

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 **Padre Associates, Inc.** with an address at **1861 Knoll Drive, Ventura, CA 93003** (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

Andrew Raaf at phone number (805) 568-3445 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. **Simon Poulter** at phone number (805) 644-2050 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

To CONTRACTOR: Mr. Simon Poulter, Padre Associates, Inc., 1861 Knoll Drive, Ventura, CA 93003

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 July 16, 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 will 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.

Agreement for Services of Independent Contractor between the **Santa Barbara County Flood Control and Water Conservation District and Padre Associates, Inc.**

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: 
Deputy Clerk


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

By: 
Chair, Board of Directors

Date: 7-16-19

RECOMMENDED FOR APPROVAL:

Santa Barbara County Flood Control
& Water Conservation District

By: 
Scott D. McGolpin
Public Works Director

CONTRACTOR:

Padre Associates, Inc.

By: 
Authorized Representative

Name: Simon A. Poulter
Title: Vice 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



May 7, 2019

Santa Barbara County Flood Control & Water Conservation District
130 E. Victoria Street, Suite 200
Santa Barbara, California 93101

Attention: Mr. Andrew Raaf

Subject: Revised Proposal to Prepare an Environmental Impact Report (EIR) for the Proposed Randall Road Debris Basin Project

INTRODUCTION

This purpose of this proposal is to respond to your Request for Proposal (RFP) received by e-mail on March 22, 2019. We understand a public scoping meeting was conducted on February 26, 2019. Based on the Notice of Preparation provided (NOP), the project includes:

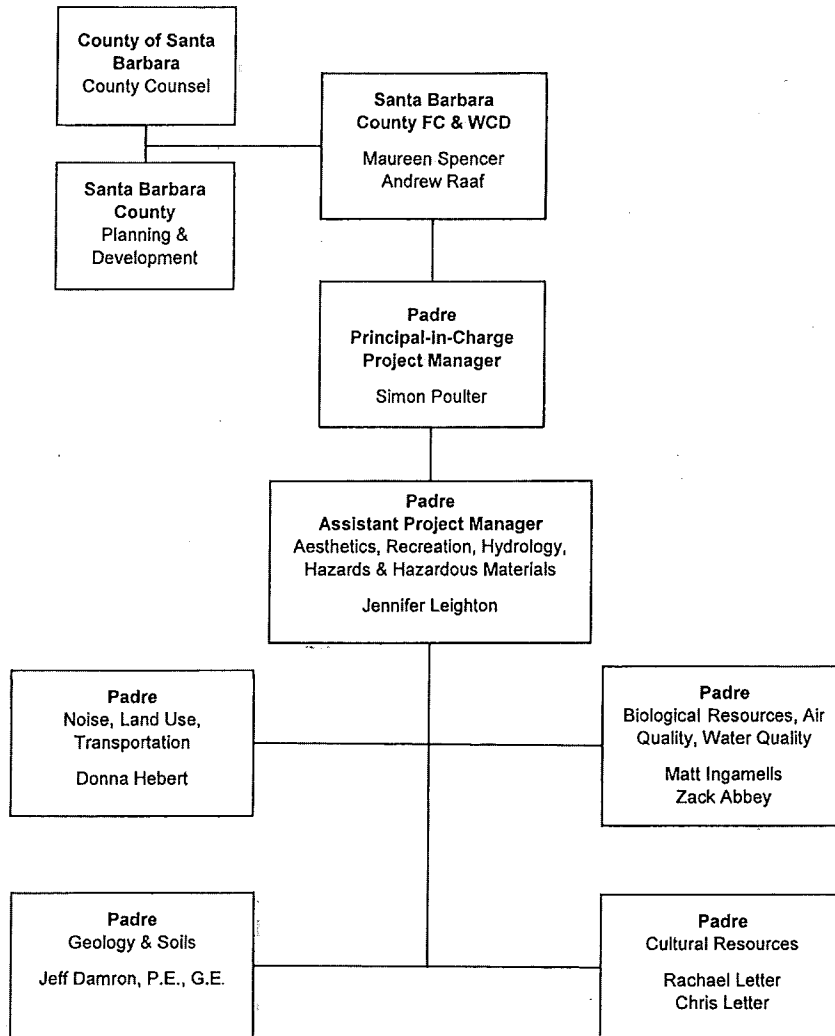
- A new debris basin to provide additional volume for capture and storage of sediments transported by storm flows.
- Maintaining the natural stream channel and providing enhancements to facilitate fish passage.
- Spillway and/or flow diverters to route peak storm flows from the channel into the debris basin.
- Potential recreational components including a walking trail, vehicle parking lot and landscaping.
- Acquisition of up to eight privately-owned residential parcels and/or maintenance access easements.
- Periodic facility maintenance including sediment removal, repairs to concrete channels and pipe culverts, access road maintenance and vegetation management (fuel modification).

