

# Board Contract Summary

BC                     

For use with Expenditure Contracts submitted to the Board for approval. Complete information below, print, obtain signature of authorized departmental representative, and submit this form, along with attachments, to the appropriate departments for signature. See also: Auditor-Controller Intranet Policies->Contracts.

D1.	Fiscal Year .....	2020-21
D2.	Department Name .....	PW Flood Control
D3.	Contact Person .....	Jon Frye
D4.	Telephone .....	Ext. 83444

K1.	Contract Type ( <i>check one</i> ):	Personal Service    Capital
K2.	Brief Summary of Contract Description/Purpose .....	Real Property Services for Lower Mission Creek Flood Control Project Reach 4
K3.	Department Project Number .....	SC8042
K4.	Original Contract Amount .....	\$143,000(\$130,000 plus contingency \$13,000)
K5.	Contract Begin Date .....	August 18, 2020
K6.	Original Contract End Date .....	June 30, 2023
K7.	Amendment? (Yes or No).....	N/A
K8.	- New Contract End Date .....	N/A
K9.	- Total Number of Amendments .....	N/A
K10.	- This Amendment Amount.....	N/A
K11.	- Total Previous Amendment Amounts.....	N/A
K12.	- Revised Total Contract Amount .....	N/A

B1.	Intended Board Agenda Date .....	August 18, 2020
B2.	Number of Workers Displaced ( <i>if any</i> ) .....	N/A
B3.	Number of Competitive Bids ( <i>if any</i> ).....	N/A
B4.	Lowest Bid Amount ( <i>if bid</i> ) .....	N/A
B5.	If Board waived bids, show Agenda Date.....	N/A
	and Agenda Item Number .....	
B6.	Boilerplate Contract Text Changed? ( <i>if Yes, cite Paragraph</i> ).....	N/A

F1.	Fund Number .....	2610
F2.	Department Number .....	054
F3.	Line Item Account Number .....	8400
F4.	Project Number ( <i>if applicable</i> ) .....	SC8042
F5.	Program Number ( <i>if applicable</i> ) .....	3005
F6.	Org Unit Number ( <i>if applicable</i> ).....	
F7.	Payment Terms .....	Net 30

V1.	Auditor-Controller Vendor Number .....	015139
V2.	Payee/Contractor Name .....	Beacon Integrated Professional Resources DBA: Hamner, Jewell & Associates
V3.	Mailing Address.....	530 Paulding Circle, STE A
V4.	City State (two-letter) Zip (include +4 if known).....	Arroyo Grande, CA 93420
V5.	Telephone Number .....	(805) 845-4602
V6.	Vendor Contact Person .....	Lillian Jewell
V7.	Workers Comp Insurance Expiration Date .....	3/1/21
V8.	Liability Insurance Expiration Date .....	2/15/21
V9.	Professional License Number .....	
V10.	Verified by (print name of county staff).....	clopez

V11 Company Type (*Check one*):            Individual            Sole Proprietorship            Partnership            Corporation

I certify information is complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date: 7/9/20 Authorized Signature: [Signature]

## **AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR**

**THIS AGREEMENT** (hereafter Agreement) is made by and between the **Santa Barbara County Flood Control & Water Conservation District**, a political subdivision of the State of California (hereafter COUNTY) and **Beacon Integrated Professional Resources, Inc., DBA: Hamner, Jewell & Associates** with an address at 530 Paulding Circle, STE A, Arroyo Grande, CA 93420 (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**

Jon Frye at phone number (805) 568-3444 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Lillian Jewell at phone number (805) 773-1459 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, Santa Barbara County Flood Control & Water Conservation District, 130 E. Victoria Street, Suite 200, Santa Barbara, CA 93101
To CONTRACTOR:	Ms. Lillian Jewell, Beacon Integrated Professional Resources, Inc., DBA: Hamner, Jewell & Associates, 530 Paulding Circle, STE A, Arroyo Grande, CA 93420

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 **August 18, 2020** and end performance upon completion, but no later than **June 30, 2023** 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**

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.

