

Attachment 10

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Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agreement No.: A-12442

Upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

- a. Approved a Professional Services Agreement with Denise Duffy & Associates, Inc. to provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2, in the amount not to exceed \$353,100, for a term to April 23, 2014; and
- b. Authorized the Contracts/Purchasing Officer to execute the Professional Services Agreement and future amendments that do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED on this 23rd day of April 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on April 23, 2013.

Dated: April 25, 2013
File Number: 13-0399

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES
WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS
(MORE THAN \$100,000)***

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Denise Duffy & Associates, Inc.
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of this Agreement. The services are generally described as follows:
Provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 353,100.

3. **TERM OF AGREEMENT.** The term of this Agreement is from April 23, 2013 to April 23, 2014, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROMISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Incorporation of Request for Proposals (RFP) #2012-CRL-1 and Proposal Documents

5. **PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. PAYMENT CONDITIONS.

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice; either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

7. TERMINATION.

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

8.03 Indemnification for All-Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

9.0 INSURANCE.

9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached; subject to approval).

9:04 Other Insurance Requirements

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed

operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10. RECORDS AND CONFIDENTIALITY

10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state and local laws and regulations, which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst II	Denise Duffy, Principal-in-Charge
Name and Title	Name and Title
County of Monterey Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Denise Duffy & Associates, Inc. 947 Cass Street, Suite 5 Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 373-4341
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.

15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.

15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR'S officers, agents, and employees acting on CONTRACTOR'S behalf in the performance of this Agreement.

15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.

15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

This space is left blank, intentionally.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: Debra Papp

Purchasing Manager

Date: 1 May 2013

By: _____

Department Head (if applicable)

Date: _____

By: _____

Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: [Signature]

County Counsel

Date: 7-15-13

Approved as to Fiscal Provisions²

By: [Signature]

Auditor/Controller

Date: 4/20/13

Approved as to Liability Provisions³

By: _____

Risk Management

Date: _____

Denise Duffy & Associates, Inc.

Contractor's Business Name*

By: Denise Duffy

(Signature of Chair, President, or Vice-President)*

Date: 4/11/13

By: Denise Duffy

(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Date: 4/11/13

Denise Duffy, Secretary

Name and Title

County Board of Supervisors' Agreement Number: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

¹Approval by County Counsel is required for all Professional Service Agreements over \$100,000

²Approval by Auditor/Controller is required for all Professional Service Agreements

³Approval by Risk Management is required only if changes are made in paragraph 8 or 9

**REVISED SCOPE OF WORK
Programmatic Biological Assessment and Initial Study
For the Carmel Lagoon Projects
Request for Proposal (RFP) #2012-CRL-1
April 2, 2013**

As described in the Project Approach, the Denise Duffy & Associates (DD&A) Team proposes to provide biological studies and environmental review services, including the following primary environmental services during Phase 1 of this Scope of Work (Tasks 1–5):

- ♦ Development of a Conceptual Proposed Action description of the proposed Carmel Lagoon Projects,¹ individually and collectively, to a level needed to prepare requested environmental documents.
- ♦ Preparation of Draft Programmatic Biological Assessment (BA), including a Wetland Delineation.

Phase 2 would involve providing California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance services, including preparation of a programmatic environmental document (currently envisioned to be an Initial Study/Environmental Assessment) to enable future, expeditious compliance with the CEQA, and if desired, NEPA, for the Carmel Lagoon Projects.

The following detailed task descriptions demonstrate the DD&A Team's unique understanding of the County's needs, including the need for cost and time efficient completion of certain reports and studies, provision of services based upon early and ongoing, collaborative team effort with County staff, technical experts, and other key agency staff. These tasks are presented with the ultimate goal of being flexible and responsive to the needs of County and to, where applicable, various entities with an interest in the Lagoon Projects while completing environmental documents to enable issuance of regulatory permits for the Lagoon Projects.

¹ The Carmel Lagoon Projects are now understood to include only the Interim Sandbar Management Plan, and the Ecosystem Protection Barrier (EPB) and Scenic Road Protection Projects. Monterey County Service Area-50 (CSA-50) Floodplain Improvements, Odello East Floodplain Restoration and Enhancement, and the Highway 1 Causeway will be excluded from these analyses, except to the extent that they must be qualitatively described and analyzed within any cumulative (future background) conditions analyses in the biological or environmental documents.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK
for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects

PHASE 1: PROGRAMMATIC BIOLOGICAL STUDIES

TASK 1: PROJECT INITIATION AND SCOPE CONFIRMATION

This task was not specifically identified in RFP, but is deemed critical to the success of the project based on consultation with the County staff, including information conveyed at the pre-proposal meeting.

Based upon consultation with the County and the DD&A Team's knowledge of the Carmel Lagoon Projects, this task will include work necessary to initiate the environmental services including the following tasks:

- ◆ Review additional available background information,
- ◆ Conduct initial project management and subconsultant coordination,
- ◆ Attend up to two (2) kick-off meetings with the Resource Management Agency (RMA) and key agencies to discuss the project approach and finalize the scope of work,
- ◆ Identify data needs,
- ◆ Confirm format, quantities and distribution of deliverables, and
- ◆ Establish schedules and protocols for communication.

The DD&A Team will assemble the relevant documents, studies, data, and maps relevant to the project and create a database of these sources to efficiently transmit the most pertinent, required information to all teammates.

TASK 2: DATA COLLECTION AND TECHNICAL INPUT

The work proposed in this task is identified within the RFP in section 3.1.1 and 3.1.2.

The DD&A Team will review relevant background materials and meet with the County and other key team members and agency staff. This is expected to include existing project- and site-specific engineering and environmental documents, and analysis of conditions and projects in and around the Lagoon, as well as, CEQA Guidelines, Army Corps of Engineers (ACOE) and National Oceanic Atmospheric Administration (NOAA) Fisheries Federal Regulations for NEPA compliance, and other pertinent guidance, case law, and regulations, to gain a complete understand of available background materials to satisfy the environmental processing for the project.

Site Visits: DD&A Team members will conduct site visits to assess and document existing environmental conditions. Pre-survey research will be conducted utilizing existing available resources, including all of the following information sources:

- ◆ DD&A Team members' existing files,
- ◆ Readily available on-line sources, such as Carmel River Watershed Conservancy, California Department of Fish and Wildlife (Department), Monterey Peninsula Water Management District (MPWMD) and the County's websites and staff files,

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

- ◆ California Department of Parks and Recreation (CDPR) existing conditions information currently being developed for their General Plan of the area (if available),
- ◆ California Natural Diversity Data Base (CNDDB),
- ◆ California Native Plant Society (CNPS) lists, and
- ◆ Other published and unpublished materials as related to CEQA/NEPA and resource agency guidance and requirements.

The field review will provide an evaluation of general site features and environmental constraints at the site and within the local vicinity, and provide a basis for recommendations to minimize or avoid impacts. The DD&A Team will depend largely on existing reports on the project area to the greatest extent feasible to identify existing site resources. The results of the research and field visit will be included in the Biological Assessment (see Task 4) and the CEQA and NEPA documents, as applicable. The DD&A Team includes technical experts that are already experts in the Carmel Lagoon and environment, such that the team can initiate work (i.e., hit the ground running) with little initiation time expediting the completion of the environmental documents.

