

COPY

BC 19-347

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the Santa Barbara County Flood Control and Water Conservation District, a political subdivision of the State of California (hereafter COUNTY) and WRECO with an address at 1243 Alpine Road, Suite 108, Walnut Creek, CA 94596 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Karen Sullivan at phone number 805-568-3458 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Lesley Brooks at phone number 669-204-7081 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Mr. Thomas D. Fayram, Deputy Public Works Director, SBCFC&WCD, 130 E. Victoria Street, STE 200, Santa Barbara, CA 93101

To CONTRACTOR: Ms. Lesley Brooks, Senior Engineer, WRECO, 1243 Alpine Road, Suite 108, Walnut Creek, CA 94596

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on **September 10, 2019** and end performance upon completion, but no later than **June 30, 2021** unless otherwise directed by COUNTY or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY

and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321.)

10. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

11. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

12. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as

"Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

13. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

14. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

15. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

16. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit

fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

17. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

18. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

19. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

20. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under

this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

21. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

22. NO ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

23. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
 - 1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed

by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

24. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

25. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other

provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

26. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

27. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

28. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

29. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

30. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

31. CHANGES

- A. **Notice.** The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the

CONTRACTOR regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state

- i. The date, nature, and circumstances of the conduct regarded as a change;
 - ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;
 - iii. The identification of any documents and the substance of any oral communication involved in such conduct;
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:
 - What line items have been or may be affected by the alleged change;
 - What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.
- B. **Continued Performance.** Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.
- C. **COUNTY Response.** COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either --
- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
 - ii. Countermand any communication regarded as a change;
 - iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance; or
 - iv. In the event the Contractor's notice information is inadequate to make a decision, advise CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.
- D. **Equitable Adjustments.**
- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this

Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --

- In the contract price or delivery schedule or both; and
 - In such other provisions of the Agreement as may be affected.
- ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

32. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

33. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

34. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

35. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

36. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

37. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

38. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

39. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

40. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTOR shall file the required certification in EXHIBIT D. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

41. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- A. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- C. **Withholding for unpaid wages and liquidated damages.** COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- D. **Subcontracts.** CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

42. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

43. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

44. PROCUREMENT OF RECOVERED MATERIALS

- A. A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

45. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

46. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

47. REGISTRATION

COUNTY hereby notifies CONTRACTOR that no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)); no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Agreement for Services of Independent Contractor between the Santa Barbara County Flood Control and Water Conservation District and WRECO.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Ex Officio Clerk of the Board of
Directors of the Santa Barbara
County Flood Control and Water
Conservation District

By: Sheila de la Guerra
Deputy Clerk

**SANTA BARBARA COUNTY FLOOD
CONTROL & WATER CONSERVATION
DISTRICT**

By: Steve Lavagnino
Steve Lavagnino, Chair, Board
of Directors

Date: 9-10-19

RECOMMENDED FOR APPROVAL:

Santa Barbara County Flood Control
& Water Conservation District

By: Scott D. McGolpin
Scott D. McGolpin
Public Works Director

CONTRACTOR:

WRECO

By: Andrew Aho for
Authorized Representative

Name: Han-Bin Liang
Title: President

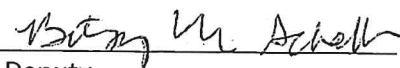
APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: 
Deputy

APPROVED AS TO FORM:

Ray Aromatorio, ARM, AIC
Risk Management

By: 
Risk Management

EXHIBIT A

STATEMENT OF WORK



1243 Alpine Road, Suite 108
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Phone: 925.941.0017
Fax: 925.941.0018
www.wreco.com

July 26, 2019

Jonathan S. Frye, PE, CFM
Engineering Manager
Santa Barbara County Flood Control & Water Conservation District
130 East Victoria Street, Suite 200
Santa Barbara, CA 93101

Subject: Proposal for the Randall Road Debris Basin Project

Dear Mr. Frye,

WRECO is pleased to present you with this proposal and cost estimate for the tasks associated with the Randall Road Debris Basin Project (Project) for the Santa Barbara County Flood Control & Water Conservation District (District). This scope of work is to further the design of the Project from the current 30% design, developed as part of the Hazard Mitigation Grant Program Grant Application, to the 60%, 90%, and 100% plans, specifications, and estimates (PS&E). WRECO's scope includes the following primary elements:

- *Design workshop to discuss current 30% design and any additional considerations or options*
- *Hydrologic and hydraulic analyses to support regulatory permitting, analysis of placement of debris racks to optimize volume capacity, analysis of scour along the creek and bank to provide recommendations for bank stabilization, and determining the impacts of the proposed design on water surface elevations and velocities*
- *Coordination for constructability and environmental permitting*
- *Guidance on environmental permitting*
- *Structural analysis*
- *30% Plans complying with the National Marine Fisheries Service (NMFS) and the California Department of Fish and Wildlife (CDFW) fish-passage criteria*
- *60% PS&E and updated Hydraulic Design and Fish Passage Report*
- *90% PS&E and updated Hydraulic Design and Fish Passage Report*
- *100% PS&E and updated Hydraulic Design and Fish Passage Report*
- *Bid support*
- *Design support during the Project construction*

WRECO agrees to complete the services outlined in the detailed scope of work at the not to exceed cost of \$431,568.



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WRECO's DETAILED SCOPE OF WORK

Task 1 Data Review

WRECO will review available data, including survey data, any available hydraulic studies, Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) data, and any additional information provided by the District.

Task 2 Field Reconnaissance

WRECO will conduct a field reconnaissance to assess the existing conditions in the vicinity of the Project site.

Task 3 Project Management and Meetings

WRECO will attend the Project kickoff meeting and one (1) coordination meeting. WRECO will participate in bi-weekly conference calls with the District and monthly conference calls with NMFS as necessary. On a monthly basis, WRECO will provide the District with invoices and progress reports for the Project. WRECO will also submit the schedule of the PS&E deliverables and construction schedule to the District.

Deliverables:

- Monthly Invoices and Progress Reports
- Project Schedule and Construction Schedule

Task 4 Design Workshop

WRECO will attend and present a design workshop at the District's office and at the Project site to review and discuss the District's 30% design. WRECO will provide a presentation that summarizes additional considerations and options that may be analyzed and incorporated into the final design. The District will be responsible for hosting the workshop and for inviting Project stakeholders.

Task 5 Hydrologic Analysis

WRECO will perform a hydrologic analysis of the Project based on watershed information and previous studies available. From the analysis, WRECO will determine the estimate of the bulk debris flow through the basin as well as the fish passage flows to help design the appropriate size of the basin, debris racks, and fish passage downstream.

Task 6 Hydraulic Analysis

WRECO will perform a hydraulic analysis of the Project for both the existing and proposed conditions based on the District's current 30% design. WRECO will evaluate the impacts of the District's current 30% design and will make recommendations to update the design, as necessary. This is likely to include large woody debris trapping devices and other restoration improvements.

The analysis will start from downstream fish passage, through the debris racks and debris basin, using HEC-RAS Version 5.0 with the geo-referenced survey and cross section data. The flows and boundary conditions will be based on information obtained from the FEMA FIS and the District. The design flows evaluated will include: peak 100-, 10- and 2-year design flows; peak design bulked flow; and fish passage flows. Analysis of the surrounding creek for channel scour and bank stabilization will be included with



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recommendations for improvements. WRECO will document the results from our hydrologic and hydraulic analyses in a Summary Hydraulics Technical Memorandum.

- *Deliverables:*
- *Draft Summary Hydraulics Technical Memorandum (PDF)*
- *Final Summary Hydraulics Technical Memorandum (PDF)*

Task 7 Coordination for Constructability and Environmental Permitting

WRECO will coordinate with the District to answer technical questions regarding the design and construction of the improvements. All permitting and coordination for the Project will be performed by the District.

Task 8 Coordination with Geotechnical Firm

WRECO will coordinate with the contracted geotechnical firm to request information that will be necessary for the analysis of the basin, channel scour, and bank stabilization. A request for information will be prepared and will include estimated boring locations and laboratory testing. WRECO will receive and review the Geotechnical Report for use in the analysis of the Project. The deliverables for the geotechnical studies will be incorporated into the overall project schedule.

Task 9 Coordination for Site Survey

Survey for the site will be performed and provided by the District. WRECO will coordinate with the District regarding the necessary survey at the Project site.