STAFFING

The Padre Principal-in-Charge, Mr. Simon Poulter, will be the primary contact for project management issues for all phases of the project. In addition, Mr. Poulter will serve as Padre's Project Manager and will be responsible for routine EIR management and technical issues. Ms. Jennifer Leighton has extensive experience working with the District and will serve as Assistant Project Manager. The following Organization Chart lists Padre staff proposed to be involved in the project. Estimated hours are provided in the attached Fee Breakdown Spreadsheet. The only subconsultant proposed is RRM Design Group, which will prepare the photo-simulations.

1861 Knoll Drive ☐ Ventura, California 93003 ☐ 805-644-2220 ☐ FAX 805-644-2050

ORGANIZATION CHART



SCOPE OF WORK

General Approach

Padre will provide the District assistance in the preparation of an EIR for the proposed Randall Road Debris Basin Project, including four basic service areas:

- Project development, EIR scoping and selection of alternatives;
- Project management and coordination;
- Environmental analysis; and
- Public participation/decision-maker hearings support.

Padre will work closely with District staff throughout the duration of the environmental review process for the project. Our goal is to assist the District in preparing legally adequate environmental documentation pursuant to CEQA in an efficient and cost-effective manner. The Padre environmental review team will provide a comprehensive assessment of the potential environmental impacts associated with the proposed project. We will utilize all available data provided by District staff, including a hydrology/hydraulic study and geotechnical study to be provided by the District.

Additionally, Padre will provide support in the public participation/document approval process with the objective of listening to, recording and considering the concerns voiced by stakeholders, as well as providing clear and concise information to the decision-makers and public relative to the environmental impacts of the project.

Project Development

Padre will assist the District in developing the project, including the following subtasks:

- Development of project objectives;
- Development of an environmental baseline (physical conditions to be used to determine whether an impact is significant) which is typically conditions present when the NOP was issued. However, it may be appropriate to utilize conditions following some period of natural post-debris flow recovery of the Creek as the environmental baseline which is applicable for site conditions that fluctuate over time (see Section 15125 of the State CEQA Guidelines).
- Identification of debris basin maintenance needs and the effect on project design; and
- Development of alternatives in coordination with District staff, which may include expansion of the existing San Ysidro Debris Basin, construction of a similar debris basin at a different site, construction of a traditional debris basin that temporarily detains storm flows and displaces the natural stream channel, and alternative designs for diverting storm flows from the flow channel to the basin.

This task includes one project team meeting (or conference call, as appropriate) to discuss and coordinate project development.

Project Description, Environmental Setting and Project Alternatives

Project Description. Upon completion of project development and receipt of NOP comment letters, Padre will prepare and submit a draft CEQA project description for review by the District. The project description will include all elements as defined in Section 15124 of the State CEQA Guidelines. The project description will include the following components at a minimum:

- Identification of the project proponent and affected property owners;
- History and background of the site including the effects of the Thomas Fire, and related debris flows and clean-up operations;
- Location description including regional and vicinity maps, watershed exhibits and assessor's parcel number(s);
- Statement of project objectives;
- List of requested actions/discretionary approvals which may include a zoning change (2-E-1 to public facilities) and Comprehensive Plan/Montecito Community Plan amendment;
- List of agencies expected to use the EIR; and
- Detailed description of the project's technical, economic and environmental characteristics including construction and maintenance of the debris basin.

