

AGREEMENT BETWEEN MCWRA AND CONTRACTOR

This AGREEMENT is made and entered into by and between the Monterey County Water Resources Agency, a public agency created pursuant to the Monterey County Water Resources Agency Act (Cal. Water Code, Appendix Chap. 52.), hereinafter referred to as "MCWRA", and Horizon Water and Environment, LLC hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, MCWRA has invited proposals through the Request for Proposals (RFP #10532) For Environmental Compliance Services for the Interlake Tunnel and Spillway Modifications, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, MCWRA and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

- 1.1 After consideration and evaluation of the CONTRACTOR'S proposal, the MCWRA hereby engages CONTRACTOR to provide the services set forth in RFP #10532 and in this AGREEMENT on the terms and conditions contained herein and in RFP #10532. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

This AGREEMENT including all its attachments, Exhibits and Appendices; and
RFP #10532 Addenda #1, 2, 3, 4, 5, 5A, and 6; and
RFP #10532 dated March 30, 2015, including all attachments and exhibits; and
CONTRACTOR'S Proposal dated May 20, 2015; and
Certificates of Insurance; and
Additional Insured Endorsements

- 1.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT including all Attachments, Exhibits and Appendices, RFP#10532 Addenda #1, 2, 3, 4, 5, 5A, and 6, RFP #10532 including all attachments and exhibits, Certificates of Insurance, and Additional Insured Endorsements.
- 1.3 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 MCWRA, or immediate family of an employee of the COUNTY or MCWRA.

- 1.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner in accordance with generally accepted industry standards for the same or similar services in the same or similar location, 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.

1.4.1 CONTRACTOR must maintain all licenses throughout the term of the AGREEMENT.

- 1.5 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 MCWRA premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

- 1.7 [Subsections 1.6 through 1.8 BLANK.]

- 1.9 MCWRA shall furnish to CONTRACTOR all applicable information and technical data in MCWRA'S possession or control reasonably required for the proper performance of the Services. CONTRACTOR shall exercise professional due care when relying upon the information and data provided by MCWRA or obtained from generally acceptable sources within the industry.

- 1.10 CONTRACTOR shall develop the cost and schedule opinions with a standard of care that is consistent with industry supported cost estimating and scheduling protocols using professional cost estimating resources. Universally accepted business analytical means will be used to model the probable range of costs and corresponding confidence levels under assumptions of uncertainty to support decision making.

- 1.10. CONTRACTOR shall execute and be bound by the terms and conditions of Assignment and Novation Agreement, attached as Attachment C, should MCWRA enter into a contract for design and construction of the Interlake Tunnel and Spillway Modification project with a design-build contractor or public-private-partnership concessionaire.

2.0 SCOPE OF SERVICE

2.1 Introduction:

- 2.1.1 The Interlake Tunnel and San Antonio Spillway Modification Project ("Project") is comprised of two separate but interrelated components that are collectively intended to provide flood control and increase the net total storage available in Nacimiento and San Antonio Reservoirs, located in northern San Luis Obispo County and southern Monterey County, California, respectively. The Project consists of a gravity flow water conveyance tunnel from Nacimiento Reservoir to San Antonio Reservoir and modifications to the existing spillway at San Antonio Reservoir to increase storage capacity in the San Antonio Reservoir.

- 2.1.2 The Monterey County Water Resources Agency (MCWRA) operates the Nacimiento and San Antonio Reservoirs for the purposes of controlled releases to meet downstream demands for both flood control and water storage. The Nacimiento Reservoir has a more productive watershed and fills about three times faster than the San Antonio Reservoir, often leaving the San Antonio Reservoir partially filled while the Nacimiento Reservoir reaches capacity and spills. The Project would enable the diversion of a portion of the water from Nacimiento Reservoir to the San Antonio Reservoir thereby increasing the net storage of both reservoirs and reducing the number of spill events and flow volume that cause flooding downstream.
- 2.1.3 The proposed modification of the San Antonio Spillway is dependent on the Interlake Tunnel, without which the spillway modification is not warranted. Modification of the spillway is intended to provide a 10-foot increase in the maximum lake elevation, effectively increasing the storage capacity of the reservoir by approximately 60,000 acre feet. If the spillway modification project is substantially delayed or deemed not feasible, the Interlake Tunnel project will not be affected.
- 2.1.4 According to the California Environmental Quality Act (CEQA) Guidelines Section 15378(a), a "Project" is defined as the whole of an action which has potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. This scope of work for the Interlake Tunnel and San Antonio Spillway Modification Project includes the environmental consulting services necessary to complete CEQA environmental analysis, documentation and associated permitting for the Project.
- 2.1.5 MCWRA has determined that an Environmental Impact Report (EIR) is necessary to comply with CEQA. The EIR shall adhere to all applicable requirements of CEQA Statute and Guidelines and be a legally defensible, useful, objective, and comprehensive document. The impact analysis shall substantively evaluate direct, indirect and cumulative effects of the Project. The EIR and associated technical studies shall be the primary environmental documentation for the project and adequately address all project approvals, including regulatory permits. This scope of work also outlines the permitting strategy for the project.
- 2.1.6 The expected timeline to complete the scope of work has been included as Attachment A, and a cost estimate to perform the scope of work has been included as Attachment B.

2.2 Scope of Work Objectives:

The services specified within this Scope of Work are performance-based. CONTRACTOR shall complete the specific detailed scope of work necessary to meet the objectives of the MCWRA and the project as follows:

- 2.2.1 Prepare a complete and legally defensible Environmental Impact Report (EIR) in compliance with CEQA and the CEQA Guidelines; and
- 2.2.2 Develop and implement a permit strategy that shall result in the timely receipt of approvals from Lead, Responsible, Cooperating, Trustee, and/or Reviewing Agencies.

2.3 Work Tasks:

CONTRACTOR shall prepare the project environmental documents necessary to satisfy the requirements of CEQA (Public Resources Code 21000 – 21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 – 15387). The EIR shall be prepared in accordance with CEQA but provide sufficient information to provide a basis for compliance with the National Environmental Policy Act (NEPA) to support Federal permits/approvals. The environmental

documents shall be sufficient to support all required discretionary approvals of the Project.

- 2.3.1 As part of this, CONTRACTOR shall develop the strategy and environmental compliance plan necessary for successful processing (both draft and final versions of the EIR) and certification by MCWRA Board of Supervisors as the CEQA Lead Agency of the Project. This scope of work addresses the overall methodology for the EIR, including: development of the project description, including objectives; establishment of baseline/existing conditions; identification of a reasonable range of alternatives; analysis methodology; identification of significance thresholds; EIR format and organization; and, any additional technical studies or evaluations needed to support the EIR analysis. This scope of work also identifies the environmental challenges that may be encountered for the Project and how they would be addressed.
- 2.3.2 It should be noted that the Interlake Tunnel Project could proceed forward as a stand-alone project without the construction of the San Antonio Spillway Modification because there are positive benefits to storage and flood control. However, the San Antonio Spillway Modification would offer no, or very little, benefits if it were built without the Interlake Tunnel. This scope of work addresses the interrelationship of these project components.
- 2.3.3 CONTRACTOR shall utilize existing General Plan or Area Plan information in the performance of the work. The Interlake Tunnel Project crosses county jurisdictional boundaries; therefore, applicable elements within the General Plan documents of both counties shall be consulted when establishing impact criteria and identifying recommendations to maintain consistency with existing policies and ordinances. CONTRACTOR shall identify any areas that conflict between both counties' General Plan documents.
- 2.3.4 The Work Tasks provided below represent general categories of work and are intended to be inclusive of the tasks required to support the Project. The Work Tasks identify assumptions being made regarding how the work is to be completed.
- 2.3.5 **Task 1 Project Management and Team Coordination:**

CONTRACTOR shall provide the management and staff needed to plan, organize, direct, supervise, control and coordinate the administrative aspects of the environmental consulting work including contract and subcontract administration, accounting, purchasing, office services, personnel administration, publications support, document and drawing control administration necessary to complete the requirements of the Contract.

2.3.5.1 CONTRACTOR shall perform the following project management duties to support MCWRA (and the Program Manager, collectively the "project team") in the performance of the scope of work for the Project:

- 2.3.5.1.1 Facilitate a kickoff meeting (assumed to be ½-day at MCWRA office), including development of an agenda, other relevant materials, and preparation of meeting minutes; and
- 2.3.5.1.2 Prepare project work plan. This shall include a CEQA, NEPA and Permitting Strategy memo outlining our proposed approach to these tasks; and
- 2.3.5.1.3 Implement diligent budget and schedule control measures for all phases of the work; and
- 2.3.5.1.4 Develop and update monthly project environmental compliance schedule; and
- 2.3.5.1.5 Develop and update monthly an approximate cost estimate for environmental

mitigation measures that may be required to be incorporated in the construction contract documents; and

- 2.3.5.1.6 Coordinate the environmental work and alternatives analysis with the design consultants retained by MCWRA to perform design for the projects. This shall include early identification of environmental concerns that could affect the Project design, so that these can be considered and accommodated early in the design process; and
- 2.3.5.1.7 Provide monthly progress reporting in the format specified by MCWRA, included with the submittal of monthly invoicing. Progress reporting will include reports from the significant sub-consultant team members. Progress reports will identify progress made, schedule assessment and update, all impacts to schedule (if any), plan for recovery of lost time on the schedule, assessment of the budget, budget overages (if any) and plan for recovery of budget overages; and
- 2.3.5.1.8 Submit timely invoicing, including invoicing from sub-consultants, in the format specified by the MCWRA; and
- 2.3.5.1.9 Develop and utilize a project file system, and allow sharing of files with the Project team to ensure uniformity; and
- 2.3.5.1.10 Develop, implement and maintain a quality control system, including a Quality Control/Quality Assurance (QA/QC) Plan; and
- 2.3.5.1.11 One meeting per week, consisting of one of the following:
 - a. Arrange for team meetings (at least 2 per month) including on-site meetings, and on-line meetings. On-line meetings may utilize both audio and live streaming display of information (note that such meetings will not be held on weeks when the quarterly workshops described in Section 2.3.5.1.12 are held, as those workshops will include coverage for the topics that would be conducted in these team meetings); and
 - b. Conduct quarterly workshop planning and prepare presentations associated with various scope items (note that public workshops may be substituted for quarterly workshops); and
 - c. Participate in the Project's executive leadership team meetings organized by MCWRA and the Program Manager (weekly coordination meeting) (note that weekly meetings will not be held on weeks when the team meetings/quarterly workshops described Sections 2.3.5.1.11 and 2.3.5.1.12 are held, as those team meetings/workshops will include coverage for the topics that would be conducted in these weekly meetings); and
- 2.3.5.1.12 Prepare all deliverables in electronic form (Microsoft Word to facilitate editing draft documents) and original software format customary for environmental projects; and
- 2.3.5.1.13 Maintain the administrative record in electronic (PDF) format, and prepare an Administrative Record Guidance Memorandum describing the approach for all team members to assemble and maintain the administrative record.

2.3.5.2 Deliverables:

- 2.3.5.2.1 Meeting agendas and other meeting materials (electronic and hard copy, as necessary)
- 2.3.5.2.2 Meeting notes (electronic, within one week of each meeting)
- 2.3.5.2.3 Project work plan (electronic)
- 2.3.5.2.4 CEQA, NEPA and Permitting Strategy Memo (electronic)
- 2.3.5.2.5 Schedules (electronic)

- 2.3.5.2.6 Environmental mitigation measure cost estimates (if/as needed)
- 2.3.5.2.7 Progress reports and invoices (electronic and hard copy, as necessary)
- 2.3.5.2.8 Project files system (electronic)
- 2.3.5.2.9 QA/QC Plan (electronic)
- 2.3.5.2.10 Administrative record guidance memorandum (electronic)
- 2.3.5.2.11 Administrative record (electronic)

2.3.6 Task 2 Initial Studies and Notice of Preparation (NOP):

CONTRACTOR shall prepare an Initial Study that will preliminarily identify Project effects to refine the scope and content of the EIR. A Draft Initial Study and Notice of Preparation (NOP) will be prepared, and will be subjected to one round of review. It is assumed that all project team comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. On this basis, CONTRACTOR shall prepare a Final Initial Study and NOP and deliver it to the State Clearinghouse, the Monterey and San Luis Obispo County Clerks, and others as directed by MCWRA, using the mailing list to be developed under Section 2.3.11 Task 7.1. CONTRACTOR shall collect and review copies of all scoping comments submitted, and advise the team as to any recommended changes in EIR approach based on the comments.

2.3.6.1 Deliverables:

- 2.3.6.1.2 Draft Initial Study and NOP (electronic)
- 2.3.6.1.2 Final Initial Study and NOP (electronic and up to 100 hard copies)

2.3.7 Task 3 Prepare Administrative Draft Environmental Impact Report (ADEIR):

CONTRACTOR shall conduct all environmental studies necessary to complete CEQA requirements at a level commensurate with a legally defensible EIR. All relevant comments from the scoping process shall be included. The ADEIR will be prepared as complete and as close to a final reproducible copy as possible, and will represent approximately 70% completion.

The ADEIR shall use the following approach and assumptions for the various aspects of the technical analysis.

2.3.7.1 General:

The CEQA analysis shall be based on the Project's design documents and other plans and available information at their level of completion at the time of onset of ADEIR preparation. To the extent that certain details are not known at that time, reasonable assumptions shall be made and the analysis will accommodate the range of outcomes to cover the various contingencies, to the extent possible.

The ADEIR shall identify the extent to which each impact and mitigation measure applies to either: (a) the tunnel, (b) the spillway, and/or (c) both Project components. The analysis shall be structured to allow for independent implementation of either Project component, and shall consider the extent to which impacts would differ based on the timing of implementation of the two components (i.e., overlapping versus separate construction and operation).