Task 10 Structural Analysis

WRECO will perform structural analysis for the design including the retaining walls at the upper end of the basin with structural and seismic calculations and complying with:

- *The Geotechnical Report findings*
- *ASCE 24 (2014 or latest addition) "Flood Resistant Design and Construction"*
- *ASCE/SEI 7-05 "Minimum Design Loads for Buildings and other Structures"*
- *International Building Code (2009 or latest edition)*

- *Deliverables:*
- *Draft Structural Analysis Report (PDF)*
- *Final Structural Analysis Report (PDF)*

Task 11 Updated 30% Reports, Plans, and Estimates

Task 11.1 Hydraulic Design and Fish Passage Report

WRECO will prepare a Hydraulic Design and Fish Passage Report for the 30% submittal level based on the preliminary findings from the geotechnical analysis and environmental permitting review. The report will incorporate the following elements:

- a. 30% plans incorporating and complying with NFMS/CDFW fish-passage criteria (values to be provided by the District) for adult and juvenile fish including:
 - i. Water depths (pool, weir)
 - ii. Jump height
 - iii. Velocities





- iv. Energy dissipating pool volume (as applicable)
- b. Sediment transport study within the HEC-RAS model to analyze scour and deposition of sediment over a long time period and use Chapter 13 – Sediment Impact Assessments of the NRCS Stream Restoration Design NEH for analysis of the proposed design. Analysis will be provided for all studied storm events including the 2-, 10-, 50-, and 100-year storm events.
- c. Fish Passage Report incorporating NMFS/CDFW criteria.
 - i. Adult high fish passage design flow: Q2 (or 50% Q2 if other criteria cannot be met)
 - ii. Adult low fish passage design flow: 3cfs
 - iii. Juvenile fish passage flows
- d. Hydraulic analyses including
 - iv. 50-year flows (structure should not be overtopped at 50-year event)
 - v. 100-year flows
 - vi. Scour and erosion potential

Task 11.2 30% Plans and Estimates

WRECO will update the current 30% plans to a more detailed 30% submittal level and add profiles and details after receiving findings or sufficient information from the geotechnical analysis, updated survey, and environmental permitting review.

- *Plans including title sheet, general Project information sheet, horizontal control sheets, plan and profile sheets, cross section sheets, and detail sheets.*
- *Specifications conforming to the 2018 Caltrans Standard Specifications.*
- *Construction cost estimates and quantities based on 2018 Caltrans Bid Item List.*
- *Design will be certified to be in compliance with construction requirements specified in the FEMA Hazard Mitigation Guidance Program and meet or exceed IBC standards.*
 - ☐ *Deliverables:*
 - *30% Hydraulic Design and Fish Passage Report (PDF)*
 - *30% Plans and Preliminary Cost Estimate (PDF)*

Task 12 60% Plans, Specifications, and Estimates

Task 12.1 Hydraulic Design and Fish Passage Report

WRECO will update the Hydraulic Design and Fish Passage Report to the 60% submittal level based on comments from the previously submitted report.

Task 12.2 60% PS&E

WRECO will update the 30% plans to the 60% submittal level and add profiles, details, and specifications after receiving findings or sufficient information from the geotechnical analysis, updated survey, NMFS review, and environmental permitting review.

- *Plans including, title sheet, general Project information sheet, horizontal control sheets, plan and profile sheets, cross section sheets, and detail sheets.*
- *Specifications conforming to the 2018 Caltrans Standard Specifications.*
- *Construction cost estimates and quantities based on 2018 Caltrans Bid Item List.*
- *Design will be certified to be in compliance with construction requirements specified in the FEMA Hazard Mitigation Guidance Program and meet or exceed IBC standards.*





- Deliverables:
- 60% Hydraulic Design and Fish Passage Report (PDF)
- 60% PS&E (PDF)

Task 13 90% Plans, Specifications, and Estimates

Task 13.1 Hydraulic Design and Fish Passage Report

WRECO will update the Hydraulic Design and Fish Passage Report to the 90% submittal level based on comments received on the 60% Hydraulic Design and Fish Passage Report.

Task 13.2 90% PS&E

WRECO will update the 60% PS&E to the 90% submittal level after receiving comments on the 60% submittal and any additional findings from the geotechnical analysis, updated survey, NMFS review, and environmental permitting review.

- Plans including, title sheet, general Project information sheet, horizontal control sheets, plan and profile sheets, cross section sheets, and detail sheets.
- Specifications conforming to the 2018 Caltrans Standard Specifications.
- Construction cost estimates and quantities based on 2018 Caltrans Bid Item List.
- Design will be certified to be in compliance with construction requirements specified in the FEMA Hazard Mitigation Guidance Program and meet or exceed IBC standards.