A final project description incorporating the District's changes to the draft will also be provided and will serve as the basis for all environmental review. Note that changes to the project description after approval by the District may result in changes to our work scope and, therefore, schedule and cost.

Environmental Baseline. This section will describe the environmental baseline identified as part of project development.

Environmental Setting. The environmental setting will provide a synopsis of the physical and resource conditions of the San Ysidro Creek watershed and surrounding areas. More detailed setting information for each of the environmental issues will be provided in association with the issue specific environmental analyses. An important component of the environmental setting will include a description of any changes in flood control maintenance activities in the project area associated with the effects of the catastrophic debris flows.

Part of the environmental setting will include defining cumulative development in the project area. The cumulative impact assessment approach may vary within the document depending on the issue area under consideration (i.e., for aesthetics the cumulative evaluation may be confined to consideration of projects within the viewsheds that would be affected by the proposed project, whereas to assess the cumulative effects to biological resources a different geographic area may be considered).

Project Alternatives. This section will present the alternatives identified during project development in greater detail, based on information provided by the District. Alternatives selection will focus on those that are feasible given regulatory and economic constraints and meet most of the basic project objectives. The goal is to meet the requirements of the State CEQA Guidelines and consider the findings of recent court decisions by identifying a reasonable range of feasible alternatives to foster meaningful responsible agency and public comment.

Administrative Draft EIR

Padre will prepare and submit the Administrative Draft EIR to the District and the project environmental hearing officer (Planning & Development Department), which will contain the following sections.

Introduction. Padre will prepare the EIR Introduction with input provided by the District. The Introduction will describe the purpose and legal authority of the EIR process; and provide background on the existing routine maintenance program in the watershed as well as recent emergency work. Lead, responsible, and trustee agencies will be identified, and a brief summary of the environmental review and approval process will be provided.

Executive Summary. Padre will prepare the EIR Executive Summary in accordance with Section 15123 of the CEQA Guidelines. It will include the following elements:

- Summary of the project's key elements;
- A table identifying the significant effects of the project, mitigation measures and residual impact level based upon the County's CEQA Guidelines;
- Summary of areas of known controversy and comments raised during the NOP scoping process; and
- Summary of the results of the alternatives analysis which identifies the environmentally superior alternative.

Project Description. The District-approved project description will be presented along with sufficient graphics to fully identify the scope and project limits of construction and maintenance of the proposed debris basin.

Environmental Impact Analysis and Mitigation. Each primary environmental issue area will comprise a separate subsection and include: a discussion of the physical and regulatory setting as appropriate (including any existing routine maintenance practices); impact assessment methodology and thresholds of significance; short-term, long-term and cumulative impacts; project-specific and cumulative mitigation measures; and level of significance after mitigation. The County of Santa Barbara Guidelines for the Implementation of CEQA (2008), and Environmental Thresholds and Guidelines Manual (revised 2015) will serve as guiding documents in the preparation of the ADEIR.

Based on preliminary review of the project and review of the NOP, primary environmental issue areas to be addressed in the EIR will include:

- Aesthetics;

- Air Quality/greenhouse gas emissions;
- Biological resources;
- Cultural and tribal resources;
- Geology and soils;
- Hazards and hazardous materials;
- Hydrology, water quality, flooding;
- Noise;
- Recreation; and
- Transportation/traffic.

Secondary issues (which are unlikely to result in significant impacts) include agriculture, energy, land use and planning (policy consistency), mineral resources, wildfire, population and housing, public services and utilities and will be addressed at a lower level of detail in a section titled "Impacts Considered less than Significant".

Aesthetics. This impact analysis will focus on changes in public views associated with construction and maintenance of the proposed debris basin. As compared to the riparian corridor along San Ysidro Creek at the site, construction and maintenance of a debris basin may result in vegetation modification (trees and shrubs replaced with annual grasses and weedy species) and landform modification (existing terrace replaced with regular contours of the basin). However, the proposed project includes visual screening (vegetation and fencing) and preservation of the streambed which may improve the visual quality of the site from public viewing locations. Photo-simulations (post-construction views) will be prepared by a subconsultant (RRM Design Group) from two public viewing locations including the proposed walking trail. The photo-simulations will utilize proposed topographic contours and implementation of a landscaping plan (to be provided by the District). The effects of periodic maintenance and fuel modification activities will be considered in the preparation of the photo-simulations. Mitigation measures will be developed as needed, such as additional landscape screening, and development of security fencing and trail alignments to limit public views of the debris basin.