Permitting Agency Coordination: Through existing, ongoing technical advisory committee and stakeholder meeting processes (for example, Carmel Lagoon Technical Advisory Committee), DD&A will be available to communicate and coordinate with the appropriate agencies that have knowledge of affected resources and jurisdiction over, or will be affected by, the project to ensure that potential environmental issues are addressed. We anticipate contacting and/or meeting with representatives of the following agencies in addition to Monterey County RMA and Public Works staff (as directed by RMA) all of which the DD&A team has worked with recently:

Federal Agencies

- ◆ National Marine Fisheries Service (NOAA Fisheries)
- ◆ U.S. Army Corps of Engineers (ACOE)
- ◆ U.S. Fish and Wildlife Service (USFWS)

State Agencies

- ◆ California Coastal Commission (Coastal Commission)
- ◆ California Department of Fish and Wildlife (Department)
- ◆ Department of Parks & Recreation (CDPR)
- ◆ Regional Water Quality Control Board (RWQCB)
- ◆ Department of Water Resources (DWR)

Local and Regional Agencies

- ◆ Monterey Bay Unified Air Pollution Control District (MBUAPCD)
- ◆ Monterey County Water Resources Agency (MCWRA)
- ◆ Monterey County Service Area-50 (CSA-50)
- ◆ Monterey Peninsula Water Management District (MPWMD)
- ◆ Carmel Area Wastewater District (CAWD)

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

*REVISED SCOPE OF WORK
for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

Technical Input (Hydrology and Engineering): The DD&A Team has identified key technical data needs that may require supplemental input from consultant team members prior to adequately developing a project description and proposed action for the biological studies and environmental document. As discussed previously, the DD&A Team includes the expertise of the hydrologists and engineers currently engaged by the County on the Ecosystem Protection Barrier (EPB) and Scenic Road Project feasibility and alternatives analyses (Moffatt & Nichol Engineers, Whitson Engineers, and Balance Hydrologics).² These consultants bring to the project the attributes of acquired breadth of knowledge and information to easily address the existing conditions, project/alternatives description and mitigation needs of the environmental document. As needed, their existing work can be amended and supplemented to most efficiently meet the needs of the environmental review analyses. The following key technical input is proposed to be provided by this scope of work:

Coastal Engineering: Moffatt & Nichol (M&N) will work with the DD&A team to summarize the existing setting of the lagoon area from a coastal perspective, and to describe the Scenic Road Protection project and its critical elements. The following key existing conditions will be summarized, based in large part on the prior work completed by the team:

- Carmel River closure frequency and duration, breaching actions, and breach monitoring results from prior work;
- Coastal data (waves, tides, storm frequency, beach build-up characteristics).

A qualitative Geomorphic Processes memorandum, discussing reasons for inlet closure, sand transport processes in the area, and potential bluff erosion issues associated with river migration will be prepared for this task.

Hydrologic/Lagoon and Riverine: Balance Hydrologics (Balance) will work closely with the DD&A team to assemble pertinent technical materials related to the topics of flood control, stormwater management, water quality, groundwater, and lagoonal hydraulics. This work will include a site visit to assess any change in conditions since previous work in the area was completed. The compiled information will be used to prepare a technical memorandum summarizing Lagoon behavior with respect to the factors that may be impacted through project implementation. Particular emphasis will be placed on identifying the impacts that project implementation are expected to have on barrier beach breaching frequency and timing with the concurrent implications for Lagoon maximum and minimum water elevations, depth-duration relationships, and water quality.

- ♦ The work will begin with a compilation of historic lagoon parameters based on past gauging activities (including, but not limited to, stage recorder data from the Lagoon, discharge records from the USGS Carmel River gauge, and records of past beach breaching activities). Analyses of the data will include a range of summary statistics agreed to by the project team such as mean and peak monthly and seasonal lagoon storage, mean and peak inflow and

² In addition, several of the DD&A team members (i.e., Balance, DD&A, and Whitson) have also been working on an ongoing basis on the Odello East Project and were selected to provide services on the CSA-50 project.

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outflow on a monthly and seasonal basis, and frequency and rate of lagoon filling and draining events.

- ◆ As the project work continues, the historical data will be used to estimate changes in parameters as a result of lagoon and beach management for the various alternatives being assessed. Estimates of the same summary statistics will be compiled such that potential changes to key lagoonal parameters can be generalized and contrasted with past Lagoon behavior.
- ◆ The work including methodology, data sources, and discussion of projected lagoon conditions will be compiled in a standalone technical report suitable for use in subsequent task-work.

Civil Engineering and Land Surveying Services: Whitson Engineers will provide previously developed project maps to the team for the environmental documents. Maps include:

- ◆ Rectified Digital Ortho-Imagery for Project Area (2007)
- ◆ Topographic map for Project Area (various dates)
- ◆ Current County Parcel Shape File (2012)
- ◆ Parcel Boundary Lines

Whitson will prepare exhibit drawings showing various project implementation alternatives for the projects under consideration. Exhibits will show proposed flood wall / barrier locations, construction impact areas, and other pertinent information as requested, as developed under their other contracts.

Balance Hydrologics (Balance) will work closely with the DD&A team to assemble pertinent technical materials related to the topics of flood control, stormwater management, water quality, groundwater, and lagoonal hydraulics. This work will include a site visit to assess any change in conditions since previous work in the area was completed. The compiled information will be used to prepare a technical memorandum summarizing Lagoon behavior with respect to the factors that may be impacted through project implementation. Particular emphasis will be placed on identifying the impacts that project implementation are expected to have on barrier beach breaching frequency and timing with the concurrent implications for Lagoon maximum and minimum water elevations, depth-duration relationships, and water quality.

- ◆ The work will begin with a compilation of historic lagoon parameters based on past gauging activities (including, but not limited to, stage recorder data from the Lagoon, discharge records from the United States Geologic Survey (USGS) Carmel River gauge, and records of past beach breaching activities). Analyses of the data will include a range of summary statistics agreed to by the project team such as mean and peak monthly and seasonal lagoon storage, mean and peak inflow and outflow on a monthly and seasonal basis, and frequency and rate of lagoon filling and draining events.

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- ◆ As the project work continues, the historical data will be used to estimate changes in parameters as a result of lagoon and beach management for the various alternatives being assessed. Estimates of the same summary statistics will be compiled such that potential changes to key lagoonal parameters can be generalized and contrasted with past Lagoon behavior.
- ◆ The work including methodology, data sources, and discussion of projected lagoon conditions will be compiled in a standalone technical report suitable for use in subsequent task work.

TASK 3: CARMEL LAGOON PROJECTS CONCEPTUAL PROPOSED ACTION

The work proposed in this task is identified within the RFP in section 3.1.1 and is a key task needed prior to preparation of the biological studies.

Task 3.1: Prepare 1st Draft Carmel Lagoon Projects Proposed Action

The DD&A Team will prepare a draft description of the Carmel Lagoon Projects (including the EPB, the Scenic Road Protection, and the Interim Sandbar Management Plan) based upon the team's existing knowledge and readily available data and sources regarding the Carmel Lagoon and proposed projects. The description will include all required information needed to initiate consultation with U.S. Fish and Wildlife Service and National Marine Fisheries Services and to prepare a Proposed Action in accordance with Endangered Species Act Consultation requirements. For the purpose of this task, the description will be prepared as specified in the "Description of Proposed Action" on pages 8 and 9 of "Guidance on Preparing an Initiation Package for Endangered Species Consultation," that requires the following key contents of the project description:

- ◆ The action agency proposing the action
- ◆ The authorities the action agency will use to undertake, approve, or fund the action
- ◆ The applicant, if any
- ◆ The action to be authorized, funded, or carried out
- ◆ The location of the action
- ◆ When the action will occur, and how long it will last
- ◆ How the action will be carried out
- ◆ The purpose of the action
- ◆ Any interrelated or interdependent actions

As part of this task, DD&A will work with the technical consultants to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to utilize conference calls and meetings described in Task 5 to work collaboratively with the County and the technical consultants (Balance Hydrologics, Whitson Engineers and Moffatt & Nichol Engineers—please see Task 2 above) to develop the 1st Draft Proposed Action.

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The 1st Draft Proposed Action will be provided to the County (and others, if desired by the County) for review and comment. This scope of work assumes that up to five (5) hardcopies, in addition, to electronic (PDF) copies will be submitted to the County.

Task 3.2: Prepare 2nd Draft Carmel Lagoon Projects Proposed Action

Based upon comments received on the 1st Draft Description from the County, DD&A will revise the Draft Conceptual Proposed Action and Prepare a Final Conceptual for review by key regulatory and permitting agencies, land owners, and stakeholders in the Lagoon area. The document will be made available electronically via secure internet site, email, and on CD. In addition, this scope of work assumes that up to five (5) hard copies will be produced for distribution to the key agencies and stakeholders for review and comment.