- Deliverables:
- 90% Hydraulic Design and Fish Passage Report (PDF)
- 90% PS&E (PDF)

Task 14 100% Plans, Specifications, and Estimates

Task 14.1 Hydraulic Design and Fish Passage Report

WRECO will update the Hydraulic Design and Fish Passage Report to the 100% submittal level based on comments received on the 90% Hydraulic Design and Fish Passage Report.

Task 14.2 100% PS&E

WRECO will update the 90% PS&E to the 100% submittal level after receiving comments on the 90% submittal.

- Plans including, title sheet, general project information sheet, horizontal control sheets, plan and profile sheets, cross section sheets, and detail sheets.
- Specifications conforming to the 2018 Caltrans Standard Specifications.
- Construction cost estimates and quantities based on 2018 Caltrans Bid Item List.
- Design will be certified to be in compliance with construction requirements specified in FEMA Hazard Mitigation Guidance Program and meet or exceed IBC standards.

- Deliverables:
- 100% Hydraulic Design and Fish Passage Report (PDF and 3 hard copies)
- 100% PS&E (PDF and 3 half-size hard copies)
- AutoCAD Files





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Task 15 Bid Phase Support

WRECO will provide supplemental support to the District for bidding inquiries. WRECO's fee only includes nominal amount of support at this time. We will perform the following:

- Attend the pre-bid meeting
- Prepare addenda or clarifications
 - ☐ Deliverables:
 - Contract Addenda (as needed)
 - Responses to Bidders Questions (Distributed by the District during the bid phase)

Task 16 Design Support During Construction

WRECO will provide design support during the construction phase of the Project. We will:

- Respond to Requests for Information (RFI) related to the design
- Review the Contractor's proposed changes in the field
- Review the Contractor's submittals
- Develop as-built drawings at the conclusion of the Project
 - ☐ Deliverables:
 - Responses to RFIs
 - Shop Drawing Review
 - Recommendations of Change Orders
 - As-Built Drawings

Assumptions

- Updated renderings will not be required and will be considered additional services.
- The District will provide WRECO with any as-builts or record drawings, utility underground maps, and any existing information in the possession of the District that is necessary to complete the Project design.
- The District will provide updated site survey based on requests from WRECO.
- Additional involvement with public presentations or meetings not included under Tasks 3 and 4 will be considered additional services.
- The District will provide any and all landscape planning, planting plans, maintenance permits, and mitigation plans as part of the Project.
- The District will provide the front-end "boilerplate" of the specifications to WRECO.
- The District will be responsible for the reproduction costs of the construction bid packages (plans and specifications) separately.
- The Contractor will provide construction staking.
- The District will provide construction management and administration during the construction period and perform daily inspections. WRECO will perform technical review of the shop drawings and provide engineering support during construction as needed to answer the Contractor's RFIs or clarification and to assist with change orders.
- The District will provide right-of-way base map.
- Any necessary permits for surveying and geotechnical work will be provided at no cost to WRECO.



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Schedule of Work

The above tasks are anticipated to be completed within a schedule that would coincide with a July 2021 construction start date.

Enclosed please find our proposed work-hours and fee. Please feel free to contact me if you have any questions at (925) 941-0017 x201 or email at hanbin_liang@wreco.com.

Best Regards,
WRECO

A handwritten signature in black ink, appearing to read 'Han-Bin Liang'.

Han-Bin Liang, Ph.D., P.E., QSD/P | President

Enclosures: Cost Estimate and Fee Schedule



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Randall Road Debris Basin Project
Santa Barbara County

