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 7 AMEC ENVIRONMENT & INFRASTRUCTURE, INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 AMEC ENVIRONMENT &
 INFRASTRUCTURE, INC.,

13 Plaintiff,

14 v.

15 GEOSYNTEC CONSULTANTS,
 16 INC., et al.,

17 Defendants.

No. C 12-cv-2973-TEH

STIPULATED PROTECTIVE ORDER

18
 19 **1. PURPOSES AND LIMITATIONS**

20 Disclosure and discovery activity in this action are likely to involve production
 21 of confidential, proprietary, or private information for which special protection from
 22 public disclosure and from use for any purpose other than prosecuting this litigation may
 23 be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter
 24 the following Stipulated Protective Order. The parties acknowledge that this Order does
 25 not confer blanket protections on all disclosures or responses to discovery and that the
 26 protection it affords from public disclosure and use extends only to the limited
 27 information or items that are entitled to confidential treatment under the applicable legal
 28 principles. The parties further acknowledge, as set forth in Section 12.3, below, that this

CBM-SFSF561378.2

STIPULATED PROTECTIVE ORDER (CASE NO. C 12-CV-2973-TEH)

1 Stipulated Protective Order does not entitle them to file confidential information under
2 seal; Civil Local Rule 79-5 and General Order 62 set forth the procedures that must be
3 followed and the standards that will be applied when a party seeks permission from the
4 court to file material under seal.

5 **2. DEFINITIONS**

6 2.1 Challenging Party: a Party or Non-Party that challenges the designation
7 of information or items under this Order.

8 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
9 how it is generated, stored or maintained) or tangible things that qualify for protection
10 under Federal Rule of Civil Procedure 26(c).

11 2.3 Counsel (without qualifier): Outside Counsel of Record and House
12 Counsel (as well as their support staff).

13 2.4 Designating Party: a Party or Non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL”
15 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

16 2.5 Disclosure or Discovery Material: all items or information, regardless of
17 the medium or manner in which it is generated, stored, or maintained (including, among
18 other things, testimony, transcripts, and tangible things), that are produced or generated in
19 disclosures or responses to discovery in this matter.

20 2.6 Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an
22 expert witness or as a consultant in this action, (2) is not a current employee of a Party or
23 of a Party’s competitor, and (3) at the time of retention, is not anticipated to become an
24 employee of a Party or of a Party’s competitor.

25 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
26 Information or Items: extremely sensitive “Confidential Information or Items,” disclosure
27 of which to another Party or Non-Party would create a substantial risk of serious harm that
28 could not be avoided by less restrictive means.

1 2.8 House Counsel: attorneys who are employees of a party to this action.
2 House Counsel does not include Outside Counsel of Record or any other outside counsel.

3 2.9 Non-Party: any natural person, partnership, corporation, association, or
4 other legal entity not named as a Party to this action.

5 2.10 Outside Counsel of Record: attorneys who are not employees of a party
6 to this action but are retained to represent or advise a party to this action and have
7 appeared in this action on behalf of that party or are affiliated with a law firm which has
8 appeared on behalf of that party.

9 2.11 Party: any party to this action, including all of its officers, directors,
10 employees, consultants, retained experts, and Outside Counsel of Record (and their
11 support staffs).

12 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
13 Discovery Material in this action.

14 2.13 Professional Vendors: persons or entities that provide litigation support
15 services (e.g., photocopying, videotaping, translating, preparing exhibits or
16 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
17 their employees and subcontractors.

18 2.14 Protected Material: any Disclosure or Discovery Material that is
19 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’
20 EYES ONLY.”

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
22 from a Producing Party.