**9. 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.

**10. 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. 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.

#### **11. 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.

#### **12. 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.

#### **13. 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.

#### **14. 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.

#### **15. INDEMNIFICATION AND INSURANCE**

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

#### **16. 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.

#### **17. 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.

#### **18. NON-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.

#### **19. 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.

## 20. **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.

## 21. **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.

## 22. **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.

## 23. **TIME IS OF THE ESSENCE**

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

**24. 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.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

**30. 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.



31. **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.

32. **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.

33. **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 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 & Water Conservation District** and **Beacon Integrated Professional Resources, Inc., DBA: Hamner, Jewell & Associates**.

**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 Board of Directors  
of the Santa Barbara County Flood  
Control and Water Conservation District

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Gregg Hart, Chair, Board of Directors

Date: \_\_\_\_\_

**RECOMMENDED FOR APPROVAL:**

Santa Barbara County Flood Control  
& Water Conservation District

**CONTRACTOR:**

Beacon Integrated Professional Resources,  
Inc., DBA: Hamner, Jewell & Associates

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

By:   
\_\_\_\_\_  
Authorized Representative


Name: Lillian D. Jewell  
Title: President

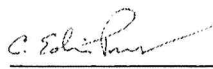
**APPROVED AS TO FORM:**

Michael C. Ghizzoni  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

By:   
Brian Pettit (Jul 20, 2020 16:08 PDT)  
Deputy County Counsel

By:   
Deputy

**APPROVED AS TO FORM:**

Ray Aromatorio, ARM, AIC  
Risk Manager

By:   
Risk Management

EXHIBIT A

STATEMENT OF WORK



**HAMNER, JEWELL & ASSOCIATES**

**Government Real Estate Services**

Right of Way Acquisition ~ Relocation Assistance ~ Real Property Consulting

Offices in Ventura, San Luis Obispo and Fresno Counties

Writer's Telephone Number: (805) 773-1459

Writer's email address: [Ljewell@hamner-jewell.com](mailto:Ljewell@hamner-jewell.com)

April 14, 2020

via email to: [jfrye@cosbpbw.net](mailto:jfrye@cosbpbw.net)

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: County of Santa Barbara Flood Control – Lower Mission Creek, Reach 4  
 Right of Way Acquisition Services

Dear Jon,

Thank you for calling on Hamner, Jewell & Associates to assist the Santa Barbara County Flood Control & Water Conservation District with acquisitions for the Lower Mission Creek, Reach 4 Project. I have reviewed the information that you have sent to me regarding this Reach and have done a visual inspection of the project area. From this review, including my review of the Right of Way Project Access Sheet 20 of the Preliminary Project Plans, it is my understanding that this project will require right of way acquisitions from the following properties:

Address	AP#	Owner	Rights Needed for Acquisition	
430 De La Vina	AP 037-203-021	Harrison	Permanent Easement	TCE
428 De La Vina	AP 037-203-020	Griffin	Permanent Easement	TCE
426 De La Vina	AP 037-203-019	Hernandez	Permanent Easement	TCE
422 De La Vina	AP 037-203-018	Delucia	-----	TCE
414 De La Vina	AP 037-500-CA1	De La Vina Partners	Permanent Easement	TCE
119 W. Haley	AP 037-203-002	Laing Trust	-----	TCE
124 E. Guitierrez	AP 037-203-011	Gama	Permanent Easement	TCE
425 Chapala	AP 037-203-035	Salvation Army	Permanent Easement	TCE
401 Chapala	AP 037-600-054	Sevilla Associates	NO APPRAISAL	TCE

This list totals 9 properties that collectively require six new permanent easements and eight temporary construction easements, plus one temporary easement extension agreement.

Corporate and San Luis Obispo County Office	530 Paulding Circle, Suite A, Arroyo Grande, CA 93420	(805) 773-1459
Ventura County Office	260 Maple Court, Suite 277, Ventura, CA 93003	(805) 658-8844
Central Valley Office	6051 N. Fresno Street, Suite 106, Fresno, CA 93710	(559) 412-8710



Hamner, Jewell & Associates would be happy to assist you and the District with the property appraisal and acquisition services required for this project.