Task 3.3: Prepare Final Carmel Lagoon Projects Proposed Action

Based upon comments received on the 2nd Draft Description from the key agencies and stakeholders, DD&A will revise the Draft Proposed Action and Prepare a Final Proposed Action for use in Endangered Species Act (ESA) compliance. Although the final document may be made available to the County and key agencies, the intent of this task is to incorporate the Proposed Action, as appropriate, into the Biological Assessment.

TASK 4: FEDERAL BIOLOGICAL STUDIES

The work proposed in this task is identified within the RFP in section 3.1.1 through 3.1.4 and is a key task identified as a critical path item toward achieving regulatory compliance. Note that the Biological Resources Report is proposed for use in State environmental documentation and regulatory permitting and has been incorporated into Task 6, Phase II.

The federal biological documents will include identification and description of the biological resources in the project area specific to federal listed species and an assessment of the impacts of the project and alternatives on those resources. These reports will provide recommendations on the significance of the potential impacts and mitigation measures. The technical reports will provide sufficient information for the NEPA analysis to satisfy the legal requirements of the relevant federal statutes and regulations, and the issuance of the appropriate permits by regulatory agencies with jurisdiction over natural resources affected by the project. Based on information contained in the County's RFP, DD&A assumes the preparation of the following federal biological documents:

- ◆ **Biological Assessment:** The Biological Assessment (BA) will analyze the effects of the proposed project on federally listed species and critical habitat. This document will be used for the federal environmental review process and is the basis for the federal regulatory agencies to make an effective determination on a proposed project.
- ◆ **Wetland Delineation Report:** A wetland delineation report will be prepared in sufficient format and content for submittal to the ACOE and Coastal Commission. Because the project is within the coastal zone, the delineation will be performed to both the state and federal guidelines.

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DD&A will prepare these federal biological reports based on a combination of existing biological documentation and site surveys. This effort will be conducted as follows (Tasks 4.1 and 4.2 are necessary for completion of the above-listed reports, the work tasks and contents of which are described in Tasks 4.3 through 4.6):

Task 4.1 Review and Compile Biological Reference Material

Prior to site surveys, DD&A will review available reference materials, including the Department's California Natural Diversity Database (CNDDDB) occurrence reports, the USFWS list of Federally Listed Threatened and Endangered Species that May Occur in Monterey County, aerial photographs, and other relevant biological documentation that has been prepared in the project area for other projects or as research. DD&A will use this information to better focus surveys. The DD&A Team will also review all existing technical reports relevant to the proposed project to ensure that the information is sufficient for agency permitting requirements. Based upon DD&A's preliminary review of existing material, much of the required data can be derived from existing reports and data sets, although some additional data collection and consolidation may be necessary to ensure that sufficient information is provided to satisfy the applicable permitting requirements.

Task 4.2: Conduct Field Review and Data Collection

DD&A Team biologists will survey the project area to assess the environmental conditions of the site and its surroundings. The field review will provide an evaluation of general habitat features and environmental constraints at the project site and within the local vicinity to provide a basis for recommendations to minimize or avoid impacts. DD&A will identify any potential sensitive habitat areas, document wildlife observed during the surveys, and identify potential habitat for special-status wildlife and plant species.

Special attention will be provided to the south central coast steelhead (steelhead) and California red-legged frog (CRLF) as the proposed project is likely to affect these two federally listed species. Team biologists with expertise in the ecology and biology of these species will conduct species-specific habitat analyses for the purpose of identifying and determining the value of different habitat features which may be affected by the projects. If specific resources are identified during these assessment surveys, they will be mapped for inclusion in the impact analysis and the mitigation and monitoring protocol preparation effort.

Task 4.3: Prepare Draft Programmatic Biological Assessment (PBA)

A BA is required for any project where federally listed species may be adversely affected, resulting in formal consultation, or affected but not adversely affected, resulting in informal consultation. In addition, even if there will be no effect on any federally listed species, the presence of proposed or designated critical habitat may require that a BA be prepared. Projects in proposed or designated critical habitat must assess if the primary constituent elements (PCEs) of critical habitat are present, how much of the action area contains the PCEs, and whether the project will have an adverse impact on critical habitat within the action area. This will be determined and presented in the Programmatic Biological Assessment (PBA).

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A preliminary evaluation conducted by the DD&A team has determined that there is the potential for USFWS and NOAA Fisheries to determine this project may be likely to adversely affect federally listed species or critical habitat, thereby resulting in formal consultation.

DD&A will prepare a PBA which clearly states what the probable impact will be from implementation of the project. If the conclusion is that the project may affect federally listed species or critical habitat, the PBA will be prepared as a working draft. While the PBA is in draft form, DD&A may meet as necessary with USFWS, NOAA Fisheries, and the Department to explore methods of reducing project impacts. This includes evaluating methods of avoiding the impact, minimizing the impact or developing appropriate mitigation to off-set project impacts, in that order.

The PBA will discuss Smith's blue butterfly, snowy plover, and tidewater goby as required, but the likely determination for these species is that the project will not affect them. However, the PBA will likely determine that the project will adversely affect steelhead and CRLF. As a result, these two species will receive specific focus in an effort to quantify take of the species and develop adequate conservation and avoidance measures. The approach to determining the effects of the project on these two species are as follows:

South Central Coast Steelhead: South central coast steelhead (steelhead) are known to use the aquatic areas within the Carmel River Lagoon. The following analysis is proposed to be performed by Don W. Alley (DWA) of D.W. Alley and Associates with support from the DD&A Team:

- ◆ Existing information will be summarized regarding lagoon/estuary use by steelhead by season. Sources of juvenile steelhead data will be the Monterey Peninsula Water Management District (MPWMD) and the 1997 DWA report. A record of fluctuation in the lagoon/estuary water surface elevation from a variety of water years will be summarized from data provided by the DD&A team hydrologists. Included with this record will be educated guesses by the hydrologists of the frequency of mechanical breaching necessary for flood control and the frequency of natural breaches.
- ◆ The predicted scenario of breaching frequency under the Interim Sandbar Management Plan to be provided by the hydrologists and any change in degree of draining with each breach will be compared to past years prior to implementation of the Interim Breaching Plan. With input from Balance Hydrologics, DWA will summarize impact minimization measures enumerated in the NOAA Fisheries Biological Opinion for the Interim Sandbar Management Plan to minimize the frequency of mechanical sandbar breach, and minimize lagoon draining and the loss of steelhead habitat associated with each breach.
- ◆ In Phase I, DWA will assess the potential impact for take of steelhead expected from the EPB project and the Scenic Road Protection and Preservation Project, based on their conceptual designs and initial feasibility work done by the design team. In Phase II, DWA will prepare biological & technical reports (identification of fishery resources, complete project descriptions and biological assessments (combining existing conditions, complete project description, potential impacts and mitigations). DWA will compare the reduced frequency of mechanical

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breaches and additional lagoon depth expected prior to breaches with the implementation of the EPB project at 3 heights to the existing conditions, then analyze the effect of reduced breaching frequency on steelhead habitat and fish stranding. DD&A will provide water surface (gage height) to lagoon surface area and depth contour relationship (changes in bathymetry) for the 3 Protective Barrier heights. DWA will compare impacts to steelhead by the degree of draining of the lagoon during breaching under existing conditions with the degree of draining expected with more northerly breaches allowed with completion of the Scenic Drive Project, based on design team predictions. DWA will also assess the short-term construction impacts of building the EPB and Scenic Drive projects and develop mitigation measures.

- ◆ DWA and DD&A will consult with the County and regulatory agency personnel at 4 scheduled meetings (2 for Phase I and 2 for Phase II) to discuss the details of each proposed project and obtain their recommendations for acceptable mitigations for potential impacts to steelhead. Subsequently, DWA and DD&A will discuss the consulting team's mitigation approach for each project with agency staff and obtain consensus on final mitigation measures. The consulting team's mitigation package will be based upon our impact analysis and mitigation measures formulated by the consulting team and NOAA Fisheries staff and judged feasible by the County.
- ◆ As part of the Programmatic CEQA Review in Phase II, DWA will write the fishery component of the draft initial study for the Interim Sandbar Management Plan, Ecosystem Protective Barrier Project and the Scenic Road Protection and Preservation Project.