2.3.7.2 Drainage, Erosion and Sedimentation:

Portions of the project shall be constructed within the Nacimiento and San Antonio Reservoirs. Potential drainage, erosion, and sedimentation impacts shall be evaluated. The analysis shall include, but not necessarily limited to, the following:

- 2.3.7.2.1 Consultation with both the public works departments of San Luis Obispo County and Monterey County, and the local Resource Conservation District(s), and other agencies as appropriate; and
- 2.3.7.2.2 Identification of the project setting, including mapping of significant drainage courses and watersheds;
- 2.3.7.2.3 Identification and mapping of areas along the perimeter of the San Antonio Lake that are susceptible to erosion caused by the increased normal maximum water level within the lake from the spillway modification project. The shoreline will reach a new state of equilibrium, and short-term turbidity impacts would be localized, contained within the reservoir, and within the range of existing turbidity levels as the reservoir fills and drains on an annual basis. Areas of expansive soils, or areas mapped with active or historic mass movement would be at higher risk for erosion. The analysis shall identify if higher risk areas are anticipated, and reference other recent reservoir raising studies and environmental analyses that have investigated this same issue; and
- 2.3.7.2.4 Identification of impacts on the area's ecosystem(s) which could result from additional sedimentation and drainage impacts from the project; and
- 2.3.7.2.5 As necessary to address significant or potentially significant impacts, identification of mitigation measures.

2.3.7.3 Geology, Seismicity, and Soils:

Varied terrain and soils may require special consideration for the project design and location. Supporting data shall be provided by the preliminary engineering consultant. CONTRACTOR shall review the information contained in geological data sources, and include the following in the delivered EIR:

- 2.3.7.3.1 Identification of the project setting including inclusion of a geologic mapping; and
- 2.3.7.3.2 Soil suitability and stability for proposed project improvements; and
- 2.3.7.3.3 Geologic suitability and stability for the proposed project improvements; and
- 2.3.7.3.4 Evaluation of the existing data and identification of potentially significant effects of seismic and other hazards; and
- 2.3.7.3.5 As necessary to address significant or potentially significant impacts, identification of mitigation measures.

2.3.7.4 Hydrology and Water Quality:

The Project could impact surface water and groundwater conditions as they relate to construction and operation. The proposed hydraulic structures for both the Interlake Tunnel and the San Antonio Spillway Modification would be located within the flood easement area of the reservoirs. The Interlake Tunnel will pass underground between the two reservoirs and may penetrate groundwater resources. There may be water quality issues, such as the presence of mercury in Lake Nacimiento. The analysis shall include, but not be limited to, the following:

- 2.3.7.4.1 Identification of the project setting and baseline conditions, identification of hydrologic and water quality features and discussion of existing conveyance and diversion of water for groundwater basin recharge, required releases (SVWP flow prescription) groundwater balance, seawater intrusion, groundwater levels, stream flows, reservoir storage levels, downstream flooding potential, and

sediment transport. This shall include:

- 2.3.7.4.1.1 Climate information
- 2.3.7.4.1.2 Reservoir operational and conjunctive use history
- 2.3.7.4.1.3 Reservoir inflows; stage storage curves; Probable Maximum Flood (PMF) flows
- 2.3.7.4.1.4 Historical operational conditions at both reservoirs showing wet, above normal, normal and below normal and dry periods and baseline rainfall and runoff hydrology
- 2.3.7.4.1.5 Established Flow Prescriptions (FP)
- 2.3.7.4.1.6 Downstream demands and deliveries to SVWP, including CSIP/SVWP deliveries from all sources and support definition of future baseline without project water demands/land use assumptions
- 2.3.7.4.1.7 Bed and channel forming flows from the Upper Salinas and Arroyo Seco
- 2.3.7.4.1.8 History of water table elevations in Upper, Forebay, East Side, Pressure 180, Pressure 400; aggregated hydrographs and contour maps for key time period to indicate rate and direction of flow
- 2.3.7.4.1.9 Seawater Intrusion in the 180 and 400, including maps and volumes from contemporary and calibrated model outputs
- 2.3.7.4.2 Identify relevant state and federal regulations (e.g., various sections of the Clean Water Act); and
- 2.3.7.4.3 Identify and evaluate changes relative to inter-basin transfer of water as a result of the Project; and
- 2.3.7.4.4 Identify and evaluate changes in operation of the two reservoirs; and
- 2.3.7.4.5 Identify and evaluate changes in conveyance and diversion of water for groundwater basin recharge, required releases (Salinas Valley Water Project (SVWP) flow prescription) groundwater balance, seawater intrusion, groundwater levels, stream flows, reservoir storage levels, downstream flooding potential, sediment transport, and geomorphology.
- 2.3.7.4.6 The analysis shall consider that minimum instream flow requirements (60 cubic feet per second [cfs] at Nacimiento and 10 cfs at San Antonio) would be met at each reservoir outlet and at the Salinas River below the confluences, and that reservoir releases would be managed to meet existing needs and obligations for hydroelectric generation.
- 2.3.7.4.7 The analysis shall evaluate how increased storage and a reduction in spill events may result in fewer geomorphically effective flows (i.e. channel forming flows), reduced sediment transport during some storm events, and the downstream extent of these effects. There may be some local geomorphic effects along the Nacimiento River downstream of the reservoir. Geomorphic effects will be moderate moving downstream, and once on the main stem Salinas River, are unlikely to be significant due to the size of the watershed and scale of uncontrolled flows in the Salinas River.
- 2.3.7.4.8 The evaluation shall consider if the Project would affect the PMF.
- 2.3.7.4.9 To the extent that the information is available, the analysis shall leverage the Groundwater-Surface Water model in preparation by the USGS (formerly by Brown and Caldwell) for the Salinas Valley. Should a calibrated and verified model not be completed prior to initiation of the impact analysis, the Interlake Tunnel and San Antonio Enlargement Simulation Modeling prepared by ECORP Consulting, Inc. can also provide a basis to support the analysis.

- 2.3.7.4.9.1 For analysis of 'with' and 'with-out' project alternatives, the downstream demand and delivery assumptions will be quantified in the project description, along with delivery schedules under varying hydrology. This will define how the increase yield will be apportioned to meet current and future demands.
- 2.3.7.4.9.2 CONTRACTOR shall coordinate with the engineering contractor to finalize baseline hydrology period and the reservoir operations that will be used as the basis for design and evaluation of environmental effects, develop assumptions for the future, with-out project demands (baseline), evaluate the effects at and surrounding the reservoir, evaluate the changes in stage and flow and effects along the Salinas River to the point of diversion, and evaluate the effects of delivering additional water to the proposed service area.
- 2.3.7.4.9.3 Existing data, digital maps, model and modeling results will be used, including key time series data and maps to develop regional setting, conduct initial review, further scope the analysis, establish future without project baseline conditions and conduct the impact analysis. This includes obtaining and reviewing the OASIS Model, HEC-RAS Models input/output files used in the Salinas River Maintenance Program and subsequent Nature Conservancy updated analysis. This will be coordinated with the engineering contractor to define and develop the operational scenarios used for the basis of design and for the environmental evaluation.
- 2.3.7.4.9.4 The final analysis and reservoir operations analysis approach shall be selected to develop the future with and with-out project hydrology and operating conditions in in consultation with the project team and engineering contractor.
- 2.3.7.4.10 Determine whether significant impacts to public health and safety could occur from contaminants in the water. In particular, the document shall evaluate the potential for transfer of mercury (Hg) from Nacimiento Reservoir through the Interlake Tunnel to San Antonio Reservoir. Hg is a toxic constituent that bio accumulates in the food chain of aquatic organisms and terrestrial wildlife, and is ultimately a human health concern primarily through the consumption of contaminated fish. Methylmercury (MeHg) is a bioavailable form of Hg that is produced from inorganic Hg by specific types of aquatic bacteria in rivers and reservoirs. For the Project, the concern is how the water transfers could lead to increased levels of MeHg in San Antonio Reservoir or locations downstream. Total Hg transported to areas where methylation occurs has a direct impact on the levels of MeHg produced. MeHg production has been shown to be a function of Hg concentrations in sediment in many different watersheds, including the Delta (Krabbenhof, et al, 1999; Heim, et al. 2003), as well as in laboratory experiments (Bloom 2003; Rudd, et al. 1983). CONTRACTOR shall conduct a qualitative evaluation this issue to determine environmental and human health risks associated with mercury. The analysis will consider State Water Resources Control Board management measures/approaches as relevant.
- 2.3.7.4.11 Evaluation of whether the tunnel could disrupt the fracture aquifer system which supplies water to overlying land uses.
- 2.3.7.4.12 Identification of project impacts and, as necessary to address significant or potentially significant impacts, mitigation measures.

2.3.7.5 Terrestrial and Aquatic Biological Resources:

A majority of the Project's construction will occur within the submerged lake boundary, with the exception of access roads, tunnel alignment, staging areas and the San Antonio outlet valve power actuator facility and the expansion of the San Antonio spillway. For the

purposes of this analysis, it is assumed that the normal maximum water level within San Antonio Lake will be increased by 10 feet above the existing normal maximum water level as a result of the spillway modifications. Reconnaissance-level biological surveys will be conducted for both terrestrial and aquatic species of all areas potentially impacted by construction activities including the expanded inundation area around San Antonio Lake. Informal consultation will be conducted as needed with the applicable state and federal resource agencies to determine their information requirements to ensure that technical studies prepared for the EIR provide sufficient detail and content to support the permitting process, to the greatest degree feasible. The biological section of the ADEIR shall include, but not be limited to, the following:

- 2.3.7.5.1** Conduct database searches, including a search of the California Natural Diversity Database (CNDDB), to determine occurrences of special status species in the vicinity of the Project; and
- 2.3.7.5.2** Maps covering all areas impacted by construction activities showing the location of the following
 - Habitat for rare, threatened and/or endangered plant and animal species.
 - Oak woodland/forest areas.
 - Chaparral areas.
 - Riparian/wetland areas.
 - Other areas of sensitive, unique or important biological resources.
- 2.3.7.5.3** Evaluation of those near-shore habitats that would be flooded by the increased level of Lake San Antonio. Several upland habitats exist along the rim of the reservoir, including Blue Oak woodland (a CDFW-designated sensitive natural community), chaparral, and annual grassland. It is possible that limited areas of serpentine habitat also exist, which is also a sensitive natural community and may contain special-status plant species. Fringe wetlands exist below the existing reservoir rim, and the raise of the reservoir will flood portions of the streams feeding the reservoir. The impact on fringe wetlands will be temporary as they will eventually relocate along the new reservoir rim. Impacts to other habitats would be permanent, and in the case of Blue Oak woodland, any serpentine habitat, and influent streams may be significant; and
- 2.3.7.5.4** Identification of aquatic species that could be transferred from Lake Nacimiento to Lake San Antonio and potential impacts of this transfer. The assessment of white bass will be based on the currently proposed approach of a deep intake with fish screens, and will evaluate the potential for white bass to spread to Lake San Antonio and downstream under that scenario; and
- 2.3.7.5.5** Identification and discussion of potential impacts associated with current and future potential invasive species. Existing biosecurity protocols (e.g., boat inspections) will be evaluated for effectiveness; and
- 2.3.7.5.6** Evaluation of potential for increased summer releases and more wetted channel area downstream of San Antonio Reservoir to foster growth of invasive vegetation like *Arundo*, or generally increase the growth rate of instream vegetation that requires maintenance. The evaluation will be conducted in the context of the County's recent approach to develop a collaborative and multi-objective maintenance approach for the Salinas River; and
- 2.3.7.5.7** Evaluation of the effects on steelhead of the releases of water resulting from the Project, which should be beneficial due to a larger wetted area of the channel during the dry season compared to baseline conditions. The analysis will

consider topics such as flow velocity, temperature, other water quality parameters, spawning, holding and rearing habitat and refugia, predation, etc.; and

- 2.3.7.5.8 Identification of short-term and long-term impacts on other rare, threatened, and/or endangered species and associated habitat; and
- 2.3.7.5.9 Identification of long-term cumulative impacts on the area's ecosystems which could result from the Project; and
- 2.3.7.5.10 Identification and discussion of feasible mitigation measures which could be included in the Project to avoid or significantly reduce significant or potentially significant adverse biological impacts.

2.3.7.6 Noise

Construction noise could be significantly above ambient conditions. The discharge of water into Lake San Antonio when the outlet is not submerged will generate noise as the hydraulic energy is dissipated in the San Antonio Energy Dissipater. Water passing through the modified San Antonio Spillway will also generate noise. Potential short- and long-term impacts from mobile and stationary noise shall be identified and evaluated. The noise evaluation shall include, but not be limited to, the following:

- 2.3.7.6.1 Identification of existing noise conditions including ambient noise measurements; and
- 2.3.7.6.2 Identification and mapping of sensitive noise receptors (e.g., residences, schools, campgrounds, etc.) near the proposed facilities; and
- 2.3.7.6.3 Identification of both short-term construction noise impacts and long-term operational noise levels at sensitive receptors. Each sensitive noise receptor identified shall be discussed in sufficient detail to identify if feasible mitigation is possible and to what extent the impact can be mitigated; and
- 2.3.7.6.4 Identify all feasible mitigation measures where acceptable thresholds are exceeded.

2.3.7.7 Cultural and Paleontological Resources:

The cultural and paleontological resources analysis will leverage the work to be conducted under Task 8.4, and will include, but not be limited to, the following:

- 2.3.7.7.1 Identify any historic structures or features that could be significantly impacted by the Project; and
- 2.3.7.7.2 Preparation of a general geological evaluation and field reconnaissance for paleontological resources; and
- 2.3.7.7.3 Identification of impacts to cultural and paleontological resources and mitigation measures if required.