Work-Hour and Fee Estimate for WRECO Tasks
Prepared by WRECO

July 29, 2019

TASK	DESCRIPTION	BILLING RATE													TOTALS BY TASK								
		\$ 270.00	\$ 190.00	\$ 190.00	\$ 150.00	\$ 180.00	\$ 150.00	\$ 120.00	\$ 120.00	\$ 120.00	\$ 95.00	\$ 95.00	\$ 50.00	\$ 50.00	Hours	Labor Cost	Execution %	Total					
1	Data Review	16													16				48	\$ 6,400.00	\$ 189.44	\$ 6,593.44	
2	Field Reconnaissance																			32	\$ 7,200.00	\$ 217.62	\$ 7,417.62
3	Project Management and Meetings	40	16																156	\$ 29,440.00	\$ 889.83	\$ 30,329.83	
4	Design Workshop	16	8																96	\$ 16,400.00	\$ 455.69	\$ 16,855.69	
5	Hydrologic Analysis	2																	66	\$ 8,100.00	\$ 244.81	\$ 8,344.81	
6	Hydraulic Analysis	16																	272	\$ 36,500.00	\$ 1,103.21	\$ 37,603.21	
7	Coordination for Constructability and Environmental Permitting	4	4																60	\$ 9,320.00	\$ 281.70	\$ 9,601.70	
8	Coordination with Geotechnical Firm																		0	\$ -	\$ -	\$ -	
	Meeting with Geotechnical Firm																		16	\$ 2,960.00	\$ 89.47	\$ 3,049.47	
	Review of Geotechnical Report																		40	\$ 7,520.00	\$ 237.29	\$ 7,757.29	
9	Coordination for Site Survey	2	2																16	\$ 2,600.00	\$ 78.59	\$ 2,678.59	
10	Structural Analysis	8	60																84	\$ 16,440.00	\$ 456.90	\$ 16,896.90	
11	Updated 30% Reports, Plans and Estimates																		0	\$ -	\$ -	\$ -	
	Hydraulic Design and Fish Passage Report																		140	\$ 17,220.00	\$ 520.47	\$ 17,740.47	
	Update 30% plans to a more detailed 50% submittal	4	40	8	32														324	\$ 39,960.00	\$ 1,207.79	\$ 41,167.79	
	Provide updated cost estimate	2	2																40	\$ 5,080.00	\$ 153.54	\$ 5,233.54	
	Provide specifications	2	16	4	24														90	\$ 13,380.00	\$ 404.41	\$ 13,784.41	
	QC of Plans and Reports	4	4	4	4														20	\$ 3,640.00	\$ 110.02	\$ 3,750.02	
12	60% Plans, Specifications, and Estimates																		0	\$ -	\$ -	\$ -	
	Hydraulic Design and Fish Passage Report																		78	\$ 10,400.00	\$ 314.34	\$ 10,714.34	
	Update 30% plans to 60% submittal	4	16	8	32														300	\$ 35,400.00	\$ 1,069.97	\$ 36,469.97	
	Provide updated cost estimate	2	2																40	\$ 5,080.00	\$ 153.54	\$ 5,233.54	
	Provide specifications	2	16	4	24														90	\$ 13,380.00	\$ 404.41	\$ 13,784.41	
	QC of Plans and Reports	4	4	4	4														20	\$ 3,640.00	\$ 110.02	\$ 3,750.02	
13	90% Plans, Specifications, and Estimates																		0	\$ -	\$ -	\$ -	
	Review and Response to Comments	2																	14	\$ 2,200.00	\$ 67.10	\$ 2,267.10	
	Hydraulic Design and Fish Passage Report																		64	\$ 8,240.00	\$ 249.05	\$ 8,489.05	
	Update 60% plans to 90% submittal	4	20	4	32														236	\$ 28,480.00	\$ 859.60	\$ 29,295.60	
	Provide updated cost estimate	2	2																44	\$ 5,760.00	\$ 174.10	\$ 5,934.10	
	Provide specifications	2	8	2	8														38	\$ 5,760.00	\$ 174.10	\$ 5,934.10	
	QC of Plans and Reports	4	4	4	4														20	\$ 3,640.00	\$ 110.02	\$ 3,750.02	
14	100% Plans, Specifications, and Estimates																		0	\$ -	\$ -	\$ -	
	Review and Response to Comments	2																	14	\$ 2,200.00	\$ 67.10	\$ 2,267.10	
	Hydraulic Design and Fish Passage Report																		46	\$ 6,360.00	\$ 197.23	\$ 6,557.23	
	Update 90% plans to 100% submittal	4	12	4	32														208	\$ 25,120.00	\$ 759.24	\$ 25,879.24	
	Provide updated cost estimate	2	4																14	\$ 2,200.00	\$ 67.10	\$ 2,267.10	
	Provide specifications	2	16	4	16														66	\$ 8,460.00	\$ 255.70	\$ 8,715.70	
	QC of Plans and Reports	4	4	4	4														22	\$ 3,640.00	\$ 110.02	\$ 3,750.02	
15	Bid Phase Support																		0	\$ -	\$ -	\$ -	
	QC of Plans and Reports	2	8	8	8														110	\$ 14,580.00	\$ 440.68	\$ 15,020.68	
16	Design Support During Construction																		3924	\$ 409,200.00	\$ 12,368.05	\$ 421,568.05	
	Subtotal Labor	168	258	110	556	24	32	762	688	272													
Expense																							
	Travel & Per Diem																					\$ 5,000.00	
	Office Misc. & Reproductions																					\$ 5,000.00	
	Subtotal Expense																					\$ 10,000.00	
	Total Project Cost																					\$ 431,568.06	