California red-legged Frog: CRLF are known to use the upland areas of the Carmel River Lagoon. The following analysis is proposed to be performed by Dawn Reis with support from the DD&A Team.

- ◆ An initial field visit will be conducted to explore current conditions on the ground and set-up sampling locations. This habitat assessment for CRLF will also include gathering existing data and reports for review from USFWS, MPWMD, CSUMB, Parks, the County, and others.
- ◆ Salinity profiles will be taken within the water column at several sample locations once per month from February through October (the reproductive season for CRLF within the Carmel River Watershed).
- ◆ Dawn Reis and DD&A will consult with USFWS and the Department subsequent to the initial site assessment regarding project permitting needs, and needs (if any) for protocol-level CRLF surveys.
- ◆ Potential impacts to CRLF will be assessed and evaluated based on the updated habitat assessment and the assumed presence of CRLF, unless the USFWS deems protocol-level surveys necessary. This scope does not include protocol-level survey for CRLF, but can be performed if USFWS deems them necessary.

Task 4.4: Wetland Delineation

DD&A will perform a wetland delineation for the project in accordance with the procedures described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987) and published guidance

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from the Coastal Commission. The delineation will determine the extent of wetlands and other types of waters of the United States (waters) located within the project area. All wetlands/waters detected will be mapped at a scale of 1" = 200' or larger and described in a report of findings prepared in accordance with the San Francisco District office of the ACOE requirements and the Coastal Commission.

Task 4.5: Prepare Administrative Draft Programmatic Biological Assessment

It is anticipated that the drafting of these baseline documents will be the result of an iterative process between the DD&A Team, the County, and relevant regulatory and responsible agencies (relevant agencies). DD&A will submit the drafts to the County for an initial review and respond to comments. DD&A will respond to comments and prepare administrative drafts of the biological documents for informal submittal to relevant agencies for initial feedback and guidance. DD&A will attend one (1) coordinated meeting with the County and relevant agencies to discuss avoidance and mitigation issues, additional data needs, and impact analysis results contained in the Administrative Draft Biological Documents.

Task 4.6: Prepare Final Programmatic Biological Assessment

DD&A will finalize the biological documents. DD&A will submit the administrative drafts to the County for one (1) round of review and respond to comments. The County, or DD&A as their representative, will formally submit the Final Administrative Draft Biological documents to the relevant agencies. DD&A will attend two (2) additional meeting if necessary to respond to agency requests for additional materials and/or information. DD&A will prepare Final Biological Documents based on these meetings.

DD&A will respond to public comments received on the Biological Resources Report received during the 30-day review period. DD&A, in consultation with the County and the federal lead agency, will prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text, will be incorporated into the Final Biological Resources Report.

TASK 5: MEETINGS AND PROJECT MANAGEMENT FOR CONCEPTUAL PROPOSED ACTION AND BIOLOGICAL ASSESSMENT

Not including the two kick-off meetings and project management to initiate the project, identified in Task 1, DD&A proposes the following conference calls and meetings in Phase 1 of this scope of work (i.e., for conceptual Proposed Action and Programmatic Biological Assessment preparation). The DD&A Team has included attendance at the following meetings for the team:

- ◆ DD&A has included assumes seven (7) meetings each at the County offices by the Biology lead, five (5) total one-hour phone calls by up to two DD&A staff for each
- ◆ Attendance by key staff (typically, the project manager) from each of the technical subconsultant team members (Whitson, Balance, Moffatt & Nichol, D. Reis, D, Alley) at up to two (2) meetings each and up to four (4) conference calls.

The attendance at additional meetings by DD&A would be billed on a time-and-materials basis. If the County desires that DD&A arrange for meetings, prepare presentations, agendas, meeting notices, and

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meeting summaries or minutes, those services will be outside the budget provided and DD&A will provide budget estimates for those additional out-of-scope services, separately. DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

These additional meetings described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

PHASE 2: TASK 6: PROGRAMMATIC CEQA AND NEPA DOCUMENTS

The work proposed in this task is identified within the RFP in section 3.2 and is a key task needed as part of resource agency review and environmental requirements, generally.

The Monterey County Resource Management Agency (RMA) would be the CEQA lead agency and the U.S. Army Corps of Engineers (ACOE) would be the NEPA lead agency because they must comply with NEPA to issue a Clean Water Action Section 404 individual permit(s) for the Carmel River Lagoon Projects. The DD&A Team proposes to provide programmatic CEQA and NEPA services in a phased approach to allow the County to provide substantial input on the choice, content, and review process of the environmental document. DD&A proposes to prepare a combined CEQA/NEPA document, specifically, an administrative draft Programmatic Initial Study/Environmental Assessment (IS/EA)³.

Task 6.1: CEQA and NEPA Project and Alternative Descriptions

DD&A will use information prepared in Phase I during preparation of the Conceptual Proposed Action for the Carmel Lagoon Projects and will assist the County with development of supplemental information required to prepare a CEQA and NEPA document. As part of this task, DD&A will work with the technical consultants to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to utilize conference calls and meetings described in Task 7 to work collaboratively with the County and the technical consultants (Balance Hydrologics, Whitson Engineers and Moffatt & Nichol Engineers—please see Task 2 above) to develop the CEQA and NEPA Draft Project and Alternatives Description.

³ This scope assumes that adoption of a Mitigated Negative Declaration (MND) would be the appropriate for CEQA compliance and that a Finding of No Significant Impact (FONSI) would be appropriate for NEPA compliance. If this is not the case, an alternative scope of work and budget would be necessary due to the content and procedural differences from the scope of work herein.

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Task 6.2: Preliminary Programmatic Initial Study Checklist

This task will include a Preliminary Initial Study Checklist to evaluate the potential environmental impacts of the proposed project described in Task 6.1, above. This evaluation will be in a brief report format with an attached environmental checklist identifying potential impacts. The Preliminary Initial Study Checklist will contain more detailed information, including:

- ◆ A programmatic Environmental Setting section using existing data, studies, and information available at the time of commencement of this task;
- ◆ A list of the potential project issues/impacts with a preliminary determination of the level of significance and the need for mitigation;
- ◆ A recommendation of the level of environmental document proposed for CEQA/NEPA compliance;
- ◆ A determination about whether additional studies are required (e.g., additional sand balance information related to the Scenic Road project in response to Coastal Commission regulatory requirements, air quality diesel exhaust risk assessment, geotechnical and geological analysis, water quality data, or Phase I assessment).

This scope does not include additional technical studies than otherwise identified herein. If any additional technical studies⁴ are required outside this scope of services, DD&A will be able to provide those studies as an option (see task 8) and will submit detailed scope and cost, if desired. Additional technical studies described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

Task 6.3: Administrative Draft Programmatic IS/EA

The IS/EA will be prepared concisely and to a level of detail necessary to assist the County in achieving the following ultimate actions:

- ◆ Issuance of a Finding of No Significant Impact by the ACOE demonstrating compliance with NEPA
- ◆ Adoption of a Mitigated Negative Declaration by Monterey County (if it is found that all potential impacts can be reduced to a less-than-significant level by implementation of mitigation measures or project design changes)

DD&A will prepare the IS/EA, based on a field review, consultation with RMA and key agency staff, stakeholders, and the project technical team (including engineer), existing information in local sources

⁴ The following are some of the potential studies that may be required, but are currently not included: geotechnical and geologic reports, diesel exhaust risk assessment, Phase I environmental site assessment, Section 106 studies, and sediment sand balance analysis.

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and maps, background information in previously prepared environmental documentation, project-specific technical and design studies/ recommendations, and our extensive library of resources and knowledge of the area. The tasks described below are those anticipated necessary to complete the CEQA and NEPA process based upon the methodology and assumptions above.