Air Quality/Greenhouse Gas Emissions. An air quality setting section will be provided, focusing on existing ambient air quality, applicable regulations and significance thresholds, and current air quality planning activities. Air pollutant emissions sources associated with construction and maintenance activities include heavy-duty trucks, heavy equipment, worker vehicles and fugitive dust.

Emissions will be estimated using construction and maintenance activity assumptions provided by the District and the EMFAC 2014 and OFFROAD 2017 emissions estimation models developed by the California Air Resources Board. Peak day emissions estimates will be compared to the significance thresholds provided in the Environmental Thresholds and Guidelines Manual. The effect of implementation of existing mitigation measures provided in the Updated Routine Maintenance Program EIR will be assessed and any additional mitigation measures that would further reduce impacts will be identified. Due to relatively low emissions rates, limited duration of emissions and distance to receptors, air dispersion modeling and/or health risk assessment is not proposed.

A greenhouse gas/climate change setting will be provided and include a discussion of applicable State and Federal regulations and local climate change planning efforts. Pursuant to Section 15064.4 of the State CEQA Guidelines, greenhouse gas emissions generated by construction and maintenance activities will be quantified. In addition, project consistency with the County's Energy and Climate Action Plan will be discussed.

Greenhouse gas emissions associated with construction and maintenance activities will be estimated using the EMFAC 2014 model, OFFROAD 2017 model and California Climate Action Registry General Reporting Protocol. The Board-adopted 1,000 metric tons per year CO₂E bright-line threshold for industrial stationary sources does not appear to apply to the project. Therefore, we will work with the District to identify a reasonable threshold of significance.

Biological Resources. A setting section will be provided, focusing on special-status species reported from the Montecito Planning area. Data sources will include the Montecito Planning Area Biological Resources Study, California Natural Diversity Data Base, California Native Plant Society on-line inventory and focused surveys of potential impact areas by Padre biologists. Special-status species that could be affected may include coast live oak, Santa Barbara honeysuckle, Plummer's baccharis, late-flowered mariposa lily, southern California steelhead, California newt (historic occurrence), two-striped garter snake, western pond turtle, Cooper's hawk and yellow warbler. In addition, sensitive habitats may be affected by the project, including riparian plant communities and wetlands.

Although seven partial fish passage barriers occur in San Ysidro Creek downstream of the project site, the endangered southern California steelhead was observed in the project reach in 2001. The proposed project includes features to retain instream habitat and maintain steelhead passage.

The threatened California red-legged frog has been reported from Cold Springs Creek to the west and Santa Monica Creek to the east, but not from San Ysidro Creek. However, we anticipate regulatory agencies will require presence/absence surveys for this species. Therefore, our scope of work includes two botanical surveys, a generalized wildlife survey and protocol surveys for California red-legged frog.

Impacts associated with debris basin construction and periodic maintenance will be identified and may include providing equipment and truck access, earthwork to construct the basin, construction of other components (retaining walls, ramps, debris racks, spillway, pipe culverts), stockpiling and removal of any excess earth material, periodic sediment removal, stockpiling and trucking. Adverse effects to biological resources may include direct mortality, habitat loss, habitat degradation, reduced water quality and indirect disturbance (noise, dust, equipment activity). Impacts will be identified and discussed in the context of existing routine maintenance-related impacts (if any).

Padre will assess the potential effectiveness of the project design to maintain fish passage based on guidance provided by the National Marine Fisheries Service and California Department of Fish and Wildlife. The effect of implementation of existing mitigation measures provided in the Updated Routine Maintenance Program EIR will be assessed. Appropriate project-specific mitigation measures will be provided to avoid and minimize project impacts and may include habitat restoration, enhanced fish passage features, invasive plant management and habitat enhancement of other reaches of San Ysidro Creek affected by debris flows.

