

AGREEMENT FOR ENVIRONMENTAL SERVICES

DMI-EMK AGREEMENT NO 05-0121

THIS AGREEMENT FOR ENVIRONMENTAL SERVICES ("Agreement") is entered into by and between DMI-EMK Environmental Services ("DMI-EMK") and the "Customer".

1. CUSTOMER AND SITE INFORMATION.

Services under this Agreement will be performed for the Customer named below and in connection with the site identified below:

Customer Name: City of Guadalupe

Entity Type (e.g., corporation, partnership, etc.): City

Customer's Authorized Representative
& Contact Person/Title: Carolyn Fralloway-Cooper, City Administrator.

Customer Mailing Address: 918 Obispo street
Guadalupe CA 93434

Phone: (805) 343-1340 Fax: (805) 343-5512 E-mail: Carolyn@ci.guadalupe.ca.us
x 3091 cc: Johnson @ ci.guadalupe.ca.us

Site Address: "Campondonico Property"
995 Guadalupe Street, Guadalupe, California

Is Customer the sole title owner of the site? yes no
(If no, complete owner information, below.)

Owner of Site: _____

Owner's Mailing Address: _____

2. WORK AUTHORIZATIONS: SCOPE OF WORK AND COMPENSATION.

2.1 The environmental services provided by DMI-EMK under this Agreement shall be as described in one or more separate "Work Authorization(s)" signed by DMI-EMK and Customer, which Work Authorization(s) shall be part of and incorporated into this Agreement. Such Work Authorization(s) shall include the scope of work to be performed by DMI-EMK and the compensation to DMI-EMK, and are incorporated by this reference into this Agreement. The Customer's Authorized Representative and Contact Person, as identified above, shall have the authority to approve and sign Work Authorization(s) under this Agreement.

3. DMI-EMK STANDARD OF CARE.

3.1 Services performed by DMI-EMK under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the geologic and environmental consulting profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, expressed or implied, is made.

4. DATA PROVIDED BY CUSTOMER AND OTHERS.

4.1 The Customer recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that the site conditions may change with time. Data, interpretations, and recommendations by DMI-EMK will be based solely on information reasonably available to DMI-EMK. DMI-EMK will not be responsible for other parties' interpretations or use of the information developed.

4.2 DMI-EMK is not responsible for the quality or accuracy of data, nor the acquisition or sampling programs or methods from which the data were developed, where such data are provided by or through Customer or others to DMI-EMK and on which Customer expects DMI-EMK's work to be based in whole or in part. Such data include, but are not limited to: borings, groundwater information, geophysical studies, chemical analyses, geotechnical testing, reports, calculations, designs, drawings, surveys, etc.

5. CUSTOMER COOPERATION; SITE ACCESS AND CONDITIONS

5.1 Customer agrees to cooperate in any and every way or manner with DMI-EMK and any subcontractors to DMI-EMK in connection with the services to be provided. This includes being reasonably available to DMI-EMK to answer questions and participate in discussions relating to the services to be provided, as well as supplying all information known to Customer relating to the services to be provided. Specifically, Customer will provide to DMI-EMK all information available to Customer regarding existing and historical conditions and uses of the site and neighboring properties, to the extent known by Customer, as well as proposed uses at the site. The information shall include, but not be limited to, plot plans, topographic surveys, hydrogeologic data, hazardous materials data, and previous soil/geologic data including borings, field or laboratory tests, and written reports. Customer is responsible for accurately locating for all subterranean structures and utilities. Customer will immediately transmit to DMI-EMK any new information that becomes available to Customer or any change in Customer's plans.

5.2 Customer will grant or obtain free access to the site for all equipment and personnel necessary for DMI-EMK and any subcontractors to DMI-EMK to perform the scope of services set forth in this Agreement. Customer will grant or obtain permission for DMI-EMK personnel to photograph the site. Customer will notify any and all possessors of the project site that the Customer has granted DMI-EMK free access to the site. DMI-EMK will take reasonable precautions to minimize damage to the site, but it is understood by Customer that, in the normal course of work, some damage may occur and the correction of such damage is not part of this Agreement unless so specified in the Work Authorization.