Per Section 15063 of CEQA Guidelines and NEPA Regulations, the IS/EA will include the following:

- ◆ Table of contents;
- ◆ A summary/overview of the proposed project;
- ◆ A description of the proposed project to be constructed, including its background, location, purpose of and need for, schedule and funding;
- ◆ An identification of the environmental setting in the vicinity of the project site, as it exists before commencement of the project from both a local and regional perspective, for relevant issues identified in the completed environmental checklist;
- ◆ A completed environmental impact/consequences section, including a brief narrative supporting the conclusions identified in the checklist (based upon Task 6.1);
- ◆ An identification of environmental effects of the project for relevant issues identified in the completed environmental checklist. The explanations may reference other information sources through citation to the documents where the information may be found;
- ◆ Recommended feasible mitigation measures or project design changes, as necessary;
- ◆ A discussion of alternatives being considered;
- ◆ An identification of the environmental clearances and permits required;
- ◆ Discussion of consistency with local plans, policies, and the Coastal Act;
- ◆ List of report preparers and bibliography, including references and persons consulted;
- ◆ Appropriate tables, figures, and appendices;
- ◆ FONSI determination/signature page for the federal lead agency; and
- ◆ Mitigated Negative Declaration determination /signature page for the RMA.

Key environmental topics are discussed individually below; these topics will be specifically addressed in the IS/EA, in addition to all other elements required by CEQA Guidelines Appendix G and ACOE NEPA Regulations. For each environmental topic, the IS/EA will include a discussion of existing conditions and will identify potential environmental impacts of the project using significance criteria (i.e., thresholds of significance) to determine the level of impact for each identified issue. The project impact section will present potentially significant impacts, and identify mitigation that avoids, eliminates, or reduces impacts to a less-than-significant level. This scope assumes that mitigation measures or project design changes will be available and feasible to successfully reduce impacts to a less-than-significant level.

Aesthetics: The Carmel River State Beach is a popular, and extremely high quality recreational and scenic site located in the Coastal Zone. Multi-million dollar homes and a high end resort are adjacent to the Lagoon and pristine and treasured views of Point Lobos, and natural habitat are afforded the public throughout the site and vicinity. Aesthetics impacts of construction of the physical solutions for Lagoon Management are thus a critical issue for the IS/EA. The IS/EA will

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describe the aesthetic conditions of the site before and after the key structural improvements of the project are installed, including photographs from key vantage points and photosimulations from up to five (5) key vantage points of the site, if detailed plans are available for those improvements. Significant impacts will be identified and mitigation provided to reduce the aesthetic impacts.

***Air Quality:** Air quality during construction is a key issue of the Carmel Lagoon Projects due to the proximity of the sites to sensitive residential receptors. The IS/EA will describe the air quality of the area and provide an assessment of the potential air quality impacts of the project. This analysis will include the following:*

- ◆ Description of the existing meteorological characteristics and air quality in the project area, and identification of sensitive receptors affected by the project (e.g., residences, etc.).
- ◆ Discussion of the relevant federal, state, and local regulatory provisions regarding air pollutant emissions.
- ◆ Address short-term air quality impacts during construction, resulting from dust and exhaust emissions from construction activities. Address any long-term impacts from project implementation on air quality, such as on-site power generators using diesel.
- ◆ Identify mitigation for significant impacts.

***Biological Resources:** Biological resource impacts (in addition to flooding) are critical to the project and integrated into the project goals and purpose. The lagoon and surrounding natural areas are habitat for multiple threatened and protected species as described in more detail in Task 4. This task will summarize the results of the Biological Resources Report, including documenting potential impacts on biological resources (plant and wildlife species and habitat). The previously described biological reports will be appended to the various drafts of the IS/EA. The report and section will address the following:*

- ◆ Describe existing biological resources on and surrounding the project site.
- ◆ Assess benefits and impacts to the important, sensitive habitat and resource areas, due to construction disturbance, proposed operational maintenance activities.
- ◆ Identify known or potential special-status species present.
- ◆ Analyze direct, indirect, and cumulative impacts of project.
- ◆ Identify mitigation for significant biological impacts, including the potential need for a Lagoon Restoration and Management Plan, if not already completed at the time the IS/EA is prepared.

DD&A biologists will survey the project area to assess the environmental conditions of the site and its surroundings. The field review will provide an evaluation of general habitat features and environmental constraints at the project site and within the local vicinity. DD&A will identify any potential sensitive habitat areas, document any wildlife observed during the surveys, and identify potential habitat for special-status wildlife species. DD&A will conduct focused botanical surveys in accordance with the Department, USFWS, and California Native Plant Society survey protocols

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during the spring and summer of 2013 to identify any special-status plant species within the project site. DD&A will map locations of special-status plant species and sensitive habitat using a Trimble ProXH GPS. DD&A will consider the type, acreage, and quality of the impacted habitats to determine the appropriate mitigation habitat type and acreage (as dictated by impact to mitigation ratios) that may be required to compensate for project impacts to sensitive habitats and special-status plants and wildlife. DD&A will develop impact-to-mitigation ratios by habitat to ensure no net loss of habitat function and value. The ratios will reflect the feasibility of restoring habitat, the quality of the impacted habitat, the amount of time that shall be required for the mitigation habitat to develop to a fully functional condition, the uniqueness of the impacted habitat, and the typical regulatory agency requirement standards.

Please note that this scope and budget does not include protocol-level special-status wildlife species surveys.

Climate Change and Greenhouse Gas: *Climate change is anticipated to have an effect on sea level, frequency and intensity of storm events, and on biological resources due to changes in precipitation and temperatures. The Carmel River Lagoon is home to sensitive species that will be subject to weather extremes, in particular, the site is exposed to a dynamic interface between the marine and freshwater river system. For these reasons, the climate change adaptation is a key project issue.* The IS/EA will address greenhouse gas (GHG) emissions and climate change issues that may be associated with the project. Mitigation measures in the IS/EA and management solutions generated during regulatory coordination must consider all indirect effects of climate change on the lagoon's resources, nearby infrastructure and properties, and site users. Emission factors for construction emissions and emissions from energy usage would be calculated based on the predicted electricity demand and fossil fuel use. Standard methodologies of the state and various air districts set forth by the MBUAPCD will be used to evaluate impacts from GHG emissions, since these are based on substantial evidence. The project's GHG emissions will be compared to existing thresholds to determine whether the project would result in a cumulative contribution to GHG emissions. Although not anticipated due to the nature and scope of the project, if the project would result in a potentially significant (cumulatively considerable) impact, the EIR will contain mitigation to reduce the impact.

Cultural Resources: *Historic agricultural uses and structures are known to be located in the vicinity of the Carmel Lagoon. In addition to the historic agricultural uses and associated structures, the coastal terrace adjacent to the south side of the beach has such important Native American archaeological significance that it was designated as the Ohlone Coastal Cultural Preserve by the State Park and Recreation Commission. Surveys of the coastal terrace were conducted by State Parks archeologists in 1986. This Cultural Preserve is located adjacent to the area where equipment creates the high-level outlet channel. In addition bedrock mortars exist in the rocks that underlie the beach.* The IS/EA will address potential cultural resource impacts of the project, based on existing information available for the site and a preliminary cultural resources reconnaissance by Archaeological Consulting. In addition, a Section 106 compliance

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process is included as an optional task (8), should the federal lead agency request that the County provide those services during the NEPA process. Archaeological Consulting can provide the Section 106 compliance tasks for \$6,065, including project management and administration by DD&A, assuming accurate and all-encompassing area of potential effect (APE) mapping is provided by others in an acceptable format and iterative changes to the APE do not occur after the Section 106 work commences. During the preliminary archaeological work, the project site will be reviewed to determine potential for archaeological resources based upon available information. Measures will be identified to protect any possible archaeological resources that may be uncovered during construction

~~*Geology and Soils: The Carmel Lagoon Projects may result in, or be subject to, geotechnical impacts associated with placing structures on loose soil that is subject to inundation and liquefaction, and the project would involve earthwork (e.g., grading, trenching, and excavation), inducing geotechnical hazards such as erosion. Design measures may be required to assure mitigation of soil or geotechnical hazards. The geologic and geotechnical hazards on the site will be addressed in the IS/EA, based on available geotechnical reports previously prepared for similar projects in the area, as well as existing information provided in existing documentation. This section will address the following:*~~

- ◆ Describe potential geologic and geotechnical hazards on the site.
- ◆ Evaluate potential geotechnical issues including seismic, soil conditions and hazards (such as expansive or weak soils), proposed grading, and erosion relying upon the previous provided expertise of the existing project engineer team (Pacific Geotechnical Engineering Moffatt & Nichol) supplemented by additional CEQA-specific required qualitative impacts analysis by Moffatt & Nichol related to beach berm, scour potential of the ocean on the scenic road bluff.
- ◆ Incorporate recommendations/mitigation of significant impacts.