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, up to but not to exceed \$ 431,568.06.
- B. Extra Work required to complete the project may be authorized only if CONTRACTOR receives written approval by the COUNTY's designated representative as identified in Paragraph 1 of the Agreement at the same rate per unit as defined in Attachment B1. The total amount of this contingency fund is 10% of the agreement amount or \$43,156.80.
- C. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in Attachment B1 (Schedule of Fees). Invoices submitted for payment that are based upon Attachment B1 must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in EXHIBIT A.
- D. **Monthly**, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of Attachment B1 shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- E. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
- F. CONTRACTOR shall comply with the California Labor Code, including but not limited to the payment of prevailing wage when required. The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are on file at the office of the Santa Barbara County Water Agency, 130 E. Victoria Street, Suite 200, Santa Barbara, CA 93101. Copies of these general prevailing wage rates shall be made available to any interested party on request. Changes, if any to the general prevailing wage rates will be available at the same location. The prevailing wage rates are also available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov/dlsr/pwd>.

ATTACHMENT B1



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HOURLY RATE SCHEDULE

Effective January 1, 2019

<u>TITLE</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>TITLE</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
Principal Professional	\$245.00	\$300.00	Senior Technician III	\$120.00	\$145.00
Supervising Professional II	\$205.00	\$245.00	Senior Technician II	\$105.00	\$130.00
Supervising Professional I	\$165.00	\$205.00	Senior Technician I	\$80.00	\$105.00
Senior Professional III	\$165.00	\$195.00	Technician III	\$65.00	\$80.00
Senior Professional II	\$135.00	\$165.00	Technician II	\$55.00	\$65.00
Senior Professional I	\$105.00	\$135.00	Technician I	\$40.00	\$55.00
Associate Professional III	\$120.00	\$130.00	Sr. Clerical / Tech Editor III	\$105.00	\$120.00
Associate Professional II	\$105.00	\$120.00	Sr. Clerical / Tech Editor II	\$90.00	\$105.00
Associate Professional I	\$90.00	\$105.00	Sr. Clerical / Tech Editor I	\$80.00	\$90.00
Staff Professional III	\$90.00	\$105.00	Clerical / Tech Editor III	\$65.00	\$80.00
Staff Professional II	\$75.00	\$90.00	Clerical / Tech Editor II	\$50.00	\$65.00
Staff Professional I	\$55.00	\$75.00	Clerical / Tech Editor I	\$40.00	\$50.00

- Professional staff includes Civil Engineers, Hydraulic Engineers, Geotechnical Engineers, Geologists, Biologists, and Environmental Scientists.
- Expenses are invoiced at 110% of cost.
- Unless expressly provided for within the contract, rates in all contracts are subject to increase as of 1/1/2020.
- Rates for deposition and trial time are 1.5 times those shown above.
- Regular Mileage is per IRS rate (currently at \$0.58 per mile) or as otherwise specified in contract.



EXHIBIT C

Indemnification and Insurance Requirements (For Design Professional Contracts)

INDEMNIFICATION

CONTRACTOR agrees to fully indemnify and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, suits damages, costs, expenses, judgments and/or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR and its employees, subcontractors, or agents in the performance of services under this Agreement but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the COUNTY. The indemnity includes the cost to defend COUNTY to the extent of the CONTRACTOR's proportionate percentage of fault. Should one (or more) defendants be unable to pay its share of the defense costs due to bankruptcy or dissolution of the business, CONTRACTOR shall meet and confer with other parties regarding unpaid defense costs and CONTRACTOR shall pay County's cost of defense to the fullest extent permitted by law.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.

10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

Exhibit D

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR, WRECO, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Han-Bin Liang, President
Name and Title of Contractor's Authorized Official

8/13/19

Date