5.3 Customer warrants that it is in compliance, or will come into compliance upon notice, with all statutes, regulations, ordinances and rules ("laws") applicable to it. Customer will assist DMI-EMK in compliance with all laws, and will not in any way hinder or prevent DMI-EMK from complying with such laws.

6. DISCOVERY/REPORTING OF HAZARDOUS MATERIALS

6.1 Customer recognizes that the discovery of hazardous materials may necessitate immediate protective measures to safeguard the public health and safety and agrees to compensate DMI-EMK for measures that in our professional opinion are justified to preserve and protect the health and safety of site personnel and the public.

6.2 DMI-EMK agrees to notify Customer as soon as practically possible should hazardous materials be encountered at the site which pose a threat to human health, safety and the environment. Customer agrees that the discovery of hazardous materials at the site must legally be reported to the proper authorities as required by CAC Title 23, Chapter 3, State AB 2185, and Proposition 65. Customer agrees to make the required report at the recommendation of DMI-EMK or, if unable to do so, authorizes DMI-EMK to make this report. If Customer is not the property owner, then Customer also agrees to inform the property owner in the event that hazardous materials are encountered at the site.

6.3 It is possible that exploration activities may fail to detect the presence of hazardous materials at a site where such materials are assumed or expected to exist. Customer acknowledges that failure to discover hazardous materials through appropriate and mutually agreed-upon exploration techniques does not guarantee or warrantee that hazardous materials do not exist at the site. Similarly, Customer acknowledges that a site which is free of contamination at the time of exploration may become contaminated at some later time.

7. DISPOSAL OF HAZARDOUS MATERIALS

7.1 Contaminated drill cuttings, sample spoils, purged water and wash water may be produced as a result of encountering hazardous materials at the site. Such materials will be properly contained, labeled, and stored on-site by DMI-EMK. It is the Customer's responsibility for the proper transportation and disposal of such hazardous materials, and Customer agrees to sign all manifests for handling and disposal of contaminated drill cuttings, sample spoils, purged water and wash water. In the event that Customer is unavailable to sign a manifest for handling and disposal of contaminated drill cuttings, sample spoils, purged water and wash water, DMI-EMK is authorized and instructed to sign Customer's name on such manifest.

7.2 Any hazardous waste, substances, or materials that are the object of DMI-EMK's work shall at all times be and remain Customer's property. Any assistance provided by DMI-EMK to Customer for the disposal, treatment, or transport of any hazardous waste materials shall be construed as being made solely and exclusively for Customer's benefit and at Customer's request. At all times, any and all right, title, and responsibility for samples shall remain with Customer; under no circumstances shall this Agreement, or any action by

DMI-EMK under this Agreement, be construed or interpreted to create any right, title, interest, or responsibility of DMI-EMK for such samples, whether contaminated or not.

8. OWNERSHIP OF DOCUMENTS

8.1 All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by DMI-EMK are instruments of service, shall remain the property of DMI-EMK. Customer may use any final reports or other work performed or prepared by DMI-EMK under this Agreement for environmental purposes and subject to the limitations of such reports and this Agreement in connection with the project and/or location for which such services were prepared. Any use by others or other use by Customer in connection with any purpose, project or location other than that for which services under this Agreement were performed, without written verification or adaptation by DMI-EMK for the specific purpose intended, will be at the Customer's sole risk and without liability or risk to DMI-EMK.

8.2 Customer agrees that all reports and other work furnished to the Customer or his agents, which are not paid for, will be returned upon demand and will not be used by the Customer or others for any purpose whatsoever.

8.3 DMI-EMK will retain all pertinent records relating to the services performed for a period of 3 years following submission of the report, during which period the records will be made available to the Customer at all reasonable times.

9. TERMINATION OF SERVICES

9.1 Services under this agreement may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this Agreement or in the event of substantial failure of performance by the other party, or if the Customer suspends the work for more than three (3) months. In the event of termination, DMI-EMK will be paid in full for services performed prior to the date of termination plus reasonable termination expenses, including the cost of completing analyses, records and report necessary to document job status at the time of termination. Such payment will be provided within 3 days of presentation of an invoice for these services from DMI-EMK.