~~*Hazardous Materials: Hazardous materials would be introduced to the site during construction, and possibly, during operation. The IS/EA will describe the use, storage, and transport of hazardous materials during construction, and if applicable, operation of the various structural improvements. Potential impacts would be evaluated, including new and increased use of hazardous materials. Standard best management practices required by regulatory requirements of the local fire department, Monterey County, Department of Toxic Substance Control, and U.S. EPA will be identified. These requirements typically avoid significant impacts related to accidental release of chemicals used onsite. Note: Flood hazards will be assessed in the Hydrology and Water Quality section.*~~

~~*Hydrology/Water Quality: Hydrology and water quality (in addition to biological resources) issues are the critical to the project and integrated into the project goals and purpose. The key issues related to the environmental review include:*~~

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

- ♦ *Lagoon levels and flooding conditions (currently and with the project),*
- ♦ *Storm water and drainage design related to surface flows from adjacent areas towards the future EPB and the methodology to divert that flow around the EPB, and*
- ♦ *Water quality in any discharges to the lagoon, beach and ocean due to the designation by the Department of the Carmel Bay Area of Special Biological Significance and the associated General Exception rules requiring monitoring of ocean water quality and limiting pollutant discharges and concentrations in storm water entering the Carmel Area of Special Biological Significance (ASBS).*

The IS/EA will describe the proposed facilities, and evaluate any alterations of the existing drainage patterns or in groundwater or surface water hydrology, and the changes in storm water runoff resulting from the project based on information in the technical documents previously prepared for the Carmel Lagoon as supplemented by a qualitative analysis of CEQA-related impacts to be prepared by Balance Hydrologics and Moffatt & Nichol. Mitigation will be identified as necessary for any significant impacts, including recommending water quality mitigation for eliminating pollutants to the ASBS. This section will also address potential water quality impacts during and after construction of the proposed project. Appropriate Best Management Practices and other mitigation will be identified for potential water quality impacts, as required by the Regional Water Quality Control Board.

Land Use/Consistency with Plans: The project site is located within CA State Parks, the Coastal Zone, and County Jurisdictional areas. The Odello East project is located within Caltrans right of way. The IS/EA will describe existing onsite and surrounding uses, and identify any potential conflicts between the proposed project and existing uses. This section will evaluate the consistency of the proposed project with the policies of applicable land use plans, policies, or regulations of agencies with jurisdiction over the project, including, but not limited to, the Monterey County General Plan and the California Coastal Act applicable policies. This section will also identify mitigation for significant impacts.

Recreation: Recreational access issues of the project are critical during construction and after the EPB and Scenic Road are constructed, given that the project sites would be located within or adjacent to the boundaries of Carmel River State Beach, , a coastal park with passive recreational use that currently provides access along its entire boundary (very few physical barriers to access). Visitors enjoy recreational activities that include sunbathing, beachcombing, bird-watching, swimming, SCUBA diving and picnicking. Current facilities within the park consist of one public parking lot, a series of trails and two public restrooms. The IS/EA will address the impacts to recreational facilities and access during construction and after completion of structural improvements. This section will also identify mitigation for significant impacts.

Noise: Noise during construction and operation is a key issue of the Carmel Lagoon Projects due to the proximity of the sites to sensitive residential receptors that currently experience very low noise levels. Noise sources associated with the project would include construction equipment and

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operational pumping. Such sources could contribute to increased noise levels beyond the project's boundaries with adequate buffering (i.e., generic noise control. The IS/EA will contain the following information regarding noise:

- ♦ Existing Baseline Conditions will be assumed using published information on existing ambient noise levels in the area.
- ♦ Noise levels from project operations will be quantified and projected out to sensitive receptor locations.
- ♦ Noise levels during construction will be estimated for each major phase of construction period. Generic data for public infrastructure construction sites will be used in this analysis.
- ♦ Significance thresholds will be based upon local ordinances, regulations, standards, plans, and policies.
- ♦ Relative increase in, and absolute, noise levels will be assessed to determine whether or not the project would cause a substantial increase in noise at sensitive receptors in the vicinity of the project or result in noise levels exceeding limits established in applicable ordinances, regulations, and standards. Significant noise impacts would be identified.
- ♦ If significant noise impacts are identified, mitigation measures will be recommended, including, but not be limited to, generic noise control treatments around major noise sources, the establishment of noise performance standards for the proposed project, or other physical or administrative controls.

***Public Services/ Utilities:** Public emergency services to the site are provided by California State Park Rangers/Peace Officers, the Monterey County Sheriff's Office, the California Department of Forestry and Fire Protection – Cypress Fire District, and the Carmel Highlands Fire District. The nearest school is Carmel River Elementary School (located immediately north of the lagoon). The IS/EA will address these issues, as follows:*

- ♦ Address the anticipated project demands on public services, including police, fire protection and any other affected public services.
- ♦ Address the impacts on schools.
- ♦ Address the anticipated project demands on utilities and service systems, including water supply/service, wastewater treatment, and solid waste disposal.
- ♦ Evaluate the impacts of, and need for, new infrastructure due to the project based upon information provided by the County and DD&A's consultation with local service/utility providers.
- ♦ Identify any significant impacts and appropriate mitigation for any impacts to services and utilities.

***Socioeconomic:** The socioeconomic section of the IS/EA will be pursuant to NEPA and ACOE requirements (i.e., this issue is only relevant to CEQA if a socioeconomic issue, or project result, would cause in an indirect physical environmental change resulting in a significant impact). DD&A will collect the necessary socioeconomic information to determine the baseline conditions for the project's affected environment, to be defined as coastal Monterey County.*

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Data on population and demographics, current economic structure (e.g. identification of the principal industrial sectors, employment and annual output), and projections of the future population growth and economic development. The Carmel Lagoon projects will result in construction-related and operational costs impacting certain community members. This section will present cost information available from existing sources.

Environmental Justice: Socioeconomic issues relevant to the evaluation of environmental justice impacts include employment, population, housing, ethnicity of population, and poverty status. DD&A will prepare the environmental justice section of the IS/EA pursuant to NEPA and ACOE requirements. The section will describe existing economic and demographic conditions at the appropriate geographic levels. Environmental justice issues encompass a broad range of impacts, including impacts on the natural or physical environment and interrelated social, cultural and economic effects. This environmental justice analysis will focus on ensuring that minority and low-income populations get an equal share of the project benefits without carrying the environmental burden of service development (construction impacts). This analysis will be supported by sufficient information for the public to understand the rationale for the conclusion and will be presented as concisely as possible, using language that minimizes use of acronyms or jargon.

Cumulative Impacts: In accordance with NEPA and CEQA requirements, the IS/EA will analyze potentially significant cumulative impacts anticipated from the project combined with projects that are proposed, planned, and/or underway within the subject geographic area and other local jurisdictions. The analysis will be based on a list of proposed or anticipated projects in the area, consultation with the RMA and the federal lead agency, and the County General Plan.