2.3.7.8 Air Quality:

- 2.3.7.8.1 The project would generate short-term construction emissions from equipment uses. Operation of the facilities would result in mobile source emissions, including employee and supply trips, and also from stationary sources that are associated with the various mechanical, and electrical equipment. Potential short- and long-term impacts to air quality will be identified and evaluated. The air quality evaluation will include, but not be limited to, the following:

- 2.3.7.8.1.1 Consultation with the Air Pollution Control District (APCD);
- 2.3.7.8.1.2 Review and incorporation of climatological data, and a discussion of existing conditions; and
- 2.3.7.8.1.3 Summarize the regulatory setting; and
- 2.3.7.8.1.4 Discussion of attainment status of the APCD relative to the State air quality standards and other existing regulatory restrictions; and
- 2.3.7.8.1.5 Calculation of potential pollutant emissions from all components and phases of the Projects, including construction and operation activities; and
- 2.3.7.8.1.6 Evaluation of the Project emissions in relation to APCD thresholds and consistency with county plans; and
- 2.3.7.8.1.7 Conduct a health risk assessment for exposure to diesel fumes, and the potential for encountering naturally occurring asbestos (NOA); and
- 2.3.7.8.1.8 Evaluation of potential short-term, long-term, and cumulative impacts; and
- 2.3.7.8.1.9 As necessary to address significant or potentially significant impacts, identification and discussion of feasible mitigation measures to minimize potentially adverse air quality impacts.

2.3.7.8.2 This scope of work assumes that CONTRACTOR shall be provided with information regarding number and type of emission-generating equipment, timing and duration of various phases of construction, and other key assumptions needed to conduct emissions estimates.

2.3.7.9 Visual and Aesthetic Resources:

The above-ground facilities such as the Nacimiento Intake Facility, the San Antonio Outlet Valve Facility, the San Antonio Energy Dissipater, and the modified San Antonio Spillway will be visible from scenic corridors, i.e., Nacimiento Lake Drive (San Luis Obispo County Route G14 at Nacimiento Lake, and Monterey County Route G19 at San Antonio). In addition, Project improvements will be visible from Lake Nacimiento and surrounding camping/day use facilities and San Antonio Lake and surrounding camping/day use facilities. The construction may have short-term and long-term visual impacts. The visual analysis shall include, but not be limited to, the following:

- 2.3.7.9.1 Identification of potential viewers, key viewing areas, and visually sensitive locations such as residents, scenic routes and parks; and
- 2.3.7.9.2 Visual simulations showing existing conditions, proposed facility, increased normal submergence level within San Antonio Lake, and any mitigation, if required; and
- 2.3.7.9.3 Identification of short-term and long-term impacts; and
- 2.3.7.9.4 As necessary to address significant or potentially significant impacts, identification of mitigation measures.

2.3.7.10 Scope of work outlined within this AGREEMENT assumes that the CONTRACTOR shall be provided with design drawings of the proposed facilities at a sufficient level of detail for use in the visual simulations. If the provided design drawings are not adequate for CONTRACTOR'S needs, CONTRACTOR will assist in developing design drawings for the proposed facilities.

2.3.7.11 Recreational Resources:

Lake Nacimiento is a major recreational attraction of the Central Coast. The lake supports swimming, boating, water-skiing, camping, and fishing. Areas around the lake include residences, vacation homes, camping, and a recreational resort. San Antonio Lake is a major recreation attraction that supports boating, camping, fishing, wildlife viewing, swimming, water-skiing, and equestrian activities.

Recreational access will be temporarily restricted around the inlet portal. Reservoir dewatering to keep the work area dry could affect recreational opportunities. Potential impacts of operations on the reservoir level and resulting effects on conflicts with established recreational opportunities at the lake will be addressed. The recreation evaluation will include, but not be limited to:

- 2.3.7.11.1** Update the recreation analyses presented in the Salinas Valley Water Project EIR-EIS, SCH#2000034007. The update will address the reservoir water level versus operation release schedule implemented for both reservoirs since the completion of the Salinas Valley Water Project, along with proposed operational changes associated with the Project, considering pre- and post-project reservoir levels during “peak recreation days”; and
- 2.3.7.11.2** Evaluation of project consistency with the California Department of Public Health’s required Recreation Plan prepared by the San Luis Obispo County Department of Public Works; and
- 2.3.7.11.3** Identification and discussion of impacts associated with the revised normal submergence level of San Antonio Reservoir. This would include consideration of infrastructure on the north and south shores, potentially including boat ramps, infrastructure associated with the South Shore marina, campgrounds, picnic and swimming areas, and associated infrastructure such as parking lots, RV hookups, restrooms, showers, campsites, etc. The analysis will consider the elevation of these facilities and identify the need for removal, relocation and reconstruction where applicable; and
- 2.3.7.11.4** Identification of impacts to or conflicts with recreational activities at the lakes; and
- 2.3.7.11.5** As necessary to address significant or potentially significant impacts, identification of mitigation measures.
- 2.3.7.11.6** Scope of work assumes that reservoir levels in Lake Nacimiento would not be changed substantially during Project operation, as the Project would divert water to Lake San Antonio which would otherwise spill from Lake Nacimiento. Similarly, this scope of work assumes that the increased reservoir levels in Lake San Antonio would generally be a beneficial impact on water-based recreation, and the impact analysis for reservoir operation as a result of the Project will primarily focus on flooding or other impacts to recreational infrastructure from the increased maximum water level. This scope of work assumes that CONTRACTOR shall be provided sufficient details regarding the proposed water operations plan to support the analysis.
- 2.3.7.11.7** The analysis will also consider recreational impacts from reduced water levels in either or both reservoirs during construction, should reservoir dewatering be needed during Project construction. This scope of work assumes that

CONTRACTOR shall be provided sufficient details regarding the proposed dewatering plan to support the analysis.

2.3.7.12 Public Services and Utilities:

Utility and other services could be impacted by the proposed project during construction. Electricity and perhaps communication utilities will be needed at the Nacimiento Intake Facility, San Antonio Outlet Valve Facility, and the San Antonio Spillway Modification (the latter may already have access to these utilities). The utilities analysis shall include, but not be limited to:

- 2.3.7.12.1 Identification of service providers such as electric, communication, fire, and police; and
- 2.3.7.12.2 Discuss how the electrical loads and communication loads might affect service providers' existing infrastructure and whether or not system improvements would be required as a result of the Project; and
- 2.3.7.12.3 Discussion of any impacted utility service relocations from within the revised normal submergence level of San Antonio Reservoir; and
- 2.3.7.12.4 Discuss how public safety services would be impacted by the Project; and
- 2.3.7.12.5 As necessary to address significant or potentially significant impacts, identification of impacts and mitigation measures.
- 2.3.7.12.6 Scope of work assumes that CONTRACTOR shall be provided with sufficient information regarding the utilities needs of the Project to support the impact analysis.

2.3.7.13 Transportation and Circulation:

The Project will potentially affect roadways in both Monterey and San Luis Obispo County during construction of the proposed facilities. Construction traffic will include workers and the supply of materials and equipment. Operation traffic will include MCWRA personnel inspecting the facilities, and operating equipment and will be at a similar level as under current operations. The transportation analysis will include, but not be limited to:

- 2.3.7.13.1 Identify exiting circulation and traffic patterns and roadway conditions; and
- 2.3.7.13.2 Evaluation of haul routes and access roads; and
- 2.3.7.13.3 Quantify construction-related vehicles and trips; and
- 2.3.7.13.4 Quantify short-term construction and long-term operational effects to traffic circulation, safety and roadway conditions; and
- 2.3.7.13.5 Identify roadways which could be flooded during high water events. The engineering design will need to consider this, and appropriate measures taken to ensure protection of infrastructure and public safety (e.g., raising the roadway). The ADEIR will consider the need for such improvements; and
- 2.3.7.13.6 As necessary to address significant or potentially significant impacts, identification of mitigation measures.
- 2.3.7.13.7 This scope of work assumes that CONTRACTOR shall work with the project team to identify locations for the proposed haul routes, access roads, and spoils disposal that are not environmentally sensitive, that the location of spoils disposal would be in close proximity (within 0.5 miles) to the Project facilities, and that no quantitative Level of Service (LOS) analysis on roadway

segments or intersections will be conducted. Consistent with current CEQA guidance, the analysis will evaluate impacts through the framework of Vehicle Miles Travelled (VMT).

2.3.7.14 Land Use and Planning:

The Project will be reviewed against existing land use policies from both Monterey County and San Luis Obispo County, including General Plans, Area Plans, and any other specific plans associated with the vicinity. The environmental analysis will include, but not be limited to:

2.3.7.14.1 Review and identify all policies with the two counties General Plans and Area Plans that are impacted by the Project; and

2.3.7.14.2 Identification of conflicts with existing land use policies and/or goals, and zoning conditions; and

2.3.7.14.3 As necessary to address significant or potentially significant impacts, identification of mitigation measures.

2.3.7.15 Socioeconomic Resources:

The purpose of a socioeconomic evaluation is to address the physical effects related to socioeconomic impacts resulting from the proposed projects. Emphasis is placed on the potential for the proposed projects to cause an effect, such as draw down of the lake elevation, on population, housing, and on the economic characteristics of the area. CEQA requires an analysis of the physical changes to the environment that result from potential changes in the local socioeconomic conditions, which is typically interpreted as an area becoming blighted. Socioeconomic evaluation was conducted for both the Salinas Valley Water Project and San Luis Obispo County's Nacimiento Water Project, and their respective EIS-EIR's addressed impacts to socioeconomic resources.

2.3.7.15.1 The environmental analysis will include, but not be limited to:

2.3.7.15.1 Develop a socioeconomic analysis approach, including definition of the study area; and

2.3.7.15.2 Review, update, and expand as necessary to bring current the socioeconomic analyses conducted for the aforementioned EIRs; and

2.3.7.15.3 Identification and discussion of impacts from additional lands within the revised normal submergence level of San Antonio Reservoir; and

2.3.7.15.4 Identification of impacts and possible physical effects to the local socioeconomic resources in the vicinity of the Project; and

2.3.7.15.5 As necessary to address significant or potentially significant impacts, identification of mitigation measures.

2.3.7.15.2 This scope of work assumes that the evaluation of socioeconomic impacts will be qualitative, and will not require modeling (e.g., IMPLAN) in order to determine whether the socioeconomic effects could result in significant physical impacts on the environment. Overall, impacts are anticipated to be beneficial by providing more jobs and increased water supply. Disproportionate impacts on disadvantaged communities are considered unlikely as the local residents in the vicinity of the reservoirs are generally not

economically disadvantaged (though there is a range of economic conditions throughout the communities).

2.3.7.16 Growth Inducement:

The Project's growth inducement impacts will be evaluated and documented. The discussion on growth inducement in the Salinas Valley Water Project EIR-EIS will be reviewed and updated, as appropriate, for this evaluation. The discussion of growth inducing impacts will address all CEQA requirements and include, but not necessarily be limited to, the following:

- 2.3.7.16.1 Evaluation and discussion of the Project's potential to foster growth to the surrounding areas. This evaluation will identify those areas where potentially significant direct effects may result from land use intensifications; and
- 2.3.7.16.2 Identify and discuss feasible measures or alternatives to mitigate potentially significant impacts for the Project.
- 2.3.7.16.3 The feasibility study demonstrates that approximately 10,000 acre-feet per year is unallocated and available for future projects. The analysis will carefully identify any growth impacts as a result of how this water is to be managed and applied to meet current and planned future demands, while meeting project objectives to address overdraft and seawater intrusion. The evaluation will be consistent with recent settlement agreements and the adopted land use plans and policies. The discussion of current and future water demands will be important and could affect subsequent water use under state law and requirements to integrate land use and water supply plans.
- 2.3.7.16.4 The discussion shall also consider secondary impacts of growth on resources such as available water resources, air quality, biological resources, cultural/paleontological, prime agricultural lands and agricultural operations, transportation/circulations, etc. This analysis will be a lesser level of detail than the Project-specific impact analysis, as allowed under CEQA.

2.3.7.17 Climate Change Analysis:

The overall effect of the Project on greenhouse gas (GHG) emissions will be evaluated. The discussion of climate change impacts will address all CEQA requirements and include, but not necessarily be limited to, the following:

- 2.3.7.17.1 Review and incorporation of climatological data, and a discussion of existing conditions; and
- 2.3.7.17.2 Estimate the current GHG emissions associated with operation of the facilities, including worker commuting, operations and maintenance equipment, and other activities such as brush clearing or tree removal if applicable; and
- 2.3.7.17.3 Calculate the emissions, including carbon dioxide, nitrous oxide, and methane, associated with the Project based on the air quality construction schedule. These emissions will be converted to carbon dioxide equivalents using standard methodology; and
- 2.3.7.17.4 Identification of impacts and, as necessary to address significant or potentially

2.3.7.17.5 This scope of work assumes that CONTRACTOR shall be provided with information regarding number and type of emission-generating equipment, timing and duration of various phases of construction, and other key assumptions needed to conduct emissions estimates.

2.3.7.18 Alternatives:

CONTRACTOR, in coordination with MCWRA staff, will develop alternatives to the Project which generally achieve Project objectives, are feasible, and may avoid and/or substantially reduce any impacts that cannot otherwise be mitigated to a level below significance. The analysis shall focus exclusively on alternatives that are specifically designed to address impacts, rather than pro forma alternatives that consider variations of the project to no specific purpose. The alternatives discussion will provide an analysis of environmental impacts of each alternative considered, along with a comparative analysis (matrix) to distinguish the relative effects of each alternative and its relationship to project objectives.

2.3.7.18.1 This scope of work assumes that the ADEIR will analyze the No Project Alternative and a minimum of two build alternatives. In addition, the engineering efforts of the early 1990's by Boyle Engineering (since acquired by the firm AECOM) will be documented in the ADEIR, providing background on alternatives considered previously in the planning process. A list of alternatives considered but dismissed from detailed analysis, and a brief rationale for the dismissal of each, will also be provided.