Optional Task. Although the RFP did not request permitting services, as an optional task Padre will conduct a jurisdictional delineation and prepare an Aquatic Resources Delineation Report for submittal to the Corps of Engineers, Regional Water Quality Control Board and California Department of Fish and Wildlife. In addition, a preliminary Habitat Mitigation and Monitoring Plan will be prepared for submittal to regulatory agencies.

Cultural and Tribal Resources. A cultural resources record search will be completed for the project. A setting discussion will be provided including a summary of applicable regulations and a summary of the results of the record search. Due to recent catastrophic debris flows and clean-up operations, intact cultural resources are not anticipated to occur at the project site. Therefore, impact assessment will focus on the discovery of artifacts deposited from upstream areas. Mitigation measures will be provided as appropriate and focus on contractor training, stop-work and notification of a qualified archeologist of any artifacts found. In coordination with District staff, Padre will notify culturally affiliated tribal contacts that have requested notification under Section 21080.3.1 of the Public Resources Code.

Geology and Soils. A setting discussion will be provided focusing on the geology, topography and soils of the project site and adjacent areas. The geotechnical report provided by the District will be a primary source of information. A qualitative assessment of compliance with dam safety regulations and the potential for seismic failure will be conducted should a dam be proposed, and adequate information is provided in the geotechnical study. An assessment of project-related changes in sediment transport and associated beach nourishment will be provided commensurate with information provided in the hydrology/hydraulic study to be provided by the District. Mitigation measures will be provided as appropriate and will focus on slope stability, dam safety and minimization of erosion.

Hazards and Hazardous Materials. A setting discussion will be provided focusing on any known hazardous materials discharges in the project area, and any hazardous materials discovered during debris flow clean-up operations (if available). The potential for public exposure to hazardous materials (fuels and other hydrocarbons) during basin construction and maintenance will be qualitatively assessed, and mitigation measures will be provided as appropriate.

Hydrology, Water Quality and Flooding. A setting discussion will be provided based on the project hydrology/hydraulic study provided by the District, surface flow data from the U.S. Geologic Survey stream gauge and water quality data from the Central Coast Ambient Monitoring Program. The setting will also provide a regulatory setting including the Central Coastal Basin Water Quality Control Plan, and a discussion of beneficial uses and impaired waters of the San Ysidro Creek watershed. The following potential impacts will be addressed:

- Beneficial impact of providing debris storage on flood water elevations.
- Potential beneficial impact of short-term flood water diversion on flood water elevations.
- Water quality (siltation, turbidity, contaminated storm run-off) impacts to designated beneficial uses associated with debris basin construction and periodic maintenance.
- Potential reduction in stream flow downstream of the basin.
- Potential effects of short-term storm flow diversion on surface flow infiltration, groundwater storage and recharge.

The effect of implementation of existing mitigation measures provided in the Updated Routine Maintenance Program EIR will be assessed. Additional project-specific mitigation measures will be provided as appropriate, which may include augmented storm water pollution prevention measures. In addition, development and implementation of a site-specific emergency spill containment plan may be considered as mitigation.

Noise. A setting section will be provided discussing the characteristics of noise propagation and attenuation, Santa Barbara County noise standards and the results of noise measurements (to be conducted by Padre) at noise-sensitive receptors near the project site. Project-related noise generated by construction (peak hour Leq) and maintenance activities (24-hour CNEL) at noise-sensitive receptors will be estimated using equipment spreads and truck trips provided by the District, and the Roadway Construction Noise Model. Consistent with the Environmental Thresholds and Guidelines Manual, construction would occur in close proximity to residences such that construction noise is anticipated to be significant. Estimated maintenance-related noise will be compared to the County's 65 dBA CNEL standard to determine significance. Mitigation measures will be provided and focus on limiting working hours to 8 a.m. to 5 p.m. Portable noise barriers may be recommended if needed to address local noise impacts (possibly at 1696 East Valley Road).

Recreation. A setting section will be provided discussing the recreational uses and facilities in the project area, including private golf courses. The impact analysis will focus on potential recreational benefits of the proposed walking trail.