Project Alternatives: In accordance with NEPA, the IS/EA needs to discuss alternatives to the proposed action, including the no-action alternative, considered that could feasibly meet the project objectives and potentially avoid or lessen any significant environmental impacts associated with the project. DD&A will rely upon the existing engineering and hydrologic work products conducted by the County and their team of engineers and hydrologists, and the key agencies to determine the feasible alternatives to be addressed. The IS/EA will discuss the preferred alternative and identify any other alternatives considered (up to three (3) in addition to the No Action alternative). Because this scope of work assumes that the Carmel Lagoon Projects will be described and analyzed at a programmatic-level of detail, this alternatives analysis would be presented as a range of overarching management policies, or major changes to one or more of the projects. Also, the alternatives analysis may be utilized to look at various combinations of projects implemented in the future. The alternatives will be discussed qualitatively in terms of their impacts and their effectiveness in addressing identified significant adverse project impacts. If additional quantitative and/or modeling information is needed regarding feasibility or environmental impacts of the Carmel Lagoon Projects from Whitson Engineers, Moffatt & Nichol, and/or Balance Hydrologics, DD&A can engage with those entities

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with a scope of work adjustment to provide that information. The alternatives analysis will include the following:

- ◆ Qualitatively analyze a range of feasible alternatives.
- ◆ Summarize other alternatives identified which are not feasible, with rationale for rejection (i.e., size, access, etc.).
- ◆ Analyze the project alternatives in accordance with NEPA and CEQA requirements.
- ◆ Identify an environmentally superior alternative, based on the number and degree of associated environmental impacts.

Other Sections: The IS/EA will also address other issues and include other sections, as listed below:

- ◆ Growth Inducing Impacts
- ◆ Cumulative and Irreversible and Irrecoverable Commitment of Resources
- ◆ Effects Found to be Less Than Significant
- ◆ Report Preparation and References

DD&A will submit up to five (5) hard copies of the Administrative Draft Programmatic IS/EA to the Monterey County RMA.

Task 6.4: Prepare 2nd Administrative Draft Programmatic IS/EA

After review of the 1st Administrative Draft Programmatic IS/EA by the County, DD&A will respond, as necessary, revise the document based on the comments received. The document will then be provided to ACOE (and other key resource agencies, if agree upon by the County and ACOE) for their review and comment⁵.

Task 6.5: Prepare Screen-Check and Public Review Draft Programmatic IS/EA

DD&A assumes that the County and ACOE will provide one set of written comments each on the Administrative Draft Programmatic IS/EA, either in letter form or on a single copy of the document⁶. DD&A will then submit a Screen Check Draft (2 copies) to the County and the federal lead agency. After review of the Screen Check Draft, DD&A will submit 15 copies of the required components of the Draft Programmatic IS/EA to the State Clearinghouse for distribution for a 30-day public review period (per CEQA requirements) and provide ACOE and NOAA Fisheries one original, unbound copy to comply with

⁵ This scope and budget assumes that the ACOE will be the federal lead agency and that the ACOE will require review of the Administrative Draft IS/EA for compliance with NEPA Regulations. Additional hard copies and CD copies that may be required by the ACOE or other federal or state agencies is unknown at this time and is not included in this scope or budget.

⁶ This scope and budget includes incorporating ACOE and NOAA Fisheries comments, assuming that comments do not require substantial revisions or additional technical analysis. Substantial revisions are anticipated to be avoided by early coordination with the federal lead and other key agencies, which is included in Phase 1; however, DD&A cannot anticipate agency staffing changes, project description changes, or other changes in circumstances outside our control

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the federal lead agency's NEPA requirements for public distribution. In addition, DD&A will provide 30 copies (plus one unbound camera ready copy) to RMA for local distribution. DD&A will also provide the 2 copies of the document electronically in Microsoft Word and Adobe Acrobat (pdf) format on CD. This scope assumes that all public mailings and preparation and posting of notification documentation, notices, etc. will be conducted and paid for by the RMA. Additional copies beyond those identified above are not included in this scope of work.

Task 6.6: Respond to Comments and Prepare Programmatic Draft Final Programmatic IS/EA
DD&A will respond to public comments received on the Draft Programmatic IS/EA received during the 30-day review period. DD&A, in consultation with the County and the federal lead agency, will prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text of the Draft Programmatic IS/EA, will be incorporated into the Final IS/EA. DD&A will provide five (5) copies of the Draft Final Programmatic IS/EA and FONSI/MND to the County and five (5) copies to the federal lead agency.

Task 6.7: Prepare Final Programmatic IS/EA

This task assumes DD&A will respond and incorporate one single round of comments from the County and one single round of comments from ACOE on the responses and on the Draft Final Programmatic IS/EA prior to preparation of the Final Programmatic IS/EA. The tasks required for approval/adoption, and preparation, posting, and distribution of the notices (i.e., to adopt a MND and approve a FONSI), including preparation of a Mitigation Monitoring and Reporting Program/Plan, are assumed to be the responsibility of the lead agencies as described in detail below. DD&A will provide ten (10) copies of the Draft Final Programmatic IS/EA and FONSI/MND to the County and five (5) copies to the federal lead agency.

TASK 7: CEQA/NEPA MEETINGS AND PROJECT MANAGEMENT

Not including the two kick-off meetings and project management to initiate the project, identified in Task 1, DD&A proposes the following conference calls and meetings in Phase 2 of this scope of work. The DD&A Team has included attendance at the following meetings for the team:

- ♦ DD&A has included assumes eight (8) meetings at the County offices by the CEQA/NEPA lead, eight (8) total one-hour phone calls by up to two DD&A staff for each
- ♦ Attendance by key staff (typically, the project manager) from the key non-biology technical subconsultant team members (Whitson, Balance, Moffatt & Nichol) at up to one (1) meeting each and up to four (4) conference calls.

The attendance at additional meetings by DD&A would be billed on a time-and-materials basis. If the County desires that DD&A arrange for meetings, prepare presentations, agendas, meeting notices, and meeting summaries or minutes, those services will be outside the budget provided and DD&A will provide budget estimates for those additional out-of-scope services, separately. Additional meetings described above shall not be conducted by DD&A until the additional work is presented to the County

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and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

TASK 8: OPTIONAL TASKS

Task 8.1: NHPA Section 106 & Indian Trust Assets Compliance

Should the federal lead agency, ACOE, request that the County provide those services during the NEPA process, Archaeological Consulting can provide the Section 106 compliance tasks for \$6,065, including project management and administration by DD&A, assuming accurate and all-encompassing area of potential effect (APE) mapping is provided by others in an acceptable format and iterative changes to the APE do not occur after the Section 106 work commences. Additional technical studies described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

Task 8.2: Other Optional/Out of Scope Tasks

The following optional tasks were not identified in the RFP; however, may be needed for completion of the CEQA and/or NEPA processes. A cost estimate for these services has not been prepared at this time.

Optional Services described below shall not be provided unless authorized in writing by the County's Project Planner and the Project Applicant. In addition, the services described below shall not be conducted by DD&A until a scope of services and budget for the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

DD&A is qualified and available to assist the county with one or more of these CEQA and NEPA tasks, should the County desire these services. The County may authorize these as part of a new phase or through a separate contract/contract amendment.

- ◆ Project-level environmental review services,
- ◆ Environmental Impact Report preparation and associated processing,
- ◆ Environmental Impact Statement, and associated federal reporting requirements not already included in the above scope of work,
- ◆ Mitigation Monitoring and Reporting Program/Plan,
- ◆ Staff Reports, Resolutions, and CEQA Findings,
- ◆ Notice Preparation and Distribution (noticing lists),
- ◆ Document Reproduction and Distribution not explicitly included in the scope,

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- ◆ Preparation of permitting support documents, including applications, technical studies/memoranda to support the submittal of permit applications to one or more state or federal resource agencies and, if needed State Parks,
- ◆ Public Stakeholder Meeting Facilitation, Preparation, Agendas, Presentation, Meeting Notes, etc., and
- ◆ Additional technical analysis not explicitly included in this scope of work.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services / work products / deliverables under the AGREEMENT shall be submitted when the work product is complete, shall identify the document or work product being delivered and shall include the following:

1. Invoice Coversheet

Denise Duffy & Associates, Inc.