2.3.7.18.2 Note that a number of alternative capital projects may meet Project objectives to address overdraft, reduce seawater intrusion and provide alternative water sources for the SVWP area and other planned current and future uses. Many of these have not yet reached the same feasibility and planning stage as the Project. The EIR's project objectives will be carefully crafted to eliminate such alternatives from further consideration in the EIR, deferring subsequent decisions to an appropriate time when these projects can be reviewed and compared at an appropriate level of detail and at the appropriate time. This will include consideration of basin management plans and pending work to define projects that will develop the Arroyo Seco water rights and alternative recycled water supplies for the SVWP area that are pending considerations. The analysis will acknowledge these separate but related efforts.

2.3.7.19 Cumulative Effects:

The ADEIR will first identify the cumulative impacts caused by the Project, including factors such as their geographic extent and character, and then determine whether the Project's contribution would be considerable. CEQA allows for the use of either a "list" or "projection" approach to this analysis. The analysis will likely use a hybrid approach tailored to the resource topic. For example, the evaluation of GHG emissions and global climate change is best done as a projection approach as it considers projects occurring globally. In contrast, issues associated with loss of particular habitat types are localized and can best be addressed using a list of other past, present or probable future projects. One topic of particular concern is how the additional water made available by the Project would be used. This will be considered in the cumulative impact analysis to the extent

that such water use is reasonably foreseeable.

2.3.7.19.1 Deliverable:

2.3.7.19.1.1 Five copies of the ADEIR and five electronic copies on CD and e-files posted on an FTP site

2.3.7.20 Prepare Screen Check Draft EIR:

The ADEIR will be subjected to one round of review. It is assumed that all comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. MCWRA and the Program Manager will meet with the CONTRACTOR to review revisions to the ADEIR. The intent is that MCWRA and CONTRACTOR shall have worked closely together and minimal review and revision will be required to develop the Draft EIR from the ADEIR. On this basis, CONTRACTOR shall prepare an electronic Screen Check Draft EIR with all revisions made as required by MCWRA, which will be subject to a 2-day review period. The Screen Check Draft EIR will be prepared as complete and as close to a final reproducible copy as possible, and will represent approximately 90% completion.

2.3.7.20.1 Deliverable:

2.3.7.20.1.1 Screen Check Draft EIR (electronic)

2.3.7.21 Prepare Public Draft EIR:

The Screen Check Draft EIR will be subjected to one round of review. It is assumed that comments at this point will be primarily related to document layout, formatting, and editing, and that no areas of substantial new technical analysis will be required. Comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. On this basis, CONTRACTOR shall prepare the public Draft EIR. CONTRACTOR shall distribute the NOA to the mailing list, Monterey and San Luis Obispo County Clerks and the State CEQA Clearinghouse.

2.3.7.21.1 Deliverables:

2.7.7.21.1.1 Ten copies of the Draft EIR

2.7.7.21.1.2 Ten electronic copies on CD and e-files posted on an FTP site

2.7.7.21.1.3 Up to 100 copies of the NOA

2.3.8 Task 4 Final EIR:

2.3.8.1 Prepare Draft Responses to Comments:

Pursuant to Section 15088 of the State CEQA Guidelines, MCWRA, as the Lead Agency for the Project, is required to review and address all comments received on the Draft EIR. CONTRACTOR shall discuss appropriate responses with the AGENCY, and shall address the comments using Master and Specific responses, as appropriate. CONTRACTOR shall only respond to comments which address the analysis contained in the Draft EIR; this scope of work assumes that comments related to other aspects of the Project (e.g., the project planning process, design assumptions, MCWRA policies) will be responded to by others if determined necessary, and provided to CONTRACTOR for inclusion in the Draft Responses to Comments document.

2.3.8.2 Each written response will paraphrase the specific comments being responded to, followed by an appropriate response in keeping with the CEQA Guidelines and current CEQA case law. Responses may range from simple recognition of the information

provided in the comment, to changes to Draft EIR text made in response to the comment, to detailed defense of Draft EIR conclusions, to the preparation and description of new technical analysis, if appropriate. All revisions to the Draft EIR made in response to comments will be compiled for inclusion in a separate section in the Final EIR. Draft responses to comments will be submitted to MCWRA for review and comment.

2.3.8.2.1 Deliverable:

2.3.8.2.1.1 Draft Responses to Comments (electronic)

2.3.8.3 Prepare Administrative Draft Final EIR:

The Draft Responses to Comments will be subjected to one round of review. Upon receipt of AGENCY comments on the draft responses to comments document, CONTRACTOR shall prepare an administrative draft Final EIR (ADFEIR). It is assumed that all comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. The ADFEIR will incorporate all agency revisions to the draft responses to comments, as appropriate. The ADFEIR will not reproduce the Draft EIR, and will be developed as a separate addendum document to the Draft EIR. The ADFEIR will be submitted to MCWRA for review.

2.3.8.3.1 Deliverable:

2.3.8.3.1.1 ADFEIR (electronic)

2.3.8.4 Prepare Screen Check Draft Final EIR:

The ADFEIR will be subjected to one round of review. CONTRACTOR shall incorporate MCWRA revisions to the ADFEIR into a screen check draft of the Final EIR. It is assumed that all comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. The screen check draft will contain all final text revisions and be presented in publishable format for final review by MCWRA.

2.3.8.4.1 Deliverable:

2.3.8.4.1.1 Screen Check Draft Final EIR (electronic)

2.3.8.5 Prepare Final EIR:

The Screen Check FEIR will be subjected to one round of review. It is assumed that all comments will be provided to CONTRACTOR as a consolidated set with any discrepancies resolved. It is also assumed that comments at this point will be primarily related to document layout, formatting, and editing, and that no areas of substantial new technical analysis will be required. CONTRACTOR shall incorporate any final revisions to the Final EIR, print and circulate the Final EIR to those public agencies commenting on the Draft EIR.

2.3.8.5.1 Deliverables:

2.3.8.5.1.1 Ten copies of the Final EIR

2.3.8.5.1.2 Ten electronic copies on CD and e-files posted on an FTP site

2.3.9 Task 5 Findings, Statements of Overriding Considerations, Notice of Determination, and Mitigation Monitoring & Reporting Plan:

2.3.9.1 Prepare Draft Findings and Statement of Overriding Considerations:

CONTRACTOR shall prepare the Findings of Fact in a separate Findings document.

CONTRACTOR shall work with MCWRA in the development and review of the Findings of Fact. A draft Findings document will be submitted to MCWRA for review.

- 2.3.9.2** If MCWRA chooses to approve the Project and the Project will result in the occurrence of significant environmental effects as identified in the EIR, MCWRA will be required to state in writing the specific reasons to support its action based on information contained in the Final EIR and/or other information. CONTRACTOR shall prepare this Statement of Overriding Considerations based on direction from MCWRA regarding these considerations. The Statement of Overriding Considerations will be included in the Findings document, and will document these decisions.

2.3.9.2.1 Deliverable:

- 2.3.9.2.1.1 Draft Findings of Fact and Statement of Overriding Considerations (electronic)

2.3.9.3 Prepare Draft Notice of Determination:

CONTRACTOR shall prepare the Notice of Determination (NOD). A draft NOD will be submitted to MCWRA for review.

2.3.9.3.1 Deliverable:

- 2.3.9.3.1.1 Draft NOD (electronic)

2.3.9.4 Prepare Draft Mitigation Monitoring & Reporting Plan:

CONTRACTOR shall develop the Mitigation Monitoring and Reporting Plan (MMRP) for all mitigation measures committed to in the Final EIR. The MMRP will include: the proposed mitigation measures; specific actions to be carried out by the responsible party; parties responsible to implement the actions; parties responsible for monitoring the action; timing of the action; and the reporting of the results of that mitigation effort. The MMRP will have separate sections addressing mitigation measures for the tunnel and the spillway components of the Project, respectively.

- 2.3.9.5** A draft MMRP will be submitted to MCWRA for review prior to the Final EIR Certification Public Hearing.

2.3.9.5.1 Deliverable:

- 2.3.9.5.1.1 Draft MMRP (electronic)

2.3.9.6 Prepare Final Findings and Statement of Overriding Considerations:

Comments received on the draft Findings document will be incorporated into the final Findings of Fact.

2.3.9.6.1 Deliverable:

- 2.3.9.6.1.1 Final Findings of Fact and Statement of Overriding Considerations (electronic)

2.3.9.7 Prepare Final Notice of Determination:

Comments received on the draft NOD shall be incorporated into the final NOD. CONTRACTOR shall file the NOD within 5 working days after approval of the project and deliver it to the State Clearinghouse. The NOD will also be filed with the Monterey and San Luis Obispo County Clerks.

2.3.9.7.1 Deliverable:

2.3.9.7.1.1 Final NOD (electronic and hard copies for filing)

2.3.9.8 Prepare Final Mitigation Monitoring & Reporting Plan:

Comments received on the draft MMRP will be incorporated into the final MMRP.

2.3.9.8.1 Deliverable:

2.3.9.8.1.1 Final MMRP (electronic)

2.3.9.9 Final EIR Certification / Public Outreach:

CONTRACTOR shall aid in the development of and presentation of materials to support MCWRA during its Public Hearing to consider whether to certify the Final EIR and approve the Project. An action item is required at both the MCWRA Board of Directors and the MCWRA Board of Supervisors to complete the certification and approval process.

2.3.9.10 At least ten (10) days prior to the first hearing, CONTRACTOR shall mail out responses to comments to appropriate commenters as described above under Task 4.4.

2.3.9.10.1 Deliverables:

2.3.9.10.1.1 Meeting materials (electronic or hard copy, as appropriate)

2.3.9.10.1.2 Project stakeholder and public agency contact database

2.3.10 Task 6 Public Meetings:

The CONTRACTOR shall prepare for and participate in the following meetings.

2.3.10.1 Public Scoping Meeting for EIR:

This meeting will involve soliciting from the public the issues and concerns that should be addressed in the EIR. The CONTRACTOR shall run this meeting using the latest industry standard graphics and presentation software and will provide all meeting materials. The CONTRACTOR shall be responsible for preparing (in coordination with MCWRA staff) and sending notices of the meeting (as described below under Task 7.3), and preparing a summary record of the meeting's proceedings.

2.3.10.2 Public Review Meeting for Draft EIR:

At this meeting the Draft EIR will be presented. The CONTRACTOR shall run these meetings using the latest industry standard graphics and presentation software and provided all meeting materials. The CONTRACTOR shall be responsible for preparing (in coordination with MCWRA staff) and sending notices of the meeting, and preparing a summary record of the meeting's proceedings. Public comment received will be included in the environmental record.

2.3.10.3 MCWRA will be responsible for providing meeting rooms and preparing and distributing any legal notices.

2.3.10.3.1 Deliverables:

2.3.10.3.1.1 Meeting materials will be provided under Section 2.3.11 Task 7
Meeting summaries (electronic)

2.3.11 Task 7 Public Outreach:

CONTRACTOR shall prepare a mailing list of special interest groups and other stakeholders resulting from meeting/interviews performed in Task 1. CONTRACTOR shall also maintain the project stakeholder and public agency contact database, including a contact management system to trace all contact with stakeholders, other agencies and members of the public at large. The CONTRACTOR shall assist MCWRA in developing a Public Communications Plan and providing information to the public including:

- 2.3.11.1** Two (2) newsletters for posting on the MCWRA website and consultant mailing to stakeholders (each assumed to be one two-sided 11x17 color bi-fold); and
- 2.3.11.2** Assist in the preparation for and participation with MCWRA staff in at least two (2) public meetings as defined in Task 6; and
- 2.3.11.3** Public meeting quality electronic and hardcopy exhibits, including up to 6 poster boards for each meeting.
- 2.3.11.4** The Public Communications Plan will be clear and detailed with milestones and success criteria. The document will identify outreach strategies for the key stakeholders, including regulatory agencies, county offices, non-governmental organizations, interest groups, local landowners (e.g., Heritage Ranch), recreational users (boaters, fishermen, and campers), downstream water users, and the general public. It will identify the public outreach that will be provided through the CEQA process, including during EIR scoping, public review of the Draft EIR, and certification of the Final EIR. It will also outline the additional public outreach that may be considered, including additional meeting types (site visits/field visits, town hall, small group, one-on-one), periodic project updates for the MCWRA Board of Directors and Monterey County Board of Supervisors, the newsletters planned for important Project junctures, and/or providing a Project website.
- 2.3.11.5** In 2014, Governor Brown signed Assembly Bill 52 (AB 52), formally establishing a new requirement under CEQA to protect a new class of resources under CEQA: “tribal cultural resources.” It requires that lead agencies undertaking CEQA review must, upon request of a California Native American tribe, begin consultation prior to the release of a negative declaration, mitigated negative declaration or environmental impact report for a project. CONTRACTOR shall coordinate the consultation consistent with AB 52; this work will be conducted in coordination with the outreach to be conducted under Task 8.4. The work plan assumes up to 25 Native American contacts. Any consultations requested would be conducted under a contract amendment once the nature and extent of CONTRACTOR support needed for the consultation(s) are understood.

2.3.11.5.1 Deliverables:

- 2.3.11.5.1.1** Mailing list (electronic)
- 2.3.11.5.1.2** Contact database and management system (electronic)
- 2.3.11.5.1.3** Public Communications Plan (electronic)
- 2.3.11.5.1.4** Two Newsletters (electronic and up to 100 hard copies of each)
- 2.3.11.5.1.5** Meeting materials (electronic or hard copy, as appropriate)
- 2.3.11.5.1.6** AB52 consultation letters (electronic and up to 25 hard copies)

2.3.12 Task 8 Permitting:

Several permits/approvals will be required from local, state and federal regulatory agencies prior to Project implementation. These permits/approvals are needed for compliance with:

- 2.3.12.1 Clean Water Act, Section 404
- 2.3.12.2 Clean Water Act, Section 401
- 2.3.12.3 Endangered Species Act
- 2.3.12.4 California Fish and Game Code, Section 1600 et seq.
- 2.3.12.5 California Endangered Species Act
- 2.3.12.6 National Historic Preservation Act, Section 106

- 2.3.12.7 Separate permits/approvals will be sought for each project component (tunnel and spillway).