10. CONTINUITY OF SERVICES/LATER PHASES OF WORK

10.1 Customer acknowledges that it is customary for a consultant who is responsible for the preparation and furnishing of drawings and specifications and other construction/remediation related documents, including remediation work plans, to be engaged to provide services during the later phases of a project, such as administration of bidding, supervision of construction or remediation field work, in order (i) to interpret and clarify the document so furnished and to modify the same as circumstances encountered during bidding and construction and/or field work may dictate; (ii) in connection with acceptance or substitution of procedures, materials and equipment; (iii) in connection with approval of shop drawings and sample submittals; and (iv) as a result of and in response to detection of possible inconsistencies or irregularities in such documentation in advance of actual

performance of work. Therefore, Customer agrees if DMI-EMK is not engaged to provide services for later phases of work, such as administration of bidding, supervision of construction or remediation field work, then DMI-EMK will not be responsible for claims, damages, losses, or expenses including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution acceptance, or modification of such documentation carried out by Customer or others.

11. INSURANCE

11.1 DMI-EMK represents and warrants that DMI-EMK has such coverage under public liability and property damage insurance policies which DMI-EMK deems to be adequate. Certificates for all such policies of insurance shall be provided to Customer upon request in writing.

12. DISPUTE RESOLUTION

12.1 Any claim, dispute, or other matter in controversy shall be attempted to be resolved by the parties without necessity of filing of a lawsuit as set forth below in Section 12.2. However, if the claim, dispute or other matter in controversy in any way involves sums due and owing to DMI-EMK for professional services and costs incurred, DMI-EMK, at its option, may proceed directly to enforce its remedies in court, including, but not limited to, an action to foreclose mechanic's lien or such other proceedings necessary to enforce its rights through the judicial system. Nothing in this Agreement shall prevent DMI-EMK from enforcing any mechanic's lien rights under the laws of the State of California.

12.2 Within thirty days of a claim, dispute or other matter in controversy arising, the parties shall meet or agree to meet within a reasonable time thereafter to discuss and attempt to resolve such claim, dispute, or other matter of controversy. If the parties are unable to resolve the claim, dispute or other matter in controversy informally by meeting with one another, then the claim, dispute or other matter in controversy shall be submitted to mediation. Such mediation shall be conducted by a mediator agreed to by the parties and/or their attorneys, at a time within sixty days after the initial meeting of the parties at a mutually-agreed location. If the parties are unable to agree upon a mediator, then a mediator from the Santa Barbara Superior Court list of approved mediators shall be chosen by DMI-EMK to act as mediator for the dispute, and the mediator shall be responsible to schedule the date and time of the mediation in Santa Barbara, California. Each side shall be responsible to pay for one-half of the cost of the mediation. Such claim, dispute or other matter in controversy shall be submitted to mediation as a condition precedent to litigation.

12.3 If a claim, dispute or other matter in controversy between DMI-EMK and Customer arising out of or in any way related to DMI-EMK's services under this Agreement is not resolved as provided above, then a lawsuit based on such claim, dispute or other matter may be filed in Santa Barbara Superior Court, with venue in the Anacapa Division unless DMI-EMK should otherwise agree. The prevailing party shall recover all mediation-related costs and attorney's fees and costs in the lawsuit.

13. POSSIBILITY OF AQUIFER CONTAMINATION.

13.1 Customer recognizes that it is impossible for DMI-EMK to know the exact composition of a site's subsurface even after conducting a comprehensive exploratory program. As a result, there is a risk that drilling and sampling may result in contamination of certain subsurface areas, as when a boring passes through a contaminated zone, connecting it to one or more aquifers not previously contaminated and capable of spreading contamination, and Customer acknowledges that DMI-EMK shall not be responsible in the event of such aquifer contamination.

14. INDEMNITY OF DMI-EMK

14.1 There are certain matters for which DMI-EMK is not responsible under this Agreement or which are risks inherent in environmental services agreements (collectively, the "Indemnified Matters"). Customer shall defend, indemnify, and hold harmless DMI-EMK, and all persons associated with DMI-EMK (e.g., any principal, director, officer, shareholder, employee, contractor, subcontractor, agent, or affiliate), from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, fines, losses, costs, liabilities, interest, and attorneys' fees (including any such fees and expenses incurred in enforcing this indemnity) which result from, arise out of, or are in any way connected with the Indemnified Matters. The Indemnified Matters include but are not limited to (i) acts or omissions of Customer, Customer's employees, agents, and subcontractors and their employees or agents; (ii) the release of any hazardous substance; (iii) any other generation, treatment, or transport, or disposal of hazardous and/or waste materials; and (iv) those certain matters described in Sections 4.1, 4.2, 5.1, 5.2, 6.1, 6.2, 6.3, 7.1, 7.2, 8.1, 10 and 13, above, of this Agreement.