23 **3. SCOPE**

24 The protections conferred by this Stipulation and Order cover not only
25 Protected Material (as defined above), but also (1) any information copied or extracted
26 from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
27 Material; and (3) any testimony, conversations, or presentations by Parties or their
28 Counsel that might reveal Protected Material. However, the protections conferred by this

1 Stipulation and Order do not cover the following information: (a) any information that is
2 in the public domain at the time of disclosure to a Receiving Party or becomes part of the
3 public domain after its disclosure to a Receiving Party as a result of publication not
4 involving a violation of this Order, including becoming part of the public record through
5 trial or otherwise; and (b) any information known to the Receiving Party prior to the
6 disclosure or obtained by the Receiving Party after the disclosure from a source who
7 obtained the information lawfully and under no obligation of confidentiality to the
8 Designating Party. Any documents produced in the action in United States District Court
9 for the Southern District of Florida titled "*AMEC Earth and Environmental, Inc. v.*
10 *Geosyntec Consultants, Inc., et al.*" Case No. 9:11-cv-81111-DMM ("Florida Action"),
11 shall be subject to the terms of this protective order. Accordingly, any documents
12 designated as "Confidential" in the Florida Action shall be treated as "Confidential"
13 pursuant to the terms of this Stipulated Protective Order, and any documents designated
14 "Highly Confidential" in the Florida Action shall be treated as "Highly Confidential –
15 Attorneys' Eyes Only" pursuant to the terms of this Stipulated Protective Order. Any use
16 of Protected Material at trial shall be governed by a separate agreement or order.

17 **4. DURATION**

18 Even after final disposition of this litigation, the confidentiality obligations
19 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in
20 writing or a court order otherwise directs. Final disposition shall be deemed to be the later
21 of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2)
22 final judgment herein after the completion and exhaustion of all appeals, rehearings,
23 remands, trials, or reviews of this action, including the time limits for filing any motions
24 or applications for extension of time pursuant to applicable law.

25 **5. DESIGNATING PROTECTED MATERIAL**

26 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

27 Each Party or Non-Party that designates information or items for protection under this
28 Order must take care to limit any such designation to specific material that qualifies under

1 the appropriate standards. To the extent it is practical to do so, the Designating Party must
2 designate for protection only those parts of material, documents, items, or oral or written
3 communications that qualify – so that other portions of the material, documents, items, or
4 communications for which protection is not warranted are not swept unjustifiably within
5 the ambit of this Order.

6 If it comes to a Designating Party’s attention that information or items that it
7 designated for protection do not qualify for protection at all or do not qualify for the level
8 of protection initially asserted, that Designating Party must promptly notify all other
9 parties that it is withdrawing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in this
11 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
12 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
13 must be clearly so designated before the material is disclosed or produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic documents,
16 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
17 Producing Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
18 ATTORNEYS’ EYES ONLY” to each page that contains protected material. If only a
19 portion or portions of the material on a page qualifies for protection, the Producing Party
20 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
21 in the margins) and must specify, for each portion, the level of protection being asserted.

22 A Party or Non-Party that makes original documents or materials available for
23 inspection need not designate them for protection until after the inspecting Party has
24 indicated which material it would like copied and produced. During the inspection and
25 before the designation, all of the material made available for inspection shall be deemed
26 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party
27 has identified the documents it wants copied and produced, the Producing Party must
28 determine which documents, or portions thereof, qualify for protection under this Order.

1 Then, before producing the specified documents, the Producing Party must affix the
2 appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
3 ATTORNEYS’ EYES ONLY”) to each page that contains Protected Material. If only a
4 portion or portions of the material on a page qualifies for protection, the Producing Party
5 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
6 in the margins) and must specify, for each portion, the level of protection being asserted.

7 (b) for testimony given in deposition or in other pretrial or trial proceedings,
8 that the Designating Party identify on the record, before the close of the deposition,
9 hearing, or other proceeding, all protected testimony and specify the level of protection
10 being asserted. When it is impractical to identify separately each portion of testimony that
11 is entitled to protection and it appears that substantial portions of the testimony may
12 qualify for protection, the Designating Party may invoke on the record (before the
13 deposition, hearing, or other proceeding is concluded) a right to have a minimum of 21
14 days to identify the specific portions of the testimony as to which protection is sought and
15 to specify the level of protection being asserted. Only those portions of the testimony that
16 are appropriately designated for protection within the 21 days (or other mutually agreed
17 time period) shall be covered by the provisions of this Stipulated Protective Order.
18 Alternatively, a Designating Party may specify, at the deposition or up to 21 days (or
19 other mutually agreed time period) afterwards if that period is properly invoked, that the
20 entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
21 ATTORNEYS’ EYES ONLY.”