- 2.3.12.8 The technical analysis in support of the permitting effort will be based on the Project's design documents and other plans and available information at their level of completion at the time of the analysis. This scope of work does not include permits or approvals for geotechnical or other investigations which may be needed to support Project design. Such work would be completed under a contract amendment. Similarly, this scope of work does not include coordination with Division of Safety of Dams or other agencies not identified in this scope of work, except as conducted under Task 1.

2.4 Jurisdictional Delineation Report:

CONTRACTOR shall conduct jurisdictional wetland delineation within the project area which will cover the area potentially impacted by both the tunnel and the spillway. This will include the areas to be temporarily or permanently impacted by the Project: the intake and associated facilities at Lake Nacimiento, the outlet and associated facilities at Lake San Antonio, the footprint of the spillway modification and associated improvements, the area of Lake San Antonio to be inundated as a result of the spillway modification, temporary access and staging areas, and spoils disposal locations, and a 100' buffer around all such locations.

- 2.4.1 For the areas potentially inundated by the spillway modification, the delineation will be primarily conducted on the desktop using topographic data, aerial photography, National Wetland Inventory data, and other relevant data layers, as supplemented by targeted field verification and more detailed field assessment in locations of influent streams, fringe wetlands, other sensitive water features and sensitive natural communities, and existing shoreline infrastructure. Detailed field assessments will also be conducted in the locations anticipated to be directly impacted by the Project (e.g., tunnel inlet/outlet, spillway). This work plan assumes that no delineation of water bodies upstream or downstream of either reservoir will be needed, and that the field work for the delineation will be completed by two staff people in two weeks or less, assuming 10-hour days (200 hours total), of which two days (40 hours) would be spent on facilities related to the tunnel, and the remainder spent on facilities related to the spillway modification and other locations potentially affected by the spillway modification. The work plan assumes that 1-foot contour data for the delineation area will be made available to CONTRACTOR. It is assumed that the wetland delineation and determination can be made using this topographic data, and a topographic survey is not included in this scope of work. Finally, this work plan assumes that the report can be completed in up to 60 hours of biologist staff time with an additional 100 hours of a Geographic Information Systems specialist to support the mapping effort.

- 2.4.2 The wetland delineation will be conducted using the methods described in the USACE 1987 Wetland Delineation Manual and the 2008 Arid West Regional Supplement. Data will be collected for each wetland feature identified within the project area. The boundaries of the wetland features will be mapped in the field using a Global Positioning System (GPS) accurate to one meter or

better. Potential waters of the State, as regulated by the Central Coast Regional Water Quality Control Board (RWQCB), will also be delineated. Waters of the State include hydrologic features that may be excluded from federal jurisdiction, such as isolated waters and areas between ordinary high water (OHW) and the top of bank.

- 2.4.3** CONTRACTOR shall prepare a draft wetland delineation report for review by the project team. CONTRACTOR shall address the project team's comments on the draft report and then submit the delineation to U.S. Army Corps of Engineers (USACE) for verification. CONTRACTOR shall organize and attend one field visit with the USACE to verify the delineation. Based on feedback received from the USACE, CONTRACTOR shall revise the report and maps, if necessary, and submit the revised delineation to USACE for verification.

2.4.3.1 Deliverables:

- 2.4.3.1.1 Draft Wetland Delineation (electronic)
- 2.4.3.1.2 Wetland Delineation (included in Permit Application binder)
- 2.4.3.1.3 On-site verification of Wetland Delineation
- 2.4.3.1.4 Revised Wetland Delineation (if necessary)

2.5 Biological Assessment – Wildlife:

CONTRACTOR shall prepare two Biological Assessments (BAs), one each for the tunnel and the spillway modification, to support the USACE's Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species that may be present in the project area and that could be impacted by each project component.

- 2.5.1** The BAs will address the potential for construction and operations to result in "take" of listed species and adverse modification of their habitat. Once complete and approved by the project team, the BAs will be submitted to USACE during the 404 permitting process. It is assumed that the USACE will then submit the BAs to USFWS for Section 7 consultation, and potentially development of a Biological Opinion (BO).

- 2.5.2** The BAs will address each species and will incorporate the following components:

- 2.5.2.1 Detailed analysis of direct, indirect, and cumulative effects of every action affecting waters of the United States, listed species, and critical habitat; and
- 2.5.2.2 Identification of the potential for "take" of listed species and adverse modification of critical habitat, and specific avoidance and minimization measures to ensure that effects are avoided and minimized to the extent practicable; and
- 2.5.2.3 Where appropriate, identification of additional actions that would assist in species conservation and are tied to tasks identified in recovery plans. The additional actions may be incorporated, as necessary, as Conservation Recommendations in the Biological Opinion; and
- 2.5.2.4 Description of the monitoring and reporting programs necessary to assure USFWS that they will know when the authorized amount or extent of take is approached or exceeded.

- 2.5.3** Within the BAs, CONTRACTOR shall present different levels of actions by level of effect on the listed species, incorporating minimization and avoidance provided by implementation of specific measures. Activities may be categorized by:

- 2.5.3.1 Intensity – the magnitude of effect, as determined by the various measurements of effect relative to the proportion of habitat, species life history, or species population affected;

and

- 2.5.3.2 Duration – the period of the effect, such as short-term effects, long-term or chronic effects, or permanent effects (i.e., the action sets a new threshold for some feature of the species environment); and
- 2.5.3.3 Frequency – the number of effects within a unit of time; and
- 2.5.3.4 Severity – the period of recovery from the effect and the change in susceptibility of the species to effects of other actions.

2.5.3.5 Deliverables:

- 2.5.3.5.1 Draft Biological Assessments (electronic)
- 2.6.3.5.2 Final Biological Assessments (included in Permit Application binder)

2.6 Biological Assessment – Fisheries:

CONTRACTOR shall prepare two Biological Assessments (BAs), one each for the tunnel and the spillway modification, to support the USACE's Section 7 consultation with the National Marine Fisheries Service (NMFS) regarding potential impacts to federally listed species that may be present in the project area and that could be impacted by each project component. The scope of work for these BAs is the same as for the BAs to be prepared under Section 2.5, above. In addition, each BA will include an assessment of impacts to Essential Fish Habitat, as appropriate.

2.6.1.1 Deliverables:

- 2.6.1.1.1 Draft Biological Assessments (electronic)
- 2.6.1.1.2 Final Biological Assessments (included in Permit Application binder)

2.7 Cultural Resources Report:

This task is necessary to comply with Section 106 of the National Historical Preservation Act (NHPA); compliance with Section 106 of the NHPA is a condition for receiving a discretionary federal approval such as a CWA Section 404 permit. CONTRACTOR shall prepare two reports – one for archeology and one for built environmental resources – which will each cover the area potentially impacted by both the tunnel and the spillway.

2.7.1 This task will begin with an identification of the Area of Potential Effect (APE), which is assumed to be the same as the area that will be subject to the Jurisdictional Delineation to be conducted under Task 8.1, above. A preliminary assessment will be conducted of the potential for historic resources and buried archaeological sites in the APE, using relevant maps and documents (e.g., archaeological studies, geologic reports, Quaternary geologic maps, County Soil Surveys). CONTRACTOR shall perform a confidential cultural resources record search through the Regional Archaeological Information Center to determine cultural resource sensitivity of the Project area. This review will identify any previously identified cultural resources within ½-mile of the APE in order to (1) determine whether known cultural resources had been recorded within or adjacent to the APE; (2) assess the likelihood of unrecorded cultural resources based on historical references and the distribution of environmental settings of nearby sites; and (3) develop a context for identification and preliminary evaluation of cultural resources.

2.7.2 The Native American Heritage Commission (NAHC) will be contacted to determine whether Native American sacred sites are known to be located in or near the APE and to request a list of contacts for Native American tribes who may have an interest in the proposed project. Request for information letters will subsequently be sent to all those identified by the NAHC who might have additional information about the project area. Follow up phone calls will be made to letter recipients about two weeks after the initial contact to verify that the letter has been received. An

attempt will be made to solicit information from those contacted during the telephone exchange, if possible. However, it must be noted that it is not unusual for tribal governments to submit these requests for information to the tribal council for approval, and then the response must also be approved by the council. As a result, if a tribal council meets only once a month, it can take eight weeks for an information request to be processed by the tribe; therefore responses to requests for information from tribal entities can take two to three months. This work plan does not include meetings with tribes with regard to the design, construction, and operation of the facilities.

- 2.7.3 Local historical societies will also be solicited for any information they may have regarding the project area. Responses from historical societies are generally received within one month.
- 2.7.4 The cultural resources inventory of the project area will be conducted once the record search results from the Information Center and NAHC are received. Field work will be led by an archaeologist and architectural historian who meet the Secretary of Interior's professional standards in archaeology and architectural history. Two archaeologists will exam the ground surface within the APE by walking closely-spaced (15 to 45-foot) transects across the property. Trowels or hoes may be used to clear vegetation in order to increase ground surface visibility, when needed. Architectural features present in the project area will be recorded by an architectural historian. This work plan assumes that the field work will be completed by the archeologists and architectural historian in one week or less, assuming 10-hour days (150 hours total), of which one day (30 hours) would be spent on facilities related to the tunnel, and the remainder spent on facilities related to the spillway modification and other locations potentially affected by the spillway modification.
- 2.7.5 All archaeological resources will be recorded on California Department of Parks and Recreation form 523. These will include photographs and a site map, and global positioning system data will be collected to accurately delineate the locations of all resources.
- 2.7.6 Separate cultural resource reports will be prepared for the archaeological inventory and for the historic architectural evaluation in compliance with the requirements the California Historical Resources Information System and Section 106 of the NHPA. The reports will document the methods and findings of the records search, contacts with Native Americans, maps, results of field studies, and a preliminary assessment of resource significance, as appropriate. The reports will be prepared according to the inventory requirements of California Office of Historic Preservation. Copies of these reports will be submitted to the Information Center.
- 2.7.7 Case law in California, *Madera Oversight Coalition, Inc. v. County of Madera* (5th Dist. 2011) 199 Cal. App. 4th 48, mandates that EIRs reveal the CRHR eligibility of potentially affected cultural resources and provide appropriate mitigation measures. Should archaeological resources be identified and recorded in the APE, CONTRACTOR shall work with the Project Team to develop an efficient approach to evaluate the sites(s) for CRHR and NRHP eligibility; the evaluation itself is not included in this work plan. The architectural report will describe all recorded resources and evaluate them for eligibility for CRHR and NRHP listing; such architectural features with the potential to be impacted by the Project will be recorded by a qualified architectural historian.
- 2.7.8 CONTRACTOR shall prepare separate draft archaeological and architectural reports for review by the project team. CONTRACTOR shall address comments on the draft reports and then incorporate them report into the Permit Application binder.

2.7.8.1 Deliverables:

- 2.7.8.1.1 Draft Archaeological Resources Report (electronic)

- 2.7.8.1.2 Final Archaeological Resources Report (included in Permit Application binder)
- 2.7.8.1.3 Draft Historic Architectural Resources Report (electronic)
- 2.7.8.1.4 Final Historic Architectural Resources Report (included in Permit Application binder)

2.8 Prepare Draft Permit Applications:

CONTRACTOR shall prepare separate permit applications for the tunnel and the spillway modification. For each application, a binder will be prepared for each agency which contains the necessary application materials.

2.9 Clean Water Act Section 404 Permit/River and Harbors Act Section 10:

Clean Water Act (CWA) Section 404 permit will be required for temporary and permanent impacts to waters of the U.S. A Rivers and Harbors Act (RHA) Section 10 permit may also be required. This scope of work assumes that the tunnel can be permitted under a Nationwide Permit, but that an Individual Permit will be needed for the spillway modification.

2.9.1 CONTRACTOR shall prepare application packages and supporting documents for CWA Section 404/RHA Section permits from USACE. CONTRACTOR shall prepare the following items in support of each permit application:

- 2.9.1.1 Cover Letter.** The cover letter will briefly describe the Project and application.
- 2.9.1.2 Project Description.** A Project Description will be developed which incorporates the relevant aspects of the Project Description prepared for the EIR and will be included in the application package.
- 2.9.1.3 Engineer Form 4345, Application for Standard Permits.** This is the standard permit application form for USACE permits.
- 2.9.1.4 Wetland Delineation, Cultural Resources Investigation, Biological Assessment.** These documents will be included in the application packet.
- 2.9.1.5 404(b)(1) Alternatives Analysis, Environmental Assessment.** These will only be required for the Individual Permit for the spillway modification. The 404(b)(1) analysis will leverage the alternatives analysis conducted in the EIR. The Environmental Assessment will be based on a short-form commonly used by USACE for this purpose.

2.9.2 This work plan assumes that CONTRACTOR shall be provided with estimates of fill volume and type to be placed in waters of the U.S. Up to 2 meetings will be conducted with USACE and the project team, along with conference calls and email communication as needed to discuss permit application.

2.10 Regional Water Quality Control Board:

The RWQCB will need to issue approvals for the two project components. These may include: waste discharge requirements under the state Porter-Cologne Water Quality Control Act and a water quality certification under Section 401 of the Clean Water Act. Compliance for National Pollutant Discharge Elimination System permitting under Section 402 of the Clean Water Act is not included in this work plan.

2.10.1 CONTRACTOR shall prepare the following items in support of each permit application:

- 2.10.1.1 Cover Letter.** The cover letter will briefly describe the Project and application.
- 2.10.1.2 Project Description.** A Project Description will be developed which incorporates the

relevant aspects of the Project Description prepared for the EIR and included in the application package.