We understand that this is a locally funded project and that you will provide us with final appraisal maps, area calculations, plat maps and legal descriptions of the property rights to be acquired. We assume that the Temporary Construction Easements (TCEs) will need to generally be for the District's exclusive use during the construction period, and that the TCE's will be acquired based on a term of 1 year. You can provide us with more specific directives with regard to any shared use options and any shorter or longer durations as long as we have this info in advance of undertaking the property appraisals.

We understand that the TCE for Sevilla Associates was previously dedicated but is now expired. We will seek a cooperative extension of this TCE without the payment of compensation and do not intend to get an appraisal. However, if this property owner is not cooperative with this request, please be aware that you may need to value and offer compensation for the needed TCE on this property as well.

With the exception of the Sevilla Associates property, Hamner, Jewell & Associates will order preliminary title reports and coordinate appraisal work to value each of the needed easements. Our property acquisition tasks include property owner outreach and communications, title review, preparing all purchase offer paperwork including offer letters, purchase agreements, and deeds, personally meeting with owners and presenting all offers on the District's behalf, working with owners and District staff to reach amicable purchase agreements, packaging and processing all obtained agreements for owner and District signatures, providing notary services when needed, processing all transactions through escrow, closing, and deed recordation, and ensuring that the District receives a policy of title insurance insuring its acquired ownership of each property purchased. Our goal is always to reach amicable agreements; however as you know, we conduct our work in conformance with the requirements of eminent domain laws to preserve the District's right to utilize such powers should it deem doing so a viable necessity.

To assist you with these services, we propose to bill monthly in accordance with the terms and provisions of our current Time and Materials Fee Schedule, in accordance with our current On-Call Contract with the District. We would work closely with you and your project team to ensure that we are investing our efforts in accordance with your needs and preferences. In any case where one is working with people rather than completing an independently controllable task, it is always difficult to speculate in advance the specific amount of time that may be required to complete our goals. Our efforts are largely affected by the level of accessibility and responsiveness of the property owners from whom we seek agreement. Obviously, some will require more time than others in coming to terms and finalizing documents required for the purposes of the project. I believe that this project represents some complex access issues in tight quarters that will be challenging and may encounter some property owner resistance. Creative resolutions may be required if this is encountered and achieving these cooperative resolutions takes additional time. Achieving the agreements with owners is, however, the most cost-effective option in the end, compared to the costs and delays of litigation, so our goal is to allocate enough time to help the District achieve cooperative agreements for the project.

To complete this project, we anticipate the need for the following budget:

Task	Cost <sup>1</sup>
Preliminary Title Reports (all except Sevilla Associates)	\$ 4,675
Appraisal Reports (appraisal reports for all except Sevilla Associates)	\$ 29,000
Acquisition Services (9 ownerships @ 63 Hours ea)	\$ 93,792
Project Expenses (Mileage, Printing, Postage)	\$ 2,000
<b>Total- Rounded</b>	<b>\$ 130,000</b>

<sup>1</sup> This cost proposal is valid for work completed in 2020. Any extended time required beyond that may necessitate additional time and budget allocation.

Please note that in arriving at the cost for appraisals, we solicited bids from two local, qualified, MAI appraisers. One bid \$29,000 and the other \$38,000 for the required appraisal work for this project. This proposal is based on the lower of the two, which is by Santa Barbara MAI appraiser Steve Schott, without mark-up. This is solely a pass-through third-party expense. If you have any comment or preferences with regard to the appraiser to be utilized for this project, please let me know and we can address your feedback and make any adjustments if such is necessary.

The District will of course be responsible for the actual payments to property owners for the property purchase compensation amounts and all transactional closing costs and recording fees (escrow and title fees). The District may also be responsible for the payment of any appraisal reimbursement claims made by property owners seeking their own appraisals under their legal rights to request up to \$5,000 for the reimbursement of costs for their own appraisal. We will also look to District Counsel for any necessary legal review of proposed purchase contracts and consultations with regard to settlement negotiations, as your staff deems prudent or required by your internal policies and procedures. We will work with the County's Real Property department with regard to processing all contracts for Board approvals, as may be appropriate.