22 Parties shall give the other parties notice if they reasonably expect a
23 deposition, hearing or other proceeding to include Protected Material so that the other
24 parties can ensure that only authorized individuals who have signed the
25 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
26 proceedings. The use of a document as an exhibit at a deposition shall not in any way
27 affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
28 ATTORNEYS’ EYES ONLY.”

1 Transcripts containing Protected Material shall have an obvious legend on the
2 title page that the transcript contains Protected Material, and the title page shall be
3 followed by a list of all pages (including line numbers as appropriate) that have been
4 designated as Protected Material and the level of protection being asserted by the
5 Designating Party. The Designating Party shall inform the court reporter of these
6 requirements. Any transcript that is prepared before the expiration of a 21-day period (or
7 other mutually agreed time period) for designation shall be treated during that period as if
8 it had been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in
9 its entirety unless otherwise agreed. After the expiration of that period, the transcript shall
10 be treated only as actually designated.

11 (c) for information produced in some form other than documentary and for any
12 other tangible items, that the Producing Party affix in a prominent place on the exterior of
13 the container or containers in which the information or item is stored the legend
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY". If
15 only a portion or portions of the information or item warrant protection, the Producing
16 Party, to the extent practicable, shall identify the protected portion(s) and specify the level
17 of protection being asserted.

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
19 failure to designate qualified information or items does not, standing alone, waive the
20 Designating Party's right to secure protection under this Order for such material. Upon
21 timely correction of a designation, the Receiving Party must make reasonable efforts to
22 assure that the material is treated in accordance with the provisions of this Order including
23 to promptly collect any copies of such material provided to individuals other than those
24 authorized to receive such materials.

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
27 designation of confidentiality at any time. Unless a prompt challenge to a Designating
28 Party's confidentiality designation is necessary to avoid foreseeable, substantial

1 unfairness, unnecessary economic burdens, or a significant disruption or delay of the
2 litigation, a Party does not waive its right to challenge a confidentiality designation by
3 electing not to mount a challenge promptly after the original designation is disclosed.

4 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
5 resolution process by providing written notice of each designation it is challenging and
6 describing the basis for each challenge. To avoid ambiguity as to whether a challenge has
7 been made, the written notice must recite that the challenge to confidentiality is being
8 made in accordance with this specific paragraph of the Protective Order. The parties shall
9 attempt to resolve each challenge in good faith and must begin the process by conferring
10 directly (in voice to voice dialogue; other forms of communication are not sufficient)
11 within 20 days of the date of service of notice. In conferring, the Challenging Party must
12 explain the basis for its belief that the confidentiality designation was not proper and must
13 give the Designating Party an opportunity to review the designated material, to reconsider
14 the circumstances, and, if no change in designation is offered, to explain the basis for the
15 chosen designation. A Challenging Party may proceed to the next stage of the challenge
16 process only if it has engaged in this meet and confer process first or establishes that the
17 Designating Party is unwilling to participate in the meet and confer process in a timely
18 manner.

19 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
20 court intervention, the Challenging Party shall file and serve a motion for an order to
21 remove the designation at issue under Civil Local Rule 7 (and in compliance with Civil
22 Local Rule 79-5 and General Order 62, if applicable). Each such motion must be
23 accompanied by a competent declaration affirming that the movant has complied with the
24 meet and confer requirements imposed in the preceding paragraph. Failure by the
25 Challenging Party to make such a motion including the required declaration within such
26 time periods shall automatically waive the challenge to confidentiality for each challenged
27 designation.