Transportation/Traffic. A setting section will be provided discussing the general characteristics of potentially affected roadways, and existing traffic volumes and level of service (if available). Potential truck routes associated with construction and maintenance equipment transportation and trucking of sediments will be identified. Project-related peak day and peak hour truck trips will be estimated based on information provided by the District. The impact analysis will be focused on the project-related increase in truck trips on affected roadways as well as traffic safety associated with trucks turning into and out of Randall Road from East Valley Road. Potential short-term impacts to bicyclists using East Valley Road during construction and maintenance activities will be assessed. Mitigation measures will be provided and focus on minimizing truck queuing, scheduling truck trips to avoid peak hour and use of appropriate signage and flagmen (if needed) on East Valley Road.

Notice of Availability (NOA), Notice of Completion (NOC) and Distribution List. As requested in the RFP, Padre will coordinate with the District to prepare a draft NOA, NOC and distribution list. The District will be responsible for distribution of the NOA and publication in a newspaper.

Draft EIR

The Draft EIR will incorporate changes to the Administrative Draft EIR determined necessary by the District and the environmental hearing officer. Padre will be responsible for generating electronic copies and hardcopies of the Draft EIR, while the District will be responsible for mailing copies of the Draft EIR to the approved distribution list.

Written Summary of Comments at the Public Hearing on the Draft EIR

The Padre Principal-in-Charge and Project Manager will attend one public hearing on the Draft EIR. During this hearing, notes will be taken. Utilizing our notes and the speaker cards or list of speakers in order of presentation, assumed to be provided to Padre by the District, Padre will prepare a written summary of oral comments provided at the hearing. This proposal assumes that no more than 30 original comments will need to be summarized. Repeat comments, if any, will be referenced to the first instance of the comment by speaker name and comment number.

Responses to Comments on the Draft EIR

As comments are received during the Draft EIR review phase they will be forwarded by the District to Padre for response including any additional analysis as approved and directed by the District. Upon completion of the minimum 45-day public review period and receipt of all comments on the Draft EIR, Padre will prepare written responses to oral and written comments on the Draft EIR and make any necessary revisions to the text.

All changes to the text will be noted with underlining and strikeout. It is anticipated that collaboration with the District will be an integral part of developing the response approach. The comment letters will be incorporated into the document and comment numbers added in the margins if not already provided. The proposal assumes that no more than 10 letters with a total of 30 unique comments will require response, in addition to the oral comments. If more than the anticipated number of comments require response, Padre can provide this additional service if requested by the District.

Proposed Final EIR

Upon receipt of comments from the District on the responses to comments on the Draft EIR, Padre will prepare a Proposed Final EIR, which will incorporate any text revisions and analysis needed to respond to comments. Padre will be responsible for generating electronic copies and hardcopies of the Proposed Final EIR; and mailing copies of the Proposed Final EIR to the clerk of the Board and other appropriate parties.

Findings, Overriding Considerations and Mitigation Monitoring and Reporting Plan

In accordance with State CEQA Guidelines Sections 15091 and 15093 respectively and the County's CEQA Guidelines, Padre will prepare draft CEQA findings and a Statement of Overriding Considerations (if required) including supporting statement of facts from the EIR in coordination with the District. The CEQA findings and Statement of Overriding Considerations (if required) will be finalized following receipt of District comments. Pursuant to Section 15097 of the State CEQA Guidelines, Padre will prepare a Mitigation Monitoring and Reporting Plan for adoption during the project approval process.

Board of Supervisors Hearing

The Padre Principal-in-Charge and Project Manager will attend the Board hearing regarding adoption of the Proposed Final EIR. Padre will be responsible for preparation of any project summaries and/or graphics required for the hearing.

Final EIR

After final decision-maker action on the Proposed Final EIR, Padre will prepare the Final EIR, which will include any modifications as requested by the decision-makers and District staff.

Project Team Meetings

This task includes up to three project team meetings (or conference calls, as appropriate) to discuss and coordinate EIR preparation.