Based on the size of this project, I am not sure if you want to process this under our new On-Call Contract with the District or by separate project-specific contract. We look forward to assisting the Flood Control District with these acquisitions. Please call me at (805) 773-1459 or email [ljewell@hamner-jewell.com](mailto:ljewell@hamner-jewell.com) with any questions or anything further you may need to retain us for this support.

Sincerely,



Lillian D. Jewell

ATT: Right of Way Map (used for purposes of identifying parcels requiring acquisition)





## 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, not to exceed **\$130,000**.
- 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 **\$13,000**.
- 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 Flood Control & Water Conservation District, 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 web site at <http://www.dir.ca.gov/dlsr/pwd>.

## ATTACHMENT B1



### FISCAL YEAR 2020-2021 RATE SCHEDULE

#### HAMNER, JEWELL & ASSOCIATES

(a Division of Beacon Integrated Professional Resources, Inc.)

Hamner, Jewell & Associates is committed to providing the most cost effective, quality real estate services available. At all times, by pre-directive, our clients may structure and direct our efforts and general time expenditures so as to maintain control of the course of our scope of work and the cost of our services. We will bill only for time and costs actually expended in accomplishing the project goals in the most efficient and professional manner.

Our Fiscal Year 2020-2021 Rate Schedule, effective July 1, 2020, is as follows:

Managing Senior Associate	\$265 an hour
Senior Associates II	\$150-185 an hour
Senior Associates I	\$140-165 an hour
Associates II (Acquisition/Relocation)	\$120-140 an hour
Associates I (Acquisition/Relocation)	\$ 95-120 an hour
Contract Administrator	\$120-150 and hour
Project Coordinator	\$ 95-135 an hour
Transaction/Escrow Coordinator	\$ 85-110 an hour
Transaction Assistant	\$ 60-75 an hour
Assistant/Clerical Support Appraisers	\$ 40-50 an hour
Lump Sum Fee per Appraisal Assignment	

These rates are inclusive of general office expenses, overhead, and profit. Reimbursable costs that may be passed through to the client as additional expenses include travel expenses (based upon the standard IRS mileage reimbursement rate for automobile travel, or actual expenses for rail or air travel), special handling fees such as certified, express mail, and courier delivery charges, postage, photography, copy and printing, certain project/client-specific telephone expenses, and other charges made by third parties in connection with performing the scope of services. Such third party expenses may include, but are not limited to, such costs as moving bid fees, title and escrow company charges, notary fees, and appraisal fees. Fees charged by insurance companies for issuing insurance certificates for client per contract requirements will also be billed through to client for reimbursement. Per diem charges may apply in cases where the project area is more than two hours auto commuting time away from a Hamner, Jewell & Associates ("HJA") office location.

All reimbursable and third party expenses will be billed to the client at cost plus 10%, with appropriate invoices or other appropriate documentation provided for reference, unless mark-up is contractually restricted. Mileage and travel costs will be passed through without mark-up.

Statements for work shall be rendered monthly. Payments are due within 30 days. Payments not received within said period will accrue interest at a rate of 10% per annum.

If HJA is called upon or compelled to provide support for litigation or other proceedings, or respond to subpoenas in any way whatsoever related to the work HJA has completed on client's behalf, client shall pay HJA for required time in accordance with the hourly rates and fees specified in this Fee Schedule, except, however, any time for court testimony and depositions shall be paid at a rate of \$400/hour for HJA Senior Associates, \$250/hour for HJA Associates, and \$150/hour for HJA support staff. HJA shall additionally be reimbursed for all out-of-pocket and overhead expenses in connection with such proceedings. This provision shall survive the term of the contract and shall be binding without restriction or otherwise stated contract budget limitations.

Rates may be adjusted annually with thirty days advance written notice. Publication and distribution of this rate schedule shall be deemed such annual notice with regard to annual rate adjustment contractual provisions.

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HAMNER, JEWELL & ASSOCIATES [WWW.HAMNER-JEWELL.COM](http://WWW.HAMNER-JEWELL.COM)

## EXHIBIT C

### Indemnification and Insurance Requirements (For Professional Contracts)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to reasonable attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

#### 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, his 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 except Professional Liability and Workers' Compensation Insurance 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 the contract of 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.