

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and La Cumbre Mutual Water District with an address at 695 Via Tanquila, Santa Barbara, CA 93110 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR submitted a proposal to Planning & Development Department, seeking money from past land use projects' offsite mitigation funds to restore 3.4 acres of wetland habitat at the Modoc Preserve; and

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

Kathy Pfeifer at phone number (805) 568-2507 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Mike Alvarado, General Manager at phone number (805) 967-2376, Ext. 15 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: Kathy Pfeifer, County of Santa Barbara, Planning & Development Department, 123 E. Anapamu Street, CA 93101, fax: (805) 568-2030
To CONTRACTOR: Mike Alvarado, General Manager, La Cumbre Mutual Water District, 1695 Via Tanquila, Santa Barbara, CA 93110, (805) 967-2376, Ext. 15

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 November 7, 2017 and end performance upon completion, but no later than June 30, 2022 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. 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.

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. SUBCONTRACTORS

CONTRACTOR is authorized to subcontract with subcontractors identified in Contractor's Proposal. CONTRACTOR shall be fully responsible for all services performed by its subcontractor. CONTRACTOR shall secure from its subcontractor all rights for COUNTY in this Agreement, including audit rights.

34. HANDLING OF PROPRIETARY INFORMATION

CONTRACTOR understands and agrees that certain materials which may be provided by COUNTY may be classified and conspicuously labeled as proprietary confidential information. That material is to be subject to the following special provisions:

- A. All reasonable steps will be taken to prevent disclosure of the material to any person except those personnel of CONTRACTOR working on the project who have a need to use the material.
- B. Upon conclusion of CONTRACTOR'S work, CONTRACTOR shall return all copies of the material direct to party providing such material. CONTRACTOR shall contact COUNTY to obtain the name of the specific party authorized to receive the material.

35. IMMATERIAL CHANGES

CONTRACTOR and COUNTY agree that immaterial changes to the Statement of Work (time frame and mutually agreeable Statement of Work changes which will not result in a change to the total contract amount) may be authorized by Planning and Development Director, or designee in writing, and will not constitute an amendment to the Agreement.

36. NEWS RELEASES/INTERVIEWS

CONTRACTOR agrees for itself, its agents, employees and subcontractors, it will not communicate with representatives of the communications media concerning the subject matter of this Agreement without prior written approval of the COUNTY Project Coordinator. CONTRACTOR further agrees that all media requests for communication will be referred to COUNTY'S responsible personnel.

Agreement for Services of Independent Contractor between the County of Santa Barbara and La Cumbre Mutual Water District.

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

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Glenn Russell, Ph.D.

CONTRACTOR:

La Cumbre Mutual Water District *Company*

By: *Glenn Russell*
Department Head

By: *Jane Loda*
Authorized Representative

Name: *Jane Loda*
Title: *President*

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: *Danielle Drossel*
Deputy County Counsel

By: *Butch M. Smith*
Deputy

APPROVED AS TO FORM:

Risk Management

By: *Raymond*
Risk Management

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR shall restore and enhance 3.4 acres of wetland habitat (1.75 acres of willow/sycamore woodland and 1.72 acres of wet meadow/seasonal wetland habitat) at the Modoc Preserve located in the Hidden Valley area of Santa Barbara. Modoc Preserve is a 22-acre open space with live oak woodland, grassland, seasonally wet meadow, and willow/sycamore woodland. The Preserve is owned by the La Cumbre Mutual Water Company, and The Land Trust for Santa Barbara County has a conservation easement on the site to preserve and manage the site. Specific tasks include:

- *Habitat restoration plan* – A habitat restoration plan shall be prepared. The plan shall detail the existing state of the project area, including current plant composition and cover as determined by a baseline vegetation survey, methods for controlling invasive plants, and restoration techniques and methods to be used to increase native plant cover. The plan shall include a list and quantities of native plant species to be seeded and installed, as well as provide a detailed explanation of the biological monitoring approach that will be used to assess progress toward project goals and milestones, and interim performance criteria (e.g., first year, second year, third year).
- *Regulatory permit consultation* – Consult and coordinate with California Department of Fish and Wildlife (CDFW) to ensure enhancement activities satisfy regulatory conditions. No alteration of the habitat or native vegetation will occur that will require a CDFW Streambed Alteration Agreement (1600 permit).
- *Invasive plant removal and weed control* – Non-native trees (palms, shamel ash, eucalyptus), annual weeds (bristly ox tongue, prickly lettuce, curley dock, riggut brome), and harding grass (*Phalaris aquatic*) are the primary invasive species that shall be managed to eliminate their dominance and reduce competition with native plants, especially in wetter areas of the site. Removal techniques used shall be appropriate to the growth form of the invasive plant and shall include hand pulling, herbicide application, and mechanical removal. An aquatic-approved herbicide formulation of glyphosate (such as Roundup Custom[®]) will be used in all wetland habitats. Agridex[®], a California Department of Pesticide Regulation (DPR) approved non-ionic surfactant registered for use in aquatic habitats, will be used as an adjuvant during foliar herbicide applications. A non-toxic marking dye may also be added to the herbicide to enable workers to visualize where application has occurred after the initial evaporation of the solution.

Trees shall be controlled either manually using a chainsaw or using the drill and fill technique where holes are drilled into the cambium layer of the wood and the holes are filled with full concentration herbicide (glyphosate). Larger trees that would pose a risk to infrastructure (utility lines, wells, etc.) during removal will not be removed. Hand pulling of annual weeds shall be the primary method used to remove invasive annuals, however herbicides will be used to control monocultures or in areas where hand removal would cause excessive soil disturbance and facilitate additional weed establishment.

Herbicide applications shall be supervised by a current California DPR Qualified Applicator License holder. Herbicides shall be applied under controlled conditions following all label requirements. Best Management Practices for herbicide use and application shall be followed.

- *Revegetation and site maintenance* – Following initial weed control, the site shall be monitored to assess recolonization by native and non-native plant species, as well as to determine where active planting of native species will be necessary; it is expected that up to one third to one half of the project area will require some level of seeding or plant installation. The availability of continuous soil moisture at the site should facilitate passive restoration in some areas. Passive, or natural, recovery shall be promoted in as

many areas as possible by reducing invasive plant cover, and increasing light availability and soil moisture, if necessary, to promote germination and growth of native species. Active revegetation shall occur during the rainy season and consist of planting and seeding with native species appropriate to each habitat type (Table 1). Container plants and seeds of facultative and obligate wetland plant species shall be installed in areas with poor plant recruitment, and an emphasis shall be placed on purchasing locally sourced and collected material. A qualified labor contractor shall be contracted to assist with native plant installation and maintenance under Kisner Restoration and Ecological Consulting direction.

All plantings shall be monitored quarterly to track plant condition and mortality, and evaluate if additional planting will be necessary. Maintenance activities, including controlling invasive plants and watering plants that show signs of desiccation, shall be performed regularly during this period. If plant survival is below 80 percent after Winter 2019, new container stock shall be planted. Observational methods shall be used to determine potential causes of plant mortality, including inspecting plants for signs of herbivory or fungal growth, and evaluating soil moisture at base of plantings. In some cases, herbivores such as rabbits and gophers may cause significant damage to native plantings. Plants shall be monitored for damage, and if damage becomes severe, plants may be protected using fencing, wire cages, or other enclosures.

- *Project management, biological monitoring and reporting* – Project management, oversight, and monitoring shall be conducted by Kisner Restoration and Ecological Consulting. Monitoring of biodiversity status and trends is a critical element in determining if project objectives/outcomes are being met and to guide adaptive management throughout the project. Quarterly progress monitoring shall be conducted to provide a frequent qualitative assessment of the project. Comprehensive vegetation monitoring shall be conducted by Kisner Restoration and Ecological Consulting and shall occur at the beginning of the project and annually thereafter. Monitoring shall occur in the height of the growing season and consist of sampling along least four line transects and eight 1-meter plots per acre and placement shall be stratified by vegetation community. Monitoring shall assess changes in native and non-native plant cover and richness over time, and resulting data shall be used to adaptively manage the project. Protection and maintenance measures that shall be implemented during the project are listed in Appendix A. A summary of the progress of enhancement/restoration will be provided quarterly to the County during the project period. A detailed report, including monitoring results, will be submitted to the County annually until end of Agreement.