1 The burden of persuasion in any such challenge proceeding shall be on the
2 Designating Party. Frivolous challenges and those made for an improper purpose (e.g., to
3 harass or impose unnecessary expenses and burdens on other parties) may expose the
4 Challenging Party to sanctions.

5 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

6 7.1 Basic Principles. A Receiving Party may use Protected Material that is
7 disclosed or produced by another Party or by a Non-Party in connection with this case
8 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
9 Material may be disclosed only to the categories of persons and under the conditions
10 described in this Order. When the litigation has been terminated, a Receiving Party must
11 comply with the provisions of section 15 below (FINAL DISPOSITION).

12 Protected Material must be stored and maintained by a Receiving Party at a
13 location and in a secure manner that ensures that access is limited to the persons
14 authorized under this Order.

15 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
16 otherwise ordered by the court or permitted in writing by the Designating Party, a
17 Receiving Party may disclose any information or item designated "CONFIDENTIAL"
18 only to:

19 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
20 employees of said Outside Counsel of Record to whom it is reasonably necessary to
21 disclose the information for this litigation;

22 (b) the officers, directors, and employees (including House Counsel) of the
23 Receiving Party to whom disclosure is reasonably necessary for this litigation and who
24 have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

25 (c) Experts (as defined in this Order) of the Receiving Party to whom
26 disclosure is reasonably necessary for this litigation and who have signed the
27 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

28 (d) the court and its personnel;

1 (e) court reporters and their staff, professional jury or trial consultants, and
2 Professional Vendors to whom disclosure is reasonably necessary for this litigation and
3 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 (f) during their depositions, witnesses in the action to whom disclosure is
5 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be
6 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the
7 court. Pages of transcribed deposition testimony or exhibits to depositions that reveal
8 Protected Material must be separately bound by the court reporter and may not be
9 disclosed to anyone except as permitted under this Stipulated Protective Order.

10 (g) the author or recipient of a document containing the information or a
11 custodian or other person who otherwise possessed or knew the information.

12 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
13 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
14 writing by the Designating Party, a Receiving Party may disclose any information or item
15 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

16 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
17 employees of said Outside Counsel of Record to whom it is reasonably necessary to
18 disclose the information for this litigation;

19 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably
20 necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to
21 Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph
22 7.4(a)(2), below, have been followed];

23 (c) the court and its personnel;

24 (d) court reporters and their staff, professional jury or trial consultants, and
25 Professional Vendors to whom disclosure is reasonably necessary for this litigation and
26 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

27 (e) the author or recipient of a document containing the information or a
28 custodian or other person who otherwise possessed or knew the information.

1 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts.

3 (a) Unless otherwise ordered by the court or agreed to in writing by the
4 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order)
5 any information or item that has been designated “HIGHLY CONFIDENTIAL –
6 ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a written
7 request to the Designating Party that (1) identifies the general categories of “HIGHLY
8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information that the Receiving Party
9 seeks permission to disclose to the Expert, (2) sets forth the full name of the Expert and
10 the city and state of his or her primary residence, (3) attaches a copy of the Expert’s
11 current resume, and (4) identifies the Expert’s current employer(s). If the Expert believes
12 any of this information is subject to a confidentiality obligation to a third-party, then the
13 Expert should provide whatever information the Expert believes can be disclosed without
14 violating any confidentiality agreements, and the Party seeking to disclose to the Expert
15 shall be available to meet and confer with the Designating Party regarding any such
16 engagement.

17 (b) A Party that makes a request and provides the information specified in the
18 preceding respective paragraphs may disclose the subject Protected Material to the
19 identified Expert unless, within 14 days of delivering the request, the Party receives a
20 written objection from the Designating Party. Any such objection must set forth in detail
21 the grounds on which it is based.

