hereby waives the right to trial by jury for any disputes arising out of this Agreement.
- 14) **WARRANTY OR AUTHORIZATION TO SIGN.** The person signing this Agreement warrants that he has authority to sign as, or on behalf of, the CLIENT for whom or for whose benefit AMEC's services are rendered. If such a person does not have such authority, he agrees that he is personally liable for all breaches of this Agreement, and that in any such action against him for breach of such warranty, reasonable attorney's fees and legal costs shall be included in a judgment rendered.
- 15) **ASSIGNMENT.** Neither the CLIENT nor AMEC may delegate, assign, sublet or transfer his duties or interest in this Agreement without the written consent of the other party.
- 16) **CHOICE OF LAWS.** This Agreement shall be governed by the laws of the state of the AMEC office that entered into this Agreement.