FEE PROPOSAL

Budget Estimate

Padre proposes to provide the scope of work as described herein for a cost not-to-exceed \$157,140 in accordance with our 2019 Standard Fee Schedule (attached). The permitting support task (Aquatic Resources Delineation Report, preliminary Habitat Mitigation and Monitoring Plan) is optional and would be completed upon request for an additional fee of \$8,000.

Attachment A provides a breakdown of costs by task and identifies the billing rates for staff responsible for each task. Hourly rates are inclusive of salary, administrative expense, overhead expense and profit. Attachment A includes the initials of project team members by labor classification. The following is a list of project team members and initials as used in Attachment A.

SP – Simon Poulter	JL – Jennifer Leighton
MI – Matt Ingamells	JD – Jeff Damron
DH – Donna Hebert	RL – Rachael Letter
CL – Chris Letter	ZA – Zack Abbey
LB – Lucas Bannan	PM – Pat McClure

Preferred Schedule of Payment

Padre's preferred schedule of payment is a monthly Net 30 (payment due in full on or within 30 calendar days) basis.

PROJECT SCHEDULE AND DELIVERABLES

Padre will provide the following deliverables based on the schedule listed, pending receipt of required information and/or comments from the District and/or its engineering design consultants. In addition, a preliminary project schedule is attached as Attachment B. The proposed deliverables have been slightly altered as compared to that requested in the RFP to reflect that the Proposed Final EIR is the version presented to the Board such that all findings must be finalized before that time. The Final EIR is prepared following Board approval.



Table 1. Schedule of Deliverables

Deliverable	Format and Number of Copies	Schedule
Project Description, Environmental Setting and Project Alternatives	Electronic files in WORD and pdf format, memo describing the alternatives	20 working days after contract award (pending completion of the Project Development task)
Administrative Draft EIR	Three hardcopies, electronic files in WORD and pdf format	Within 90 working days of approval of the Project Description and Alternatives
Draft EIR	17 hardcopies and up to 50 CDs with electronic files in WORD and pdf format	Within 15 working days after receipt of the County's final comments on the Preliminary Draft EIR
Written Summary of Comments at the Public Hearing on the Draft EIR	Three hardcopies, electronic files in WORD and pdf format	Within 10 working days after the public hearing
Responses to Comments on the Draft EIR, draft CEQA Findings, and Mitigation Monitoring and Reporting Plan	Three hardcopies, electronic files in WORD and pdf format	Within 15 working days after receipt of all comments on the Draft EIR
Proposed Final EIR, final CEQA Findings, and Mitigation Monitoring and Reporting Plan	Three EIR hardcopies, electronic files in WORD and pdf format	Within 20 working days after receipt of the District's comments on the response to comments, CEQA Findings and MMRP
Final EIR	17 hardcopies, electronic files in WORD and pdf format	Within 15 working days after final decision-maker action

Submittal Statement

The contents of this proposal, including the Fee Proposal remains effective for a period of not less than sixty (60) days from the date of the proposal.

*

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Should you have any questions concerning our scope of work or fee, please contact me at 805/683-1233 ext. 4 at your earliest convenience.

Sincerely,
Padre Associates, Inc.



Simon Poulter
Principal



Jennifer Leighton
Project Manager

Attachments: Fee Breakdown Spreadsheet
Preliminary Schedule
2019 Standard Fee Schedule