- 2.10.1.3 Form R2C502-E, Application for 401 WQC and/or Report of Waste Discharge.** This is the standard permit application form for RWQCB 401 WQC and/or WDR.
- 2.10.1.4 CEQA Documentation.** The EIR to be prepared under this work plan will support RWQCB permitting.
- 2.10.1.5 Delineation of Waters of the State.** The Wetland Delineation to be prepared under Task 8.1 will include a delineation of waters of the State.
- 2.10.1.6 Supplemental Information.** CONTRACTOR shall identify necessary supplemental information in collaboration with the RWQCB.

2.10.2 This work plan assumes that CONTRACTOR shall be provided with estimates of fill volume and type to be placed in waters of the State. Up to 2 meetings will be conducted with the RWQCB and the project team, along with conference calls and email communication as needed to discuss permit application. The CONTRACTOR cost estimate does not include any permit fees.

2.11 California Department of Fish and Wildlife Lake or Streambed Alteration Agreement:

A Lake or Streambed Alteration Agreement (LSAA) with California Department of Fish and Wildlife (CDFW), pursuant to Fish and Game Code Section 1602, will be required for the Project. CONTRACTOR shall prepare the following items for each LSAA notification package:

- 2.11.1 Cover Letter.** The cover letter will briefly describe the Project and application.
- 2.11.2 Project Description.** A Project Description will be developed which incorporates the relevant aspects of the Project Description prepared for the EIR and included in the application package.
- 2.11.3 Notification of Lake or Streambed Alteration (Form FG20023) Form.** This is the standard form for a Streambed Alteration Agreement.
- 2.11.4 CEQA Documentation.** The EIR to be prepared under this work plan will support CDFW permitting.
- 2.11.5 Supplemental Information.** CONTRACTOR shall identify necessary supplemental information in collaboration with the CDFW.
- 2.11.6** Up to 2 meetings will be conducted with CDFW and the project team, along with conference calls and email communication as needed to discuss permit application. The CONTRACTOR cost estimate does not include any permit fees.

2.12 CESA Incidental Take Permit:

While avoidance may be possible, this scope of work assumes that the Project will require Incidental Take Permits (ITPs) under Section 2081(b) of the Fish and Game Code for take of species listed as threatened or endangered under the California Endangered Species Act. Acquiring an ITP could allow more flexibility for construction in the vicinity of such species, and protect MCWRA from enforcement actions should take of state-listed species occur.

2.12.1 CONTRACTOR shall prepare the following items for each ITP application:

- 2.12.1.1 Cover Letter.** The cover letter will briefly describe the Project and application.
- 2.12.1.2 Project Description.** A Project Description will be developed which incorporates the relevant aspects of the Project Description prepared for the EIR and included in the application package.
- 2.12.1.3 Section 2081 Application.** CONTRACTOR shall prepare a complete the 2081

application.

2.12.1.4 CEQA Documentation. The EIR to be prepared under this work plan will support CDFW permitting.

2.12.1.5 Supplemental Information. CONTRACTOR shall identify necessary supplemental information in collaboration with the CDFW.

2.12.2 The meetings, conference calls and email communications conducted with CDFW for the LSAA are anticipated to also be used to support the ITP application.

2.12.2.1 Deliverable:

2.12.2.1.1 Draft Permit Application Binders

2.13 Prepare Final Permit Applications:

CONTRACTOR shall address the project team's comments on the draft permit applications and then submit the applications to the relevant agencies.

2.13.1.1 Deliverable:

2.13.1.1.1 Final Permit Application Binders (4 printed copies, electronic files)

2.14 Permit Negotiations:

As an initial task, CONTRACTOR shall prepare a Compensatory Mitigation Strategy to satisfy the requirements of CEQA, NEPA, regulatory permitting, and other planning considerations. This will be based on the resource assessments and preliminary coordination with regulatory agencies. The Compensatory Mitigation Strategy will address temporary and permanent loss of sensitive natural communities and related effects on wildlife and plants, considering on-site and off-site preservation, enhancement, and restoration opportunities, as well as mitigation banks and other approaches. It is likely that a number of locations exist both upstream and downstream of the reservoir for restoration of riparian and aquatic habitat, and invasive species removal, which is likely to serve as adequate mitigation for the majority of impacts. It will be a working document which will be used to support the development of CEQA documentation and permit applications.

2.14.1 CONTRACTOR shall provide support during negotiations with various permitting agencies following the submittal of permit applications. Services under this task may include additional internal strategy meetings with MCWRA, and development of materials for meetings with agencies, such as presentations or meeting displays. This may also include helping MCWRA respond to additional regulatory data requests following the submittal of the permit applications. CONTRACTOR shall assist in organizing and leading these additional meetings with the regulatory agencies, including developing summary notes and e-mail communications to each relevant regulatory agency. While the cost estimate is believed to be adequate to support necessary permit negotiations, the extent of negotiations and supplemental data requested, etc., cannot be predicted with certainty. For this reason, CONTRACTOR shall complete the work described in this task on a time and materials basis up to the level of effort identified in the cost estimate.

2.14.1.1 Deliverable:

2.14.1.1.1 Compensatory Mitigation Strategy (electronic)

3.0 TERM OF AGREEMENT

- 3.1 The term of the AGREEMENT(s) will be for a period of two (2) years with the option to extend the AGREEMENT for three (3) additional one (1) year periods for a maximum agreement of five (5) years.
- 3.1.1 MCWRA is not required to state a reason if it elects not to renew.
- 3.2 If the AGREEMENT includes options for renewal or extension, CONTRACTOR must commence negotiations for any desired rate changes a minimum of ninety days (90) prior to the expiration of the AGREEMENT.
- 3.2.1 Both parties shall agree upon rate extension(s) or changes in writing.
- 3.3 MCWRA reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a thirty day (30) written notice, or immediately with cause.

4.0 COMPENSATION AND PAYMENTS

- 4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto.
- 4.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. MCWRA does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 4.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of this AGREEMENT.
- 4.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 4.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from MCWRA in writing.
- 4.6 Tax:
- 4.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
- 4.6.2 MCWRA is registered with the Internal Revenue Service, San Francisco office, and registration number 94-6000524. The MCWRA is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show MCWRA as consignee.
- 4.7 Payments to CONTRACTOR; maximum liability.
Subject to the limitations set forth herein, MCWRA shall pay to CONTRACTOR the amounts provided in Exhibit B, up to the total amount of EIGHT HUNDRED TWENTY THOUSAND (\$820,000) for Phase 1 (inclusive of all costs and expenses, including sub-consultants). Phase 1 includes all work up to and

including Task 3, preparation of the the ADEIR. Should MCWRA authorize future and subsequent phases of services for this Project (under this or a future Agreement), the maximum amount payable to CONTRACTOR for this Project in the aggregate is One Million Seven Hundred Nineteen Thousand Five Hundred Eighty Two (\$1,719,582) inclusive of all costs and expenses, including sub-consultants.

5.0 INVOICES AND PURCHASE ORDERS

- 5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Monterey County Water Resource Agency at the following address:

Monterey County Water Resources Agency
Attn: Cathy Paladini – Finance Manager
P.O. Box 930
Salinas, CA 93902

- 5.2 CONTRACTOR shall reference the RFP/RFQ number on all invoices submitted to MCWRA. CONTRACTOR shall submit such invoices 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. MCWRA shall certify the invoice, either in the requested amount or in such other amount as MCWRA approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the COUNTY Auditor-Controller for payment. Monterey COUNTY Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

5.2.1 If any undisputed payment is more than thirty (30) days late, CONTRACTOR shall (i) provide notice of late payment to MCWRA, and (ii) if the relevant payment is not made within thirty (30) days of receipt of such late notice, CONTRACTOR shall have the option to suspend its provision of Services. A finance charge shall be assessed on the due amount, but unpaid amount for each day of a month that any undisputed amount remains unpaid beyond thirty (30) days after the date of the invoice is received by the MCWRA, at the rate of eighteen percent (18%) per annum.

- 5.3 All COUNTY Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 5.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by MCWRA. Surcharges and additional fees not included the AGREEMENT must be approved by MCWRA in writing via an Amendment.

6.0 DESIGN PROFESSIONAL INDEMNIFICATION

- 6.1 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 MCWRA under this Indemnity AGREEMENT that is permitted by law shall be provided by CONTRACTOR.

6.2 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless MCWRA, its governing board, directors, officers, employees, and agents against any claims to the extent caused by the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this AGREEMENT, excepting only liability arising from the negligence, active negligence or willful misconduct of MCWRA, or defect in a design furnished by MCWRA.

6.3 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this AGREEMENT, CONTRACTOR shall indemnify, defend and hold harmless MCWRA, 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 MCWRA, or defect in a design furnished by MCWRA.

7.0 INSURANCE REQUIREMENTS

7.1 Evidence of Coverage:

7.1.1 Prior to commencement of this AGREEMENT, 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 CONTRACTOR upon request shall provide a certified copy of the policy or policies.

7.1.2 This verification of coverage shall be sent to the COUNTY's Contracts/Purchasing Department, unless otherwise directed. 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 CONTRACTOR.

7.2 Qualifying Insurers: All coverages, 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 COUNTY's Purchasing Officer.

7.3 Insurance Coverage Requirements:

(The COUNTY, in conjunction with the MCWRA, is considering an Owner Controlled Insurance Program (OCIP) that may include this project. If implemented, CONTRACTOR shall be

expected to be an enrolled participant in the OCIP.)

- 7.3.1 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:

7.3.1.1 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.

7.3.2 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.

7.3.3 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.

7.3.4 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, 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.

7.4 Other Insurance Requirements:

7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to MCWRA 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.

7.4.2 Each liability policy shall provide that MCWRA 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.

7.4.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the MCWRA and County of Monterey, its officers, agents, and employees as Additional

Insureds with respect to liability arising out of the C O N T R A C T O R ' 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 MCWRA and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the C O N T R A C T O R ' 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.

- 7.4.4 Prior to the execution of this AGREEMENT by MCWRA, CONTRACTOR shall file certificates of insurance with COUNTY's contract administrator and COUNTY's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. 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.
- 7.4.5 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 MCWRA, annual certificates to COUNTY's Contract Administrator and COUNTY's Contracts/Purchasing Division. If the certificate is not received by the expiration date, MCWRA 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 MCWRA, at its sole discretion, to terminate this AGREEMENT immediately.

8.0 RECORDS AND CONFIDENTIALITY

- 8.1 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 MCWRA or prepared in connection with the performance of this AGREEMENT, unless MCWRA specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to MCWRA 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.
- 8.2 MCWRA Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to MCWRA any MCWRA records which CONTRACTOR used or received from MCWRA to perform services under this AGREEMENT.
- 8.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and MCWRA rules and regulations related to services performed under this AGREEMENT.

- 8.4 Access to and Audit of Records: MCWRA shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of MCWRA or as part of any audit of MCWRA, 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.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

10.0 OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS

- 10.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of the COUNTY or MCWRA, nor immediate family of an employee of the COUNTY or MCWRA. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 10.2 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of MCWRA.
- 10.3 Any subcontractor shall comply with all of MCWRA and COUNTY requirements, including insurance and indemnification requirements as detailed in SAMPLE AGREEMENT.
- 10.4 Contractor acknowledges and agrees that MCWRA, at its sole option and in its sole discretion, may novate this Agreement pursuant to the attached form of Assignment and Novation Agreement.

11.0 CONFLICT OF INTEREST

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- 11.1 CONTRACTOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this AGREEMENT. Without limitation, CONTRACTOR represents to and agrees with MCWRA that CONTRACTOR has no present, and will have no future, conflict of interest between providing MCWRA services hereunder and any other person or entity (including but not limited to any federal or state environmental or regulatory agency) which has any interest adverse or potentially adverse to MCWRA, as determined in the reasonable judgment of the Board of Supervisors of MCWRA.
- 11.2 CONTRACTOR agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this AGREEMENT for MCWRA will be kept confidential and not be disclosed to any other person. CONTRACTOR agrees to immediately notify MCWRA in accordance with the Notices Section of this AGREEMENT, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this AGREEMENT. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to MCWRA hereunder.

12.0 COMPLIANCE WITH APPLICABLE LAWS

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to MCWRA and the COUNTY's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

13.0 DRUG FREE WORKPLACE

- 13.1 CONTRACTOR and CONTRACTOR'S employees shall comply with the MCWRA'S policy of maintaining a drug free workplace. Neither CONTRACTOR nor CONTRACTOR'S employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any MCWRA facility or work site. If CONTRACTOR or any employee of CONTRACTOR is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a MCWRA facility or work site, the CONTRACTOR shall, within five days thereafter notify the head of the MCWRA department/agency for which the AGREEMENT services are performed. Violation of this provision shall constitute a material breach of this AGREEMENT.
-

14.0 TIME OF ESSENCE

- 14.1 Time is of the essence in respect to all provisions of this AGREEMENT that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this AGREEMENT.

15.0 PERFORMANCE ASSURANCE AND WAIVER OF BREACH

- 15.1 Assurance of Performance: If at any time MCWRA believes CONTRACTOR may not be adequately performing its obligations under this AGREEMENT or that CONTRACTOR may fail to complete the Services as required by this AGREEMENT, MCWRA may request from CONTRACTOR prompt written assurances of performance and a written plan acceptable to MCWRA, to correct the observed deficiencies in CONTRACTOR'S performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of MCWRA's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this AGREEMENT. If MCWRA accepts the plan it shall issue a signed waiver.
- 15.1.1 Waiver: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this AGREEMENT shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

16.0 RIGHTS AND REMEDIES OF THE MCWRA FOR DEFAULT

In the case of default by CONTRACTOR, MCWRA may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance due to CONTRACTOR or by proceeding against any performance bond of CONTRACTOR, if any, or by suit against CONTRACTOR. The prices paid by MCWRA shall be considered the prevailing market price at the time such purchase(s) may be made. Inspections of deliveries or offers for deliveries that do not meet specifications shall be made at the expense of CONTRACTOR.

17.0 FORCE MAJEURE

"Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities. If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.

CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in

performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

18.0 TRAVEL REIMBURSEMENT

Travel reimbursements shall not exceed the IRS allowance rates as per COUNTY's Travel Policy. A copy of COUNTY's Travel Policy is available on the COUNTY Auditor-Controller's web site at: <http://www.co.monterey.ca.us/auditor/policy.htm>.

19.0 NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to MCWRA's Project Manager or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO MCWRA:
General Manager
P.O. Box 930
Salinas, CA 93902

Tel. No.: (831) 755-4860
FAX No.: (831) 424-7935
ChardavoyneDE@co.monterey.ca.us

TO CONTRACTOR:
Kenneth M. Schwarz
180 Grand Ave. Suite 1405
Oakland, CA 94612

Tel. No.: (510) 986-1851
FAX No.: (510)
Ken@horizonh20.com

20.0 LEGAL DISPUTES

CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.

Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

CONTRACTOR shall continue to perform under this AGREEMENT during any dispute. The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge. In the event of litigation to enforce this AGREEMENT, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and reasonable attorneys' fees incurred.

--END OF AGREEMENT SECTION--

IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

MONTEREY COUNTY

CONTRACTOR

Contracts/Purchasing Officer

By: 

Signature of Chair, President, or
Vice-President

Dated:

Michael Stevenson, Member
Printed Name and Title

Approved as to Fiscal Provisions:

Dated: *December 23, 2015*

Deputy Auditor/Controller

*Horizon Water and Environment,
LLC (Partnership)*

Dated:

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

Approved as to Liability Provisions:


Printed Name and Title

Risk Management

Dated:

Dated:

Approved as to Form:



Deputy County Counsel

Dated: *1/4/16*

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.

ATTACHMENT A - Project Schedule
Interlake Tunnel and Spillway Modification
Monterey County Water Resources Agency
DECEMBER 21, 2015

ID	Task Name	Duration/Start	Finish	Cost	Work	Loc 1	2016	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
1	Interlake Tunnel and Spillway Modification Environmental Compliance	814 days?	Thu 12/17/15	Thu 1/29/16 \$1,719,582.54	0 hrs											
2	Notice to Proceed (assumed)	0 days	Mon 1/4/16	Mon 1/4/16 \$0.00	0 hrs											
3	Task 1 Project Management and Team Coordination	814 days?	Thu 12/17/15	Thu 1/29/16 \$280,690.54	0 hrs											
4	Kickoff Meeting	0 days	Mon 1/4/16	Mon 1/4/16 \$5,267.00	0 hrs	850										
5	Project Work Plan	20 days	Tue 1/5/16	Mon 2/1/16 \$3,360.00	0 hrs											
7	Budget Management, Monthly Progress Reports	371 days	Thu 12/17/15	Thu 5/18/17 \$1,808.00	0 hrs											
8	Monthly Project Status/Progress Reports	371 days	Thu 12/17/15	Thu 5/18/17 \$3,808.00	0 hrs											
23	Cost Estimate for Environmental Mitigation Measures	370 days?	Mon 1/4/16	Fri 6/2/17 \$4,100.00	0 hrs											
24	Coordination with Design Consultants	370 days?	Mon 1/4/16	Fri 6/2/17 \$24,540.00	0 hrs											
25	Monthly Progress Reports and Invoicing	370 days?	Mon 1/4/16	Fri 6/2/17 \$16,379.00	0 hrs											
26	Project File Management	370 days?	Thu 12/17/15	Wed 5/17/17 \$9,360.00	0 hrs											
27	QA/QC Management	370 days?	Mon 1/4/16	Fri 6/2/17 \$13,760.00	0 hrs											
28	Progress Meetings	360 days	Mon 1/4/16	Fri 5/19/17 \$15,268.54	0 hrs											
29	Weekly Phone Calls	280 days	Mon 1/4/16	Mon 1/30/17 \$55,175.40	0 hrs											
88	Bi-Monthly Meetings	277 days	Mon 1/4/16	Wed 1/25/17 \$18,531.14	0 hrs											
118	Quarterly Workshops	270 days	Fri 5/16/16	Fri 5/19/17 \$41,562.00	0 hrs											
123	Administrative Record	370 days?	Mon 1/4/16	Fri 6/2/17 \$64,848.00	0 hrs											
124	Task 2 Initial Study and Notice of Preparation	91 days?	Mon 1/4/16	Mon 5/8/16 \$49,953.00	0 hrs											
134	Task 3 Prepare Draft EIR	194 days	Tue 3/8/16	Sat 12/3/16 \$599,565.00	0 hrs											

Task 1. Project Management and Team Coordination

Budget Management, Monthly Progress Reports

Cost Estimate for Environmental Mitigation Measures

Coordination with Design Consultants

Monthly Progress Reports and Invoicing

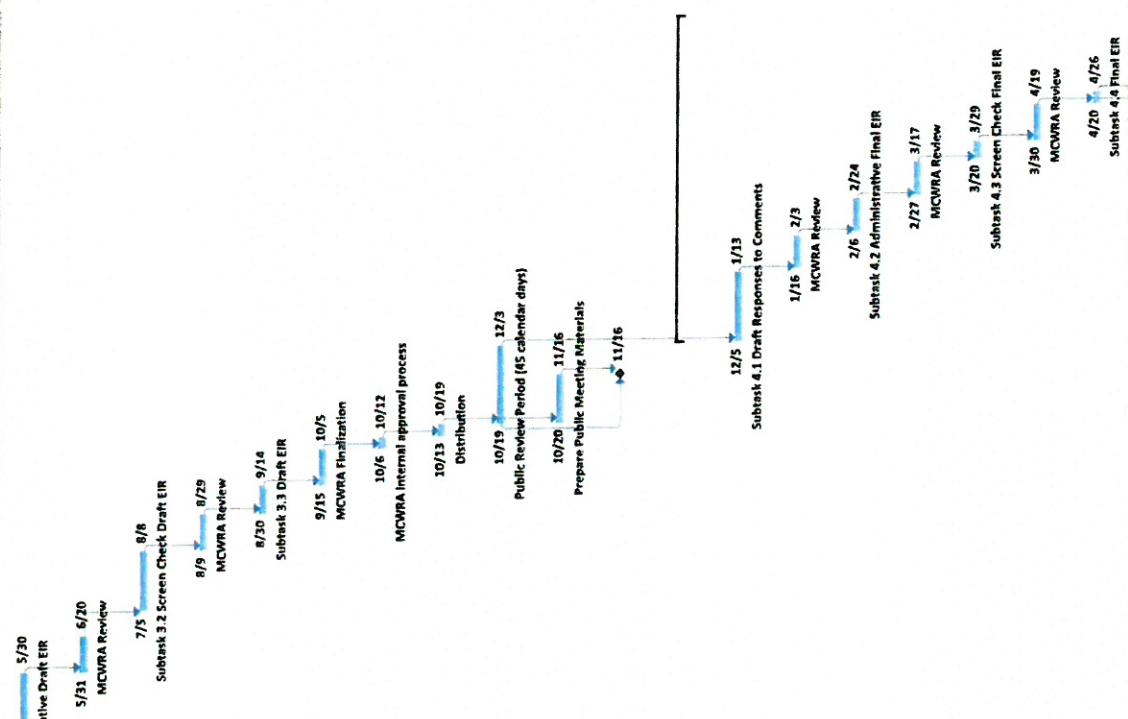
Project File Management

QA/QC Management

Administrative Record

ATTACHMENT A - Project Schedule
Interlake Tunnel and Spillway Modification
Monterey County Water Resources Agency
DECEMBER 21, 2015

ID	Task Name	Duration	Start	Finish	Cost	Work	Loc 1	2016	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
135	Subtask 3.1 Administrative Draft EIR	60 days	Tue 3/16/16	Mon 5/30/16	\$427,540.00	0 hrs																							
136	MCWRA Review	15 days	Tue 5/31/16	Mon 6/20/16	\$0.00	0 hrs																							
137	Subtask 3.2 Screen Check Draft EIR	25 days	Tue 7/15/16	Mon 8/8/16	\$114,175.00	0 hrs																							
138	MCWRA Review	15 days	Tue 8/2/16	Mon 8/29/16	\$0.00	0 hrs																							
139	Subtask 3.3 Draft EIR	12 days	Tue 8/30/16	Wed 9/14/16	\$57,850.00	0 hrs																							
140	MCWRA Finalization	15 days	Thu 9/15/16	Wed 10/5/16	\$0.00	0 hrs																							
141	MCWRA Internal approval process	5 days	Thu 10/6/16	Wed 10/12/16	\$0.00	0 hrs																							
142	Distribution	5 days	Thu 10/13/16	Wed 10/19/16	\$0.00	0 hrs																							
143	Public Review Period (45 calendar days)	45 edays	Wed 10/19/16	Sat 12/3/16	\$0.00	0 hrs																							
144	Prepare Public Meeting Materials	20 days	Thu 10/20/16	Wed 11/16/16	\$0.00	0 hrs																							
145	Public Meeting	0 days	Wed 11/16/16	Wed 11/16/16	\$0.00	0 hrs																							
146	Task 4 Prepare Final EIR	135 days	Mon 12/5/16	Sat 6/10/17	\$221,283.00	0 hrs																							
147	Subtask 4.1 Draft Responses to Comments	30 days	Mon 12/5/16	Fri 1/13/17	\$117,042.00	0 hrs																							
148	MCWRA Review	15 days	Mon 1/16/17	Fri 2/3/17	\$0.00	0 hrs																							
149	Subtask 4.2 Administrative Final EIR	15 days	Mon 2/6/17	Fri 2/24/17	\$40,400.00	0 hrs																							
150	MCWRA Review	15 days	Mon 2/27/17	Fri 3/17/17	\$0.00	0 hrs																							
151	Subtask 4.3 Screen Check Final EIR	8 days	Mon 3/20/17	Wed 3/29/17	\$12,201.00	0 hrs																							
152	MCWRA Review	15 days	Thu 3/30/17	Wed 4/19/17	\$0.00	0 hrs																							
153	Subtask 4.4 Final EIR	5 days	Thu 4/20/17	Wed 4/26/17	\$26,440.00	0 hrs																							

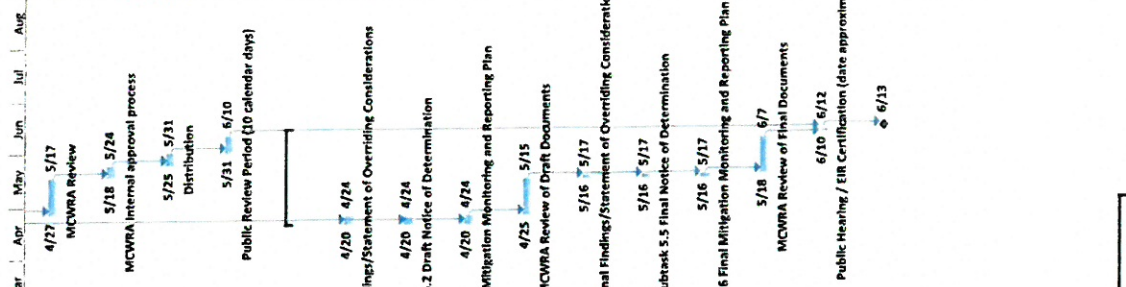


ATTACHMENT A - Project Schedule
Interlake Tunnel and Spillway Modification
Monterey County Water Resources Agency
DECEMBER 21, 2015

ID	Task Name	Duration	Start	Finish	Cost	Work	Loc 1	2016	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
154	MCWRA Review	15 days	Thu 4/27/17	Wed 5/17/17	\$0.00	0 hrs											
155	MCWRA Internal approval process	5 days	Thu 5/18/17	Wed 5/24/17	\$0.00	0 hrs											
156	Distribution	5 days	Thu 5/25/17	Wed 5/31/17	\$0.00	0 hrs											
157	Public Review Period (10 calendar days)	10 days	Wed 5/31/17	Sat 6/10/17	\$0.00	0 hrs											
158	Task 5: Findings, SOC, MOD, MMWP	39 days	Thu 4/20/17	Tue 6/13/17	\$25,115.00	0 hrs											
159	Subtask 5.1 Draft Findings/Statement of Overriding Considerations	3 days	Thu 4/20/17	Mon 4/24/17	\$9,822.00	0 hrs											
160	Subtask 5.2 Draft Notice of Determination	3 days	Thu 4/20/17	Mon 4/24/17	\$1,591.00	0 hrs											
161	Subtask 5.3 Draft Mitigation Monitoring and Reporting Plan	3 days	Thu 4/20/17	Mon 4/24/17	\$2,742.00	0 hrs											
162	MCWRA Review of Draft Documents	15 days	Tue 4/25/17	Mon 5/15/17	\$0.00	0 hrs											
163	Subtask 5.4 Final Findings/Statement of Overriding Considerations	2 days	Tue 5/16/17	Wed 5/17/17	\$3,880.00	0 hrs											
164	Subtask 5.5 Final Notice of Determination	2 days	Tue 5/16/17	Wed 5/17/17	\$575.00	0 hrs											
165	Subtask 5.6 Final Mitigation Monitoring and Reporting Plan	2 days	Tue 5/16/17	Wed 5/17/17	\$865.00	0 hrs											
166	MCWRA Review of Final Documents	15 days	Thu 5/18/17	Wed 6/7/17	\$0.00	0 hrs											
167	Public Hearing / EIR Certification (date approximate)	1 day	Sat 6/10/17	Mon 6/12/17	\$5,640.00	0 hrs											
168	File Notice of Determination	0 days	Tue 6/13/17	Tue 6/13/17	\$0.00	0 hrs											
169	Task 6: Public Meetings	173 days?	Mon 1/4/16	Wed 8/31/16	\$17,764.00	0 hrs											
170	Public Scoping Meeting for EIR	23 days?	Mon 1/4/16	Wed 2/3/16	\$8,882.00	0 hrs											
171	Public Review Meeting for Draft EIR	44 days?	Fri 7/1/16	Wed 8/31/16	\$8,882.00	0 hrs											
172	Task 7: Public Outreach	347 days?	Mon 1/4/16	Mon 5/2/17	\$80,164.00	0 hrs											