15. GENERAL PROVISIONS

15.1 Neither the Customer nor DMI-EMK may delegate, assign, sublet or transfer his duties or interest in this Agreement without the written consent of the other party.

15.2 The Agreement between the Customer and DMI-EMK shall pertain only to the benefit of the parties hereto, and no third party shall have any rights hereunder.

15.3 The law of the State of California will govern the validity of these terms, their interpretation and performance.

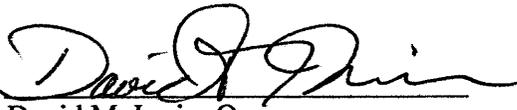
15.4 If any of the provisions contained in this Agreement is held to be illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this Agreement for any cause.

15.5 This Agreement together with all Work Authorizations hereunder constitute the entire Agreement and supersede any and all prior negotiations, correspondence, or agreements, either written or oral. Any changes to the Agreement must be agreed to by Customer and DMI-EMK in writing.

WHEREFORE, the parties execute this Agreement for Environmental Services on the date set forth below.

DMI-EMK ENVIRONMENTAL
SERVICES, INC.

CITY OF GUADALUPE /
CAMONDONICO PROPERTY

By 
David M. Irwin, Owner

By  City Administrator
Title

11/29/07
Date

DMI-EMK WORK AUTHORIZATION NO. 05-0121-01

[DMI-EMK Agreement No. 05-0121]

THIS WORK AUTHORIZATION is made part of the Agreement for Environmental Services No. 05-0121 (“Agreement”) by and between DMI-EMK Environmental Services, Inc (“DMI-EMK”) and the undersigned “Customer.” Additional Work Authorizations will be provided for each future phase of work or to reflect modifications in existing phases. Each Work Authorization is and shall be understood to be part of the Agreement.

1. SCOPE OF SERVICES TO BE PROVIDED BY DMI-EMK

Quarterly well monitoring services for the Campodonico Property located at 995 Guadalupe Street, Guadalupe, California. Services to be provided in accordance with the current requirements of the County of Santa Barbara Fire Protection Services Division – Leaking Underground Fuel Tank Program (LUFT) and the cost guidelines set forth by the Underground Storage Tank Cleanup Fund (USTCF) for quarterly well monitoring activities.

2. COMPENSATION

2.1 For the scope of services to be provided in this Work Authorization, DMI-EMK shall charge on a time-and-materials basis in accordance with the Rate Schedule approved by the USTCF at the time the work is performed. If the approved USTCF Rate Schedule should change, then the applicable Rate Schedule under this Work Authorization shall also automatically change to the new approved USTCF Rate Schedule for subsequent work. If and when it is necessary to engage the services of a subcontractor, then the invoices of such subcontractor(s) will be marked up by 15% in accordance with USTCF cost guidelines.

2.2 Customer agrees that payment will be due and payable to DMI-EMK upon completion of work and within 30 days of receipt of an invoice from DMI-EMK.

DMI-EMK ENVIRONMENTAL SERVICES, INC.

Accepted by
CITY OF GUADALUPE /
CAMPODONICO PROPERTY

By: 
David M. Irwin, President

By: 
Authorized Representative

11/29/07
Date

DMI-EMK Environmental Services, Inc.

SB Office: 410 E. Arrellaga Street, Santa Barbara, CA 93101
Ventura Office: 1056 Meta Street, Ventura, CA 93003

Phone: (805) 568-0074 / **Fax:** 965-3374
Phone: (805) 653-0633 / **Fax:** 653-0266

		Date:	<u>11/29/07</u>
		Page:	<u>1</u> of <u>3</u>
To:	<u>City Of Guadalupe</u>	Fax No:	<u>(805) 343-0362</u>
Attention:	<u>Carmon Johnson</u>		
From:	<u>David Irwin</u>		
Subject:	<u>Letter of Understanding</u>		

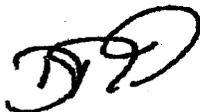
Carmon,

Attached please find a copy of the Letter of Understanding that has been signed by Ms. Kim Aslanidis on behalf of the 975 Guadalupe Street Property. As previously indicated, the City will need to sign this document (or their own copy) as well in order for us to proceed with well monitoring activities at the site.