22 (c) A Party that receives a timely written objection must meet and confer with
23 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter
24 by agreement within seven days of the written objection. If no agreement is reached, the
25 Party seeking to make the disclosure to the Expert may file a motion as provided in Civil
26 Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if
27 applicable) seeking permission from the court to do so. Any such motion must describe
28 the circumstances with specificity, set forth in detail the reasons why the disclosure to the

1 Expert is reasonably necessary, assess the risk of harm that the disclosure would entail,
2 and suggest any additional means that could be used to reduce that risk. In addition, any
3 such motion must be accompanied by a competent declaration describing the parties'
4 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and
5 confer discussions) and setting forth the reasons advanced by the Designating Party for its
6 refusal to approve the disclosure.

7 In any such proceeding, the Party opposing disclosure to the Expert shall bear
8 the burden of proving that the risk of harm that the disclosure would entail (under the
9 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected
10 Material to its Expert.

11 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
12 **OTHER LITIGATION**

13 If a Party is served with a subpoena or a court order issued in other litigation
14 that compels disclosure of any information or items designated in this action as
15 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
16 that Party must:

17 (a) promptly notify in writing the Designating Party. Such notification shall
18 include a copy of the subpoena or court order;

19 (b) promptly notify in writing the party who caused the subpoena or order to
20 issue in the other litigation that some or all of the material covered by the subpoena or
21 order is subject to this Protective Order. Such notification shall include a copy of this
22 Stipulated Protective Order; and

23 (c) cooperate with respect to all reasonable procedures sought to be pursued by
24 the Designating Party whose Protected Material may be affected. The purpose of
25 imposing these duties is to alert the interested parties to the existence of this Protective
26 Order and to afford the Designating Party in this case an opportunity to try to protect its
27 confidentiality interests in the court from which the subpoena or order issued.

1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this action as
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
4 before a determination by the court from which the subpoena or order issued, unless the
5 Party has obtained the Designating Party’s permission. The Designating Party shall bear
6 the burden and expense of seeking protection in that court of its confidential material –
7 and nothing in these provisions should be construed as authorizing or encouraging a
8 Receiving Party in this action to disobey a lawful directive from another court.

9 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED**
10 **IN THIS LITIGATION**

11 (a) The terms of this Order are applicable to information produced by a Non-
12 Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. Such information produced by Non-
14 Parties in connection with this litigation is protected by the remedies and relief provided
15 by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party
16 from seeking additional protections.

17 (b) In the event that a Party is required, by a valid discovery request, to
18 produce a Non-Party’s confidential information in its possession, and the Party is subject
19 to an agreement with the Non-Party not to produce the Non-Party’s confidential
20 information, then the Party shall:

21 1. promptly notify in writing the Requesting Party and the Non-Party that
22 some or all of the information requested is subject to a confidentiality agreement with a
23 Non-Party;

24 2. promptly provide the Non-Party with a copy of the Stipulated Protective
25 Order in this litigation, the relevant discovery request(s), and a reasonably specific
26 description of the information requested; and

27 3. make the information requested available for inspection by the Non-
28 Party.

1 (c) If the Non-Party fails to object or seek a protective order from this court
 2 within 14 days of receiving the notice and accompanying information, the Receiving Party
 3 may produce the Non-Party's confidential information responsive to the discovery
 4 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
 5 produce any information in its possession or control that is subject to the confidentiality
 6 agreement with the Non-Party before a determination by the court.¹ Absent a court order
 7 to the contrary, the Non-Party shall bear the burden and expense of seeking protection in
 8 this court of its Protected Material.

9 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

10 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 11 Protected Material to any person or in any circumstance not authorized under this
 12 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
 13 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
 14 unauthorized copies of the Protected Material, (c) inform the person or persons to whom
 15 unauthorized disclosures were made of all the terms of this Order, and (d) request such
 16 person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is
 17 attached hereto as Exhibit A.

18 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 19 **PROTECTED MATERIAL**

20 When a Producing Party gives notice to Receiving Parties that certain
 21 inadvertently produced material is subject to a claim of privilege or other protection, the
 22 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure
 23 26(b)(5)(B). This provision is not intended to modify whatever procedure may be
 24 established in an e-discovery order that provides for production without prior privilege
 25 review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach
 26

27 ¹ The purpose of this provision is to alert the interested parties to the existence of
 28 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect
 its confidentiality interests in this court.