Table 1. Potential plants species to be planted or seeded

Species	Common name	Planting intensity/density
Wet meadow		
<i>Anemopsis californica</i>	yerba mansa	medium
<i>Baccharis salicifolia</i>	mulefat	low
<i>Eleocharis parishii</i>	Parish's spike rush	medium
<i>Elymus glauca</i>	blue wild rye	medium
<i>Elymus triticoides</i>	creeping wild rye	medium
<i>Juncus acutus</i>	spiny rush	low
<i>Juncus balticus</i>	baltic rush	low
<i>Lythrum californicum</i>	California loosestrife	medium
Willow woodland		
<i>Anemopsis californica</i>	yerba mansa	medium
<i>Baccharis salicifolia</i>	mulefat	low
<i>Elymus triticoides</i>	creeping wild rye	medium
<i>Equisetum arvense</i>	common horsetail	low

<i>Equisetum hymenale</i>	scouring horsetail	low
<i>Juglans californica</i>	black walnut	low
<i>Platanus racemosa</i>	western sycamore	low
<i>Rosa californica</i>	California rose	low
<i>Rubus ursinus</i>	California blackberry	medium
<i>Salix laevigata</i>	red willow	low
<i>Salix lasiolepis</i>	arroyo willow	medium

Schedule:

Task No.	Task	Time Period
1	Prepare Habitat Restoration Plan and receive approval from County	January - February 2018
2	Work with CDFW on a permit exemption for implementing Habitat Restoration Plan	March - June 2018
3	Remove invasive plants and plant and seed natives per Habitat Restoration Plan. Field results to be verified by P&D biologist.	June - December 2018
4	Second year – remove invasive plants/plant new native species per Habitat Restoration Plan. Field results to be verified by P&D biologist.	April – December 2019
5	Third year – remove invasive plants/plant new native species per Habitat Restoration Plan. Field results to be verified by P&D biologist.	April – December 2020
6	Maintain, monitor and successfully reach 2-year performance criteria outlined in the Habitat Restoration Plan. Field results to be verified by P&D biologist.	May 2022
7	Submit final report	June 30, 2022

Budget:

Task	Task	Personnel	Hours	Personnel	Hourly	Amount
				rate		
1	Prepare Habitat Restoration Plan and receive approval from County	A. Lambert	24	1	65	\$1,560
	Sub-total	J. Kisner	10	1	100	\$1,000
	La Cumbre Mutual Water District Administrative charge 8%					\$2,560
	Task 1 sub-total					\$2,765
2	Work with CDFW on a permit exemption	A. Lambert	8	1	65	\$520
	La Cumbre Mutual Water District Administrative charge 8%					\$42
	Task 2 sub-total					\$562
3	Remove invasive plants as described above					
	Weed removal	Contractor; field assistants	216	3	30	\$6,480
	Herbicides and adjuvants; spray tanks; PPE	A. Lambert	40	1	65	\$2,600
	Collect, grow, and install plants	Contractor; field assistants	160	2	30	\$4,800
	Plant purchase	A. Lambert	40	1	65	\$2,600
	Seed purchase					\$2,500
	Project oversight - County qualified biologist	J. Kisner	4	1	100	\$400
	Sub-total					\$21,625
	La Cumbre Mutual Water District Administrative charge 8%					\$1,730
	Task 3 sub-total					\$25,755
4	Second year weed removal	Contractor; field assistants	72	3	30	\$2,160
	Herbicides and adjuvants; spray tanks; PPE	A. Lambert	24	1	65	\$1,560
	Second year install plants and seeds	Contractor; field assistants	240	3	30	\$7,200
	Project oversight - County qualified biologist	A. Lambert	48	1	65	\$3,120
		J. Kisner	4	1	100	\$400

Sub-total									\$14,842
La Cumbre Mutual Water District Administrative charge 8%									\$1,187
Task 4 sub-total									\$16,029
5	Third year install plants	Contractor; field assistants	72	3	30				\$2,160
	Third year weed removal	A. Lambert	24	1	65				\$1,560
	Herbicides and adjuvants; PPE	Contractor; field assistants	48	3	30				\$1,440
	Project oversight - County qualified biologist	A. Lambert	8	1	65				\$520
	Sub-total	J. Kisner	4	1	100				\$200
	La Cumbre Mutual Water District Administrative charge 8%								\$400
	Task 5 sub-total								\$6,280
									\$502
									\$6,782

6	Maintain, monitor and successfully reach performance criteria outlined in the Habitat Restoration Plan	J. Kisner	16	1	100				\$1,600
	Sub-total	A. Lambert	80	1	65				\$5,200
	La Cumbre Mutual Water District Administrative charge 8%								\$6,800
	Task 6 sub-total								\$544
									\$7,344

7	Submit final report	J. Kisner	16	1	100				\$1,600
	La Cumbre Mutual Water District Administrative charge 8%								\$128
	Task 7 sub-total								\$1,728

	Project sub-total								\$60,965
	Contingency								\$6,097
	Total								\$67,062

Adam Lambert, Johanna Kisner, and Mike Alvarado shall be the individual(s) personally responsible for providing all services hereunder. CONTRACTOR may not substitute other persons without the prior written approval of COUNTY's designated representative.