Please contact me once you have full authorization for us to proceed at the site, or if you require any additional information.

Thanks

Dave Irwin





Corporate Office
400 East Avallago Street, Santa Barbara, CA 93101
Phone (805) 965-0074; FAX (805) 965-3374

Ventura Office
1000 East Main Street, Suite 101, Ventura, CA 93001
Phone (805) 633-0633; FAX (805) 633-0266

October 30, 2007

Chief Carmon Johnson
City of Guadalupe
Building & Fire Department
918 Obispo Street
Guadalupe, CA 93434

Ms. Kim Aslanidis
467 Terrace Place
Nipomo CA 93444

Subject: Campondonico Realty Property
995 Guadalupe Avenue, Guadalupe, California
LUFT Site #52010; SWRCB Global ID #T0608300730
QUARTERLY MONITORING SERVICES REQUEST:
LETTER OF UNDERSTANDING

Dear Chief Johnson & Ms. Aslanidis:

DMI-EMK Environmental Services, Inc. (DMI-EMK) is currently working as the environmental consultant for the Estate of Evangelos Aslanidis in relation to a documented release of gasoline at the 975 Guadalupe Street property in Guadalupe California (Aslanidis Property). This release appears to have impacted groundwater under the property and DMI-EMK is currently providing environmental services, including quarterly well monitoring services, at this site under the direction of the County of Santa Barbara Fire Protection Services Division - Leaking Underground Fuel Tank Program (LUFT).

An historical release of gasoline has also been documented to have occurred at the adjacent 995 Guadalupe Street Property which has also impacted groundwater under that property (Campondonico Property). In 2006, DMI-EMK conducted well monitoring activities at both sites with the permission of both property owners. Based on DMI-EMK's findings at that time, it appears that there are two groundwater plumes beneath the Aslanidis Property, one of which originates on the Aslanidis Property and one of which originates on the Campondonico Property (which has been documented to be up/cross-gradient of the Aslanidis Property).

At this time, I understand that the City of Guadalupe is in the process of taking ownership of the Campondonico Property. I further understand from Chief Johnson that: 1) the City has obtained formal assignment of the Campondonico family's claim to the State Water Resources Control Board, Underground Cleanup Fund Account; and 2) the City has obtained authorization from the Campondonico Family to act to meet environmental compliance requirements for the Campondonico Property..

The City has requested that DMI-EMK provide quarterly monitoring services for wells located on the Campondonico Property as directed by LUFT.

Campondonico Property— QM Agmt
October 30, 2007

To avoid any sense of conflict in having DMI-EMK provide services at both sites, DMI-EMK is providing this letter of understanding for signature and agreement by both parties. Please confirm that the City of Guadalupe and the Aslanidis Estate understand and consent to the following:

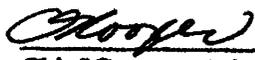
- 1) DMI-EMK is the environmental consultant for the Aslanidis Property and has been retained to provide all phases of environmental activities required at that site.
- 2) At this time, DMI-EMK has only been authorized by the Aslanidis Property representatives to provide quarterly well monitoring services for the Campondonico Property.
- 3) If this letter of understanding is approved by both of you, then DMI-EMK will be able to enter into an Environmental Services Agreement with the City for quarterly monitoring services for the Campondonico Property.
- 4) While DMI-EMK may be available to provide other environmental services for the Campondonico Property in the future (e.g., assessment and remediation services), such arrangements and contracts to provide these services will need addressed and agreed to at a later date.

If the foregoing meets with your approval, then please sign and date below and return one copy to our Santa Barbara office.

Respectfully submitted,
DMI-EMK Environmental Services, Inc.


David M. Irwin, RG #5708
President

APPROVED:


Chief Cameron Johnson
for City of Guadalupe


Kim Aslanidis, Representative
for Estate of Evangelos Aslanidis