1 an agreement on the effect of disclosure of a communication or information covered by
2 the attorney-client privilege or work product protection, the parties may incorporate their
3 agreement in the stipulated protective order submitted to the court.

4 **12. MISCELLANEOUS**

5 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any
6 person to seek its modification by the court in the future.

7 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object to disclosing
9 or producing any information or item on any ground not addressed in this Stipulated
10 Protective Order. Similarly, no Party waives any right to object on any ground to use in
11 evidence of any of the material covered by this Protective Order.

12 **12.3 Filing Protected Material.** Without written permission from the
13 Designating Party or a court order secured after appropriate notice to all interested
14 persons, a Party may not file in the public record in this action any Protected Material. A
15 Party that seeks to file under seal any Protected Material must comply with Civil Local
16 Rule 79-5 and General Order 62. Protected Material may only be filed under seal pursuant
17 to a court order authorizing the sealing of the specific Protected Material at issue.
18 Pursuant to Civil Local Rule 79-5 and General Order 62, a sealing order will issue only
19 upon a request establishing that the Protected Material at issue is privileged, protectable as
20 a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's
21 request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) and
22 General Order 62 is denied by the court, then the Receiving Party may file the Protected
23 Material in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise
24 instructed by the court.

25 **13. FINAL DISPOSITION**

26 **Within 60 days after the final disposition of this action, as defined in paragraph**
27 **4, each Receiving Party must return all Protected Material to the Producing Party or**
28 **destroy such material. As used in this subdivision, "all Protected Material" includes all**

1 copies, abstracts, compilations, summaries, and any other format reproducing or capturing
 2 any of the Protected Material. Whether the Protected Material is returned or destroyed, the
 3 Receiving Party must submit a written certification to the Producing Party (and, if not the
 4 same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies
 5 (by category, where appropriate) all the Protected Material that was returned or destroyed
 6 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
 7 compilations, summaries or any other format reproducing or capturing any of the
 8 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
 9 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
 10 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
 11 work product, and consultant and expert work product, even if such materials contain
 12 Protected Material. Any such archival copies that contain or constitute Protected Material
 13 remain subject to this Protective Order as set forth in Section 4 (DURATION).

14 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

15 DATED: January 23, 2013

CARROLL, BURDICK & McDONOUGH LLP

16 /s/Matthew F. Miller

17 Matthew F. Miller

18 Attorneys for Plaintiff AMEC ENVIRONMENT
& INFRASTRUCTURE, INC.

19 DATED: January 23, 2013

BUCHALTER NEMER, PC

20 /s/Richard C. Darwin

21 Richard C. Darwin

22 Attorneys for Defendants

23 GEOSYNTEC CONSULTANTS, INC., ANTON
24 ARULANANTHAM, ROBERT CHEUNG,
25 BRIAN MCNAMARA, JOSEPH NILAND, SYED
26 REHAN, and BRUCE TRAVERS

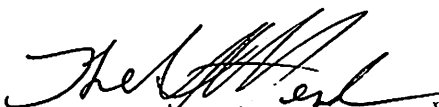
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ATTESTATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order 45(X)(B)(5), Matthew F. Miller certifies that he has the concurrence of Richard Darwin, counsel for Defendants, in the filing of this stipulation.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 1/24/13



Thelton E. Henderson
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that I
have read in its entirety and understand the Stipulated Protective Order that was issued by
the United States District Court for the Northern District of California on [date] in the
case of *AMEC Environment & Infrastructure, Inc., Plaintiff v. Geosyntec Consultants,
Inc., et al.*, Case No. C 12-cv-2973-TEH. I agree to comply with and to be bound by all
the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any information or
item that is subject to this Stipulated Protective Order to any person or entity except in
strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Northern District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after termination
of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone
number] as my California agent for service of process in connection with this action or
any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____