Programmatic Biological Assessment (PBA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2

Date: _____

Invoice No. _____

Agreement Term: April 23, 2013 – April 23, 2014

Agreement Amount: \$353,100

This Invoice:	1.		Project Initiation and Scope Confirmation (Phase 1)	\$21,658.00
		1.1	\$3,141.00 <i>Compilation of Existing Documentation</i>	
		1.2	\$6,852.00 <i>Finalize Scope of Work/Project Management/Schedule</i>	
		1.3	\$7,094.00 <i>Early Meetings/Conference Calls with Monterey County</i>	
		1.4	\$4,571.00 <i>Early Coordination with Interested and Responsible Agencies</i>	
	2.		Data Collection and Technical Input (Phase 1)	\$50,091.00
		2.1	\$4,085.00 <i>Data Collection</i>	
		2.2	\$46,006.00 <i>Technical Input and Agency Consultation (Including Technical Subconsultant Reports)</i>	
	3.		Carmel Lagoon Projects Conceptual Proposed Action (Phase 1)	\$23,279.00
		3.1	\$16,685.00 <i>1st Draft Carmel Lagoon Projects Proposed Action</i>	
		3.2	\$5,346.00 <i>2nd Draft Carmel Lagoon Projects Proposed Action</i>	
		3.3	\$1,248.00 <i>Final Carmel Lagoon Projects Proposed Action</i>	
	4.		Federal Biological Studies (Phase 1)	\$57,974.00
		4.1	\$8,794.00 <i>Review and Compile Biological Reference Materials</i>	
		4.2	\$16,516.00 <i>Conduct Field Review and Data Collection</i>	
		4.3	\$15,370.00 <i>Prepare Draft PBA</i>	
		4.4	\$8,669.00 <i>Wetland Delineation</i>	
		4.5	\$5,750.00 <i>Prepare Administrative Draft PBA</i>	
		4.6	\$2,875.00 <i>Prepare Final PBA</i>	
	5.		Meetings and Project Management for Conceptual Proposed Action and Biological Assessment (Phase 1)	\$16,313.00
		5.1	\$9,078.00 <i>County Staff/Consultants Meetings</i>	
		5.2	\$4,571.00 <i>Conference Calls</i>	
		5.3	\$2,664.00 <i>Project Management</i>	

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

6.		<i>Programmatic CEQA and NEPA Documents (Phase 2)</i>	<u>\$156,909.00</u>
6.1	\$16,660.00	<i>CEQA and NEPA Project and Alternatives Description</i>	
6.2	\$7,110.00	<i>Preliminary Programmatic IS Checklist</i>	
6.3	\$110,010.00	<i>1st Administrative Draft Programmatic IS/EA</i>	
6.4	\$5,631.00	<i>2nd Administrative Draft Programmatic IS/EA</i>	
6.5	\$2,472.00	<i>Screen-Check and Public Review Draft Programmatic IS/EA</i>	
6.6	\$9,712.00	<i>Respond to Comments and Prepare Programmatic Draft Final Programmatic IS/EA</i>	
6.7	\$5,314.00	<i>Prepare Final IS/EA</i>	
7.		<i>CEQA/NEPA Meetings and Project Management (Phase 2)</i>	<u>\$20,811.00</u>
7.1	\$8,833.00	<i>County Staff/Consultants Meetings</i>	
7.2	\$5,003.00	<i>Conference Calls</i>	
7.3	\$6,975.00	<i>Project Management</i>	
8.		<i>OPTIONAL TASKS</i>	<u>\$6,065.00</u>
8.1	\$6,065.00	<i>NHPA Section 106 & Indian Trust Assets Compliance</i>	
8.2	\$TBD	<i>Other Optional /Out of Scope Tasks</i>	
Grand Total:			<u>\$353,100.00</u>

Remaining Balance \$ _____

Approved as to Work/Payment: _____
Dawn Mathes, Resource & Community Development Manager

 Date

All Invoices Are To Be Sent To:
 Jaime Martinez, Accounting Technician
 County of Monterey Resource Management Agency - Finance Division
 168 W. Alisal Street, 2nd Floor, Salinas, CA 93901
 Telephone: (831) 755-4829

2. Invoice Detail

Each invoice shall indicate the hours worked by task and by staff member, with the corresponding billing rates.

**EXHIBIT B – INCORPORATION OF REQUEST FOR PROPOSALS #2012-CRL-1
AND PROPOSAL DOCUMENTS**

The County of Monterey Resource Management Agency invited submittals to Request for Proposals (RFP) through RFP #2012-CRL-1, Programmatic Biological Assessment (PBA) and Initial Study (IS) for Projects Located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan. Denise Duffy & Associates, Inc. submitted a responsive and responsible proposal to perform the services listed in RFP #2012-CRL-1.

RFP #2012-CRL-1 and the proposal submitted by Denise Duffy & Associates, Inc. on file with the County of Monterey Resource Management Agency are hereby incorporated into the Agreement by this reference to provide a PBA and IS for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan.

DD
(Contractor's Initials)

4/2/13
(Date)

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YR)
4/3/2013

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 be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER Heffernan Professional Practice Insurance Brokers License No. 0564249 6 Hutton Centre Dr., Ste 500 Santa Ana, CA 92707	CONTACT NAME: Sherry Young PHONE (A/C, No, Ext): 714-361-7700 FAX (A/C, No): 714-361-7701 EMAIL ADDRESS: sherry@heffins.com																				
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INSURED Denise Duffy & Associates, Inc. 947 Cass St., Ste 5 Monterey, CA 93940																					

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		OD3916991201	09/01/12	09/01/13	MED EXP (Any one person) \$5,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
	GEN'L. AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMP/OP AGG \$2,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						\$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS	X		OD3916991201	09/01/12	09/01/13	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)		N/A	WZ3916990601	09/01/12	09/01/13	E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/12	11/05/13	Per Claim Aggregate \$1,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Projects as on file with the insured including not limited to Carmel Lagoon Project. The County of Monterey, its officers, agents and employees are named as additional insured (primary) on General Liability and Automobile Liability policies per the attached endorsement.

CERTIFICATE HOLDER County of Monterey Resource Management Agency 168 West Alisal Street, 3rd Floor Salinas, CA 93901	CANCELLATION 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 
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Policy Number: OD3916991201

Insured: DENISE DUFFY & ASSOCIATES,
INC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. is added as follows:

a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;
- (3) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;
- (4) To any:
 - (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or
 - (b) Managers or lessors of premises if:
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or
 - (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or
- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured,** is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;
- (c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or
- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

III. Aggregate Limit of Insurance (Per Project)

- a. For purposes of the coverage provided by this endorsement, D. Liability and Medical Expenses Limits of Insurance under Section II – Liability is amended by adding the following:

The General Aggregate Limit under D. Liability and Medical Expenses Limits of Insurance applies separately to each of "your projects" or each location listed in the Declarations.



b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We will ~~waive~~ any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY PURCHASE ORDER

ORDER DATE 05-23-2013

DO 3000 0000004525

IMPORTANT

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST
APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS,
TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE.

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	S H I P T O PLANNING & BLDG/ INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	B I L L T O PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806 F.O.B.: DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		92642	PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN (MYA *844) THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/14 AND SHALL NOT EXCEED \$353,100.00 THIS PURCHASE ORDER IS VALID FROM 04/23/13 - 06/30/13 AND SHALL NOT EXCEED \$75,000.00. REMAINING BALANCE TO BE ENCUMBERED NEXT FISCAL YEAR. COMM LINE DESC: Env Svc (Not Othrwise Classified) EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON 001 - 1050 - 8038 - CAO017 - 6613 - - - - 75000.00	.00	.00	75,000.00

RECEIVED
BY *[Signature]* DATE 5/24/13

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY **ORDER TOTAL** 75,000.00

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at http://www.co.monterey.ca.us/admin/terms_conditions.htm

TAX EXEMPTION INFORMATION:
 FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

COUNTY BUYER INFORMATION TELEPHONE:
 EMAIL:

AUTHORIZED BY COUNTY OF MONTEREY
 DEPUTIZED PURCHASING AGENT
Michael R. [Signature]