Suspension for Convenience. COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 30 days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

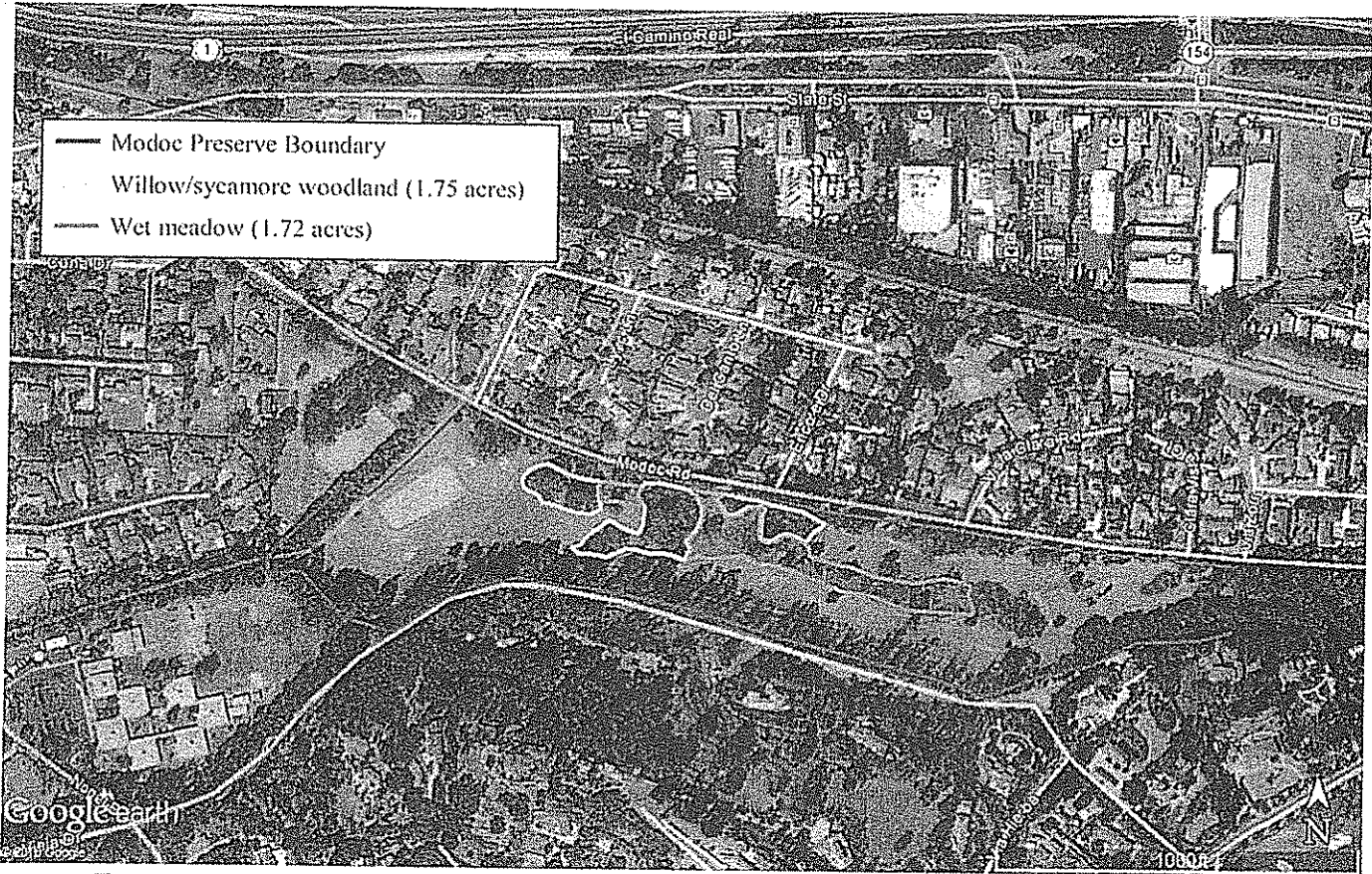


EXHIBIT B

PAYMENT ARRANGEMENTS
Periodic Compensation at Selected Milestones

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed **\$67,063**.
- B. 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.
- C. Upon completion of the work for each milestone and/or delivery to COUNTY of item(s) specified below, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed in accomplishing each milestone. These invoices or certified claims must cite the assigned Board Contract Number and explain how CONTRACTOR satisfactorily accomplished milestone. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or item(s) delivered and if found to be satisfactory 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. CONTRACTOR shall not commence work unless and until COUNTY issues a Notice to Proceed.

Total Contract Amount Maximum Amount Chargeable	Milestone Description
\$2,765	Task 1 – Prepare Habitat Restoration Plan and receive approval from County
\$562	Task 2 – Work with CDFW on a permit exemption for implementing Habitat Restoration Plan
\$25,756	Task 3 – Remove invasive plants and plant and seed natives per Habitat Restoration Plan. Field results to be verified by P&D biologist.
\$16,029	Task 4 – Second year – remove invasive plants/plant new native species per Habitat Restoration Plan. Field results to be verified by P&D biologist.
\$6,782	Task 5 – Third year – remove invasive plants/plant new native species per Habitat Restoration Plan. Field results to be verified by P&D biologist.
\$7,344	Task 6 – Maintain, monitor and successfully reach 2-year performance criteria outlined in the Habitat Restoration Plan. Field results to be verified by P&D biologist.
\$1,728	Task 7 – Submit Final Report
\$6,097	Contingency - Percentage of the budget (10%) set aside for unpredictable changes in the scope of work, outlined in Exhibit A. Work must be authorized by Planning and Development Director, or designee in writing.
\$ 67,063	Total

The final milestone payment above shall not be made until all services have been completed and item(s) as specified in **EXHIBIT A** have been delivered and found to be satisfactory.

D. 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.



**Exhibit C
Risk Management**

**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 contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

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

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