**Attachment A
Fee Proposal for the Randall Road Debris Basin Project EIR**

Tasks	Time (Hours)	Cost	Principal Professional SP, JD \$180	Senior Professional MI, RL \$150	Project Professional JL, DH, CL \$120	Staff Professional ZA \$110	Word Processing & Technical Editor \$80	Graphics LB, PM \$95
Project Development	48	\$6,480	8	8	32		4	
Project Description, Setting, Alternatives Administrative Draft EIR	86	\$10,260	8	4	50		4	20
Executive Summary								
Introduction	44	\$5,360		8	32		4	
Environmental Impact Analysis	16	\$1,920			16			
Aesthetics	31	\$3,530		30	24		1	6
Air Quality/Greenhouse Gas Emissions	32	\$4,660	1	24		24	2	8
Biological Resources	59	\$7,340		4			1	6
Cultural Resources	35	\$4,130			24		1	2
Geology & Soils	31	\$4,110	8		20		1	4
Hazards & Hazardous Materials	21	\$2,380			16		1	4
Hydrology, Water Quality & Flooding	36	\$4,160	2		24		2	8
Noise	33	\$3,870			30		1	2
Recreation	21	\$2,380			16		1	4
Transportation & Traffic	21	\$2,480			20		1	
Other Environmental Issues	33	\$3,980		2	30		1	
Other Sections	26	\$3,110		1	24		1	
Alternatives	76	\$9,820	4	28	30		2	12
Draft EIR	84	\$10,670	8	20	40		6	10
Written Summary of Comments	28	\$3,040			24		2	
Response to Comments on Draft EIR	72	\$9,200	6	12	50		4	
Proposed Final EIR	60	\$7,000	2	4	40		6	8
Findings, Statement of Over. Cons. & MMRP	35	\$4,420	1	8	24		2	
Final EIR	42	\$5,430	8	4	24		4	2
Meetings & Hearings (assumed four)	60	\$8,200	20		32			8
Project Management	90	\$12,600	30		60			
Padre Staff Hours	1118	\$140,530	106	157	682	24	49	100

Notes:

Expenses	
Travel (meetings, field work)	\$1,200
Cultural Records Search - SCCIC	\$500
RRM Design Group (photo-simulations)	\$7,200
Printing ADEIR & DEIR	\$2,400
Printing Proposed FEIR & Final EIR	\$2,800
Mailing Proposed FEIR	\$500
General Administrative	\$2,010
Subtotal Direct Charges	\$16,610

(20 hard copies)
(20 hard copies)
(17 hard copies)

Total Cost	\$157,140
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Attachment B: Preliminary Schedule
Randall Road Debris Basin Project EIR

Task Name	2019												2020											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Project Initiation																								
Project Development																								
Project Description																								
Administrative Draft EIR																								
Draft EIR																								
Response to Comments, draft Findings and MMRP																								
Proposed Final EIR, final Findings and MMRP																								
Final EIR																								



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 **\$ 157,140**.
- 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 **\$15,714**.
- 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

2019 FEE SCHEDULE



2019 STANDARD FEE SCHEDULE

PROFESSIONAL SERVICES

Principal Professional II	\$ 210/hr
Principal Professional	\$ 180/hr
Senior Professional II	\$ 160/hr
Senior Professional	\$ 150/hr
Project Professional II	\$ 130/hr
Project Professional	\$ 120/hr
Staff Professional II	\$ 110/hr
Staff Professional	\$ 95/hr
Senior Technician (Non-Prevailing Wage)	\$ 90/hr
Senior Technician (Prevailing Wage)	\$ 95/hr
Technician (Non-Prevailing Wage)	\$ 80/hr
Technician (Prevailing Wage)	\$ 85/hr
Senior GIS/CAD Specialist	\$ 110/hr
GIS/CAD Specialist	\$ 95/hr
Drafting	\$ 75/hr
Word Processing/Technical Editor	\$ 80/hr

*Overtime rates for Technicians and Office Staff is 1.3 x rates shown.

Fees for expert witness preparation, testimony, court appearances, or depositions will be billed at the rate of \$425 per hour.

OTHER DIRECT CHARGES

Subcontracted Services	Cost Plus 15%
Outside Reproduction	Cost Plus 15%
Travel, Subsistence, and Expenses	Cost Plus 15%
Vehicle	\$ 80/day
Photoionization Detector	\$ 120/day
Nuclear Density Gauge	\$ 85/day
Automobile Mileage	\$ 0.85/mile

1861 Knoll Drive ■ Ventura, California 93003 ■ 805-644-2220 ■ www.padreinc.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 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 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.

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:

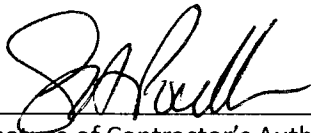
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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, Padre Associates, Inc., 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

Simon A. Poulter, Vice President

Name and Title of Contractor's Authorized Official

6/20/19

Date