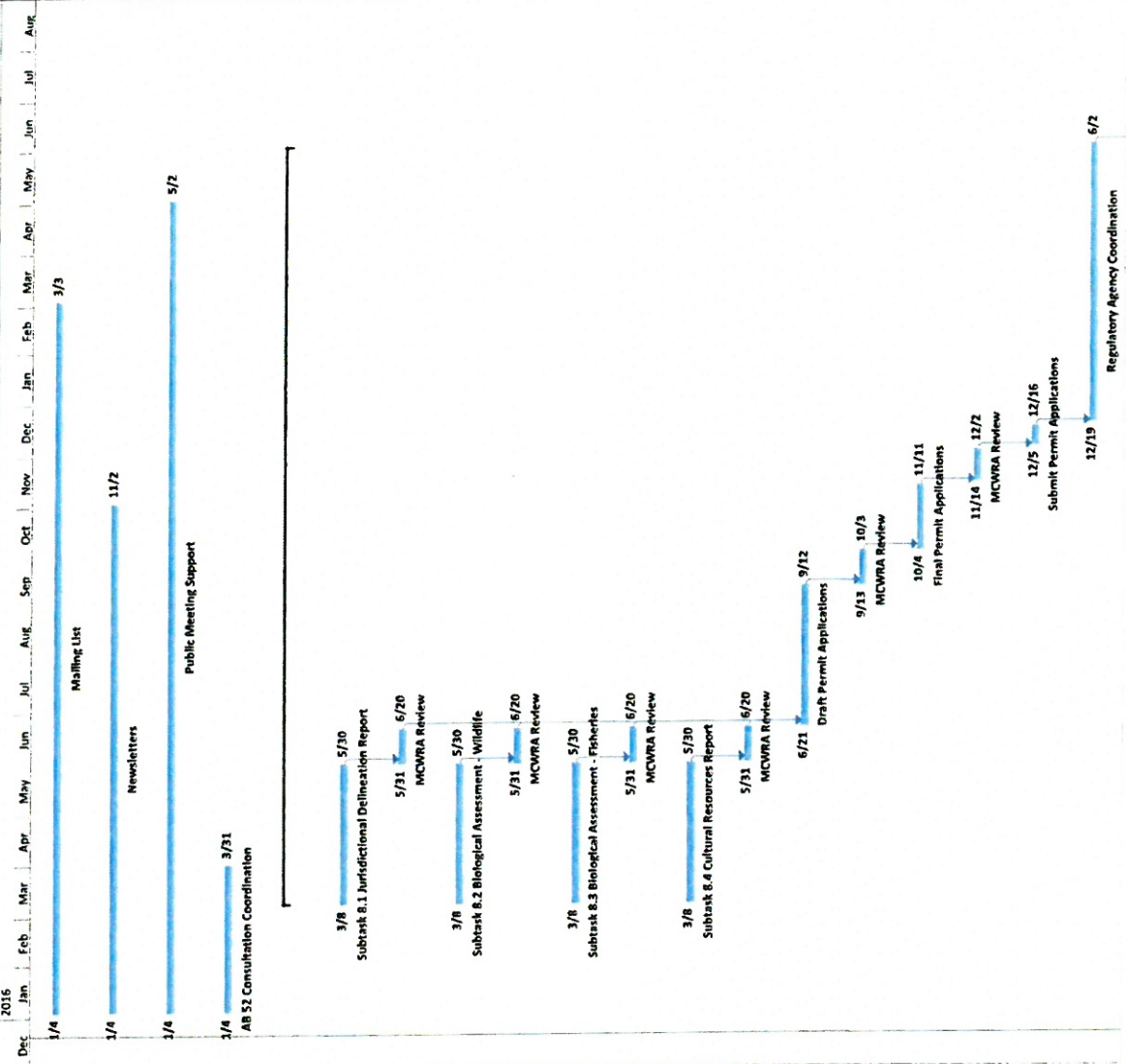
1/4 2/3
Public Scoping Meeting for EIR

7/1 8/31
Public Review Meeting for Draft EIR



ATTACHMENT A - Project Schedule
Interlake Tunnel and Spillway Modification
Monterey County Water Resources Agency
DECEMBER 21, 2015

ID	Task Name	Duration	Start	Finish	Cost	Work	Loc 1
173	Mailing List	305 days	Mon 1/4/16	Fri 3/3/17	\$10,260.00	0 hrs	
174	Newsletters	218 days	Mon 1/4/16	Wed 11/2/16	\$29,020.00	0 hrs	
175	Public Meeting Support	347 days	Mon 1/4/16	Tue 5/2/17	\$30,830.00	0 hrs	
176	AB 52 Consultation Coordination	64 days	Mon 1/4/16	Thu 3/31/16	\$10,054.00	0 hrs	
177	Task 8 Permitting	324 days	Tue 3/8/16	Fri 6/2/17	\$445,048.00	0 hrs	
178	Subtask 8.1 Jurisdictional Delineation Report	60 days	Tue 3/8/16	Mon 5/30/16	\$59,675.00	0 hrs	
179	MCWRA Review	15 days	Tue 5/31/16	Mon 6/20/16	\$0.00	0 hrs	
180	Subtask 8.2 Biological Assessment - Wildlife	60 days	Tue 3/8/16	Mon 5/30/16	\$25,955.00	0 hrs	
181	MCWRA Review	15 days	Tue 5/31/16	Mon 6/20/16	\$0.00	0 hrs	
182	Subtask 8.3 Biological Assessment - Fisheries	60 days	Tue 3/8/16	Mon 5/30/16	\$22,655.00	0 hrs	
183	MCWRA Review	15 days	Tue 5/31/16	Mon 6/20/16	\$0.00	0 hrs	
184	Subtask 8.4 Cultural Resources Report	60 days	Tue 3/8/16	Mon 5/30/16	\$49,175.00	0 hrs	
185	MCWRA Review	15 days	Tue 5/31/16	Mon 6/20/16	\$0.00	0 hrs	
186	Draft Permit Applications	60 days	Tue 6/7/16	Mon 9/12/16	\$178,805.00	0 hrs	
187	MCWRA Review	15 days	Tue 9/13/16	Mon 10/3/16	\$0.00	0 hrs	
188	Final Permit Applications	29 days	Tue 10/4/16	Fri 11/11/16	\$48,165.00	0 hrs	
189	MCWRA Review	15 days	Mon 11/14/16	Fri 12/2/16	\$0.00	0 hrs	
190	Submit Permit Applications	10 days	Mon 12/5/16	Fri 12/16/16	\$0.00	0 hrs	
191	Regulatory Agency Coordination	6 mos	Mon 12/19/16	Fri 6/2/17	\$110,618.00	0 hrs	



ATTACHMENT A - Project Schedule
 Interlake Tunnel and Spillway Modification
 Monterey County Water Resources Agency
 DECEMBER 21, 2015

ID	Task Name	Duration	Start	Finish	Cost	Work	Loc 1	2016																							
								Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug			
192	Permits Issued	0 days	PM 6/2/17	PM 6/2/17	\$0.00	0 hrs																									

6/2

Attachment B Environmental Compliance for the Inland Tunnel and Spillway Modification - RFP #1032 Cash Flow Projections - December 31, 2015																					
Task	Task Name / Description	Total per Bib-Tech	2015					2016					2017								
			Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	
1	Project Management and Team Coordination	\$250,000	\$ 18,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,017	\$ 6,000	\$ 15,017	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000
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93	Project Work Plan	\$ 3,300	\$ 3,300																		
94	Project Work Plan	\$ 3,300	\$ 3,300																		
95	Project Work Plan	\$ 3,300	\$ 3,300																		
96	Project Work Plan	\$ 3,300	\$ 3,300																		
97	Project Work Plan	\$ 3,300	\$ 3,300																		
98	Project Work Plan	\$ 3,300	\$ 3,300																		
99	Project Work Plan	\$ 3,300	\$ 3,300																		
100	Project Work Plan	\$ 3,300	\$ 3,300																		
101	Project Work Plan	\$ 3,300	\$ 3,300																		
102	Project Work Plan	\$ 3,300	\$ 3,300																		
103	Project Work Plan	\$ 3,300	\$ 3,300																		
104	Project Work Plan	\$ 3,300	\$ 3,300																		
105	Project Work Plan	\$ 3,300	\$ 3,300																		
106	Project Work Plan	\$ 3,300	\$ 3,300																		

Attachment C

ASSIGNMENT AND NOVATION AGREEMENT

THIS AGREEMENT is entered this ____ day of _____, 20____, by and among **MONTEREY COUNTY WATER RESOURCES AGENCY** (hereinafter **Owner**), a public entity in the State of California existing by virtue of the Monterey County Water Resources Agency Act, (Chapter 52 of the Water Code Appendix), **HORIZON WATER AND ENVIRONMENT, LLC** (hereinafter Consultant) and **[INSERT NAME OF CONSTRUCTION CONTRACTOR]** (hereinafter "**Contractor**").

WHEREAS, Owner and Consultant have entered into a certain Professional Services Agreement No. ____ (PSA No.) for the Work or Supply as defined therein to Owner with respect to the Environmental Consulting and Related Services (Purchase Order or **Procurement**) for Owner's Interlake Tunnel Project (**Project**), which PSA No. was dated the ____ day of _____, 20____, and is incorporated herein by reference for identification only; and

WHEREAS, Owner has entered into a construction contract with Contractor for the Project, which contract, Project No. __, was entered into on the __ day of _____, 20____, and is incorporated into this Agreement by reference (**Construction Contract**); and

WHEREAS, to date Owner has paid Consultant \$_____ under the Purchase Order;

WHEREAS, Owner, Consultant and Contractor now desire to permit the assignment of the Purchase Order by Owner to Contractor and the assumption by Contractor of Owner's liability, if any, to Consultant thereunder, so as to substitute Contractor for Owner and thus cause a novation of the Purchase Order; and

WHEREAS, the parties hereto desire to make this Assignment and Novation because, under the terms of the Construction Contract, Contractor is obligated to Owner to provide the Work which is the subject of the Purchase Order and the parties desire that Consultant provide such Services to Contractor, and that Contractor and Consultant release Owner with respect to the Purchase Order in accordance with the terms of this Agreement; and

WHEREAS, Contractor has provided Owner with a labor and material payment bond in the full amount of the Construction Contract; and

WHEREAS, Contractor's acceptance of the assignment and novation of the Purchase Order is "as is", with no new or additional terms and conditions being imposed upon Consultant by Contractor, except as otherwise provided in the Procurement Documents.

NOW, THEREFORE, the parties agree as follows:

- 1.01. **Assignment of Purchase Order and Liabilities:** For good and valuable consideration, the receipt of which is hereby acknowledged, Owner hereby grants and assigns to Contractor all its right, title and interest in and to the Purchase Order and all liabilities, duties and obligations of Owner arising out of or relating to the Purchase Order. Notwithstanding any other provision of this Assignment and Novation Agreement, Owner retains all of its contractual rights under its contract with Consultant concerning Consultant's performance and guarantees and warranties respecting the Work under the PSA No. , whether said performance occurs or the Work is provided before or after the date of this Assignment and Novation Agreement, and all rights regarding Consultant's insurance obligations from and after substantial completion of the Project. Owner remains an express third party beneficiary of the Purchase Order.

Dated: _____

COUNTY OF MONTEREY

By _____

Name and Title

- 1.02. **Assumption of Assignment, Liabilities and Novation:** The undersigned authorized representative of (Insert Name of Contractor) hereby accepts the foregoing assignment, agrees to assume and perform all duties and obligations to be performed by Owner under the Purchase Order therein specified to the same extent as if Contractor had been an original party thereto, agrees to assume all liabilities, duties and obligations of Owner arising out or relating to the Purchase Order, and agrees to the fullest extent permitted by law to release, defend, indemnify and hold Owner harmless from any and all claims, demands, actions, causes of action, suits, proceedings, damages, liabilities and costs and expenses of every nature whatsoever relating to said PSA No. arising out of or with respect to the performance or non-performance of its duties and obligations.

Dated: _____ [Insert Contractor Name]

By _____

_____, President

By _____

_____, Secretary

The payment bond surety and performance bond surety of Contractor hereby consents to the Assumption of Assignment, Liabilities and Novation and grants Consultant and Owner all rights, benefits and privileges under its bonds issued with Contractor as otherwise afforded as if Consultant were an original Consultant or Consultant to Contractor from inception.

Contractor's Payment Bond Surety:

Contractor's Performance Bond Surety:

By _____

By _____

Title _____

Title _____

- 1.03. **Consent by Consultant to Assignment, Assumption and Novation:** The undersigned authorized representative of Horizon Water and Environment, LLC hereby consents to the foregoing assignment by Owner to Contractor of the Purchase Order and Owner's liabilities, duties and obligations thereunder and Contractor's assumption of the same, agrees to look solely to Contractor for the proper performance of said contract, agrees to and does release Owner from any and all claims, demands, actions, causes of action, suit, proceeding, damages, liabilities and costs and expenses of every kind and nature whatsoever arising out of or relating to the Purchase Order, except with respect to any rights as a stop notice claimant pursuant to the California Civil Code (if applicable), and agrees that this assignment and assumption shall be effective as a substitution of parties and shall constitute a novation pursuant to California Civil Code Section 1531 and shall be final except as provided in Section 1533.

Dated: _____ [Insert Consultant Name]

By _____

_____, President

By _____,
_____, Secretary

The supply bond surety of Consultant hereby consent to the Assumption of Assignment, Liabilities and Novation and grants Contractor and Owner all rights, benefits and privileges under its bonds issued with Consultant as otherwise afforded as if Consultant were an original Consultant or Consultant to Contractor from inception. Owner remains an express third party beneficiary of the PSA No. .

Consultant's Supply Bond Surety:

By _____

Title _____

END OF DOCUMENT