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



LACUMBR-02

ILEAL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/17/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776 Santa Barbara, CA - HUB International Insurance Services Inc. P O Box 3310 Santa Barbara, CA 93130-3310		CONTACT NAME: PHONE (A/C, No, Ext): (805) 682-2571 E-MAIL ADDRESS: FAX (A/C, No): (805) 617-1767	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Allied World Assurance Co Inc	
		INSURER B: State Compensation Insurance Fund of California	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED	La Cumbre Mutual Water Company Mike Alvarado 695 Via Tranquila Santa Barbara, CA 93110	NAIC #	19489
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COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		JPAPKG00096	04/01/2017	04/01/2018	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input checked="" type="checkbox"/> GENERAL LIABILITY -						MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 10,000,000
							PRODUCTS - COMP/OP AGG \$ 10,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	N/A		JPAAUT00096	04/01/2017	04/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB						EACH OCCURRENCE \$
							AGGREGATE \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	915373817	03/01/2017	03/01/2018	PER STATUTE OTH-ER \$
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Project: Modoc Preserves. County of Santa Barbara is named as Additional Named Member per attached Automatic Named Member Endorsement, as respects General Liability.

CERTIFICATE HOLDER	CANCELLATION
County of Santa Barbara 123 E. Anapamu Street Santa Barbara, CA 93101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE



**MEMORANDUM OF COVERAGE (MOC)
ADDITIONAL ENROLLED NAMED MEMBER – AUTOMATIC**

**THIS ENDORSEMENT MODIFIES THE FOLLOWING COVERAGE FORM:
GENERAL LIABILITY**

SECTION II. – WHO IS AN ENROLLED MEMBER is amended to include as an Enrolled Member any person or organization but only with respect to the following:

- A. Liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - 1. in the performance of your ongoing operations; or
 - 2. in connection with premises owned by or rented to you;

- B. Liability arising out of the ownership, maintenance or use of premises leased to you and subject to the following additional exclusions:
 - 1. any "occurrence" which takes place after you cease to be a tenant at that premises.
 - 2. structural alterations, new construction or demolition operations performed by or on behalf of the person or organization you have leased from.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

