

## **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 McMillen Jacobs Associates, hereinafter referred to as “CONTRACTOR.”

### **RECITALS**

WHEREAS, MCWRA has invited proposals through the Request for Proposals (RFP #10531) for Preliminary Engineering and Design Services for the Interlake Tunnel and Spillway Modification 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 #10531 and in this AGREEMENT on the terms and conditions contained herein and in RFP #10531. 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 Appendix  
RFP #10531 Addenda #1, 2,3,4,5 and 6; and  
RFP #10531 issued March 30, 2015 including all attachments and exhibits  
CONTRACTOR’S Proposal dated June 5, 2015,  
Payment and Performance Bonds  
Certificate of Insurance  
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 Appendix, RFP #10531 Addenda # 1,2,3,4,5 and 6, RFP #10531 including all attachments and exhibits, Bonds, Certificate of Insurance, and Additional Insured Endorsements.
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- 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, nor 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 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 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.
- [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.

## **2.0 SCOPE OF SERVICE**

See Exhibit A – Scope of Work

## **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 The AGREEMENT shall contain a clause that provides that 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.
- 3.4 This AGREEMENT is contingent upon the successful funding of a grant from the California Department of Water Resources for the Interlake Tunnel project in an adequate amount as determined solely by MCWRA.

## 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 TWO MILLION FIVE HUNDRED SEVENTY TWO THOUSAND SIX HUNDRED THIRTY FIVE dollars (\$2,572,097) for Interlake Tunnel design (inclusive of all costs and expenses, including sub-consultants) and ONE MILLION SEVEN HUNDRED SIXTY SIX THOUSAND SIX HUNDRED NINETY TWO Dollars (\$1,766,692) for the San Antonio Spillway Modification design (inclusive of all costs and expenses, including sub-consultants). Optional Tasks to be determined by MCWRA may be included for the maximum amount of \$262,000. The

maximum amount payable to CONTRACTOR for this Project in the aggregate is FOUR MILLION SIX HUNDRED THOUSAND SEVEN HUNDRED EIGHTY NINE dollars (\$4,600,789) inclusive of all costs and expenses, including sub-consultants.

## **S5.0 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.
- 5.3 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 that arise out of, or pertain to, or relate to 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 sole 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:

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 CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the MCWRA and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10

01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

- 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.

CONTRACTOR shall not make available to the State without a confidentiality agreement, or place in the public domain, any documents that relate to, depict or describe what may be considered critical infrastructure, as defined in any law or regulation, including (without limitation) Homeland Security Presidential Directive 7, as further defined in FERC Order No. 630, issued February 21, 2003.

- 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.

## **11.0 CONFLICT OF INTEREST**

- 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:  
Morton D. McMillen  
1401 Shoreline Drive  
Boise, ID 83702

Tel. No. 208-342-4214  
FAX No. 208-342-4216  
Email mortmcmillen@mcmjac.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.

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--**

## **EXHIBITS AND SIGNATURE PAGE**

### **EXHIBIT-A SCOPE OF WORK**

#### **DESIGN SERVICES SCOPE OF WORK**

##### **A.1.0 Introduction:**

The Interlake Tunnel Project and San Antonio Spillway Modification Project (collectively referred to as “Projects”) are two separate and distinct projects intended to provide flood control, increase the net available water, and increase the net total storage available in Nacimiento and San Antonio Reservoirs located in San Luis Obispo and Monterey Counties respectively.

The Interlake Tunnel Project involves preparing preliminary engineering for the project design for a gravity flow water conveyance tunnel from Nacimiento Reservoir to San Antonio Reservoir. The Interlake Tunnel has been mandated by Monterey County Water Resources Agency (MCWRA) to be procured using the Design-Build methods in compliance with California Assembly Bill 155 (AB155) for the final design and construction of the project.

California Senate Bill 831 (SB 831) has directed that the San Antonio Spillway modification project be procured using Design Build methods under AB 155.

The San Antonio Spillway Modification Project consists of preliminary design for modifications to the existing spillway at San Antonio Reservoir by raising it ten feet to gain an increase of storage capacity in the San Antonio Reservoir. The San Antonio Spillway Modification Project is dependent upon the Interlake Tunnel Project, without which the spillway modification is not warranted. The San Antonio Spillway Modification involves approval from the California Department of Water Resources, Division of Safety and Dams (DSOD) and will be procured using the design- build procurement approach. The preliminary engineering work necessary for defining the scope of work for the Design-Build contract documents for the Spillway Modification must be adequate to obtain DSOD approval of the Design Build contract process and schedule, the preliminary design approach and submittal, DSOD requirements for final approval of the DB contractors final design package, or intent to approve, removing this regulatory risk from the DB contractor’s scope of work.

The design services scope of work for the Projects includes all professional services and associated design engineering services necessary to prepare the documents for both projects. The Projects are currently being managed by EPC, a program management consulting firm, under contract with MCWRA to provide program management services.

##### **A.1.0.1 Amendment of Agreement:**

This Agreement, including any exhibit hereto, may be amended by mutual agreement of the parties in writing. Any such amendments, when authorized only by the General Manager, are subject to review and approval by the County Counsel, may not exceed three (3) in number, and may not increase the contract amount or significantly change the scope of the Project.

## **A.2.0 Objectives:**

The services specified within this Scope of Work are performance-based, and the CONTRACTOR is required to identify in the proposal the specific detailed scope of work necessary to meet the following objectives of the MCWRA and the Projects as follows:

- 1) Perform design consulting services to produce preliminary design documents, specifications and contract bridging documents for the procurement of Design-Build services for the Interlake Tunnel and Spillway Modification Project in compliance with California Assembly Bill 155 (AB155).
  - 2) Preparation of design and construction contract bidding documents for the design -build delivery of the San Antonio Spillway Modification Project.
  - 3) Preparation of technical documents to support the draft and final EIR environmental and regulatory approval for both Projects.
  - 4) Preparation of an Engineer's Report and detailed capital and operating cost estimates for the Projects to achieve 95% confidence of probable costs certified by the CONTRACTOR to support a California Proposition 218 tax assessment ballot and project finance plan.
  - 5) Establish goals to design the Projects with the capital cost constraints established for each project.
- MCWRA Responsibilities

Work and responsibilities that will be performed by MCWRA include:

- Providing all relevant data including the conceptual design engineering analysis and reports for the tunnel and spillway work.
- Overall program direction including on-going technical review.
- Arranging project interim and permanent financing.
- Oversight of the selected Environmental Consultant performing environmental impact assessments and services in support of design of the Projects.
- Management of certain activities performed by others including the Program Management consultant.
- Community involvement and community relations not specifically included in the Scope of Work.
- Administration of all contracts and agreements relevant to the project including payment for services.
- Coordination with other public agencies.
- Acquisition of property, rights-of-way and easements for the Projects.
- Acquisition of LiDAR topographic survey information (Refer to RFP 10591)

## **A.3.0 Work Tasks:**

The design consultant engineering firm is herein referred to as "CONTRACTOR". The Scope of Work for the CONTRACTOR services presumes that the CONTRACTOR will be an engineering firm or joint venture led by an engineering firm that will be responsible for coordination of all subcontractors that make up the team providing their specialized professional services for the proposed scope of work.

### **A.3.0.1 Project Management and Team Coordination:**

The CONTRACTOR shall provide the management and staff needed to plan, organize, direct, supervise, control and coordinate the administrative aspects of the Projects 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 Scope of Work.

The CONTRACTOR shall perform the following project management duties to support the MCWRA (and the Program Manager) in the performance of the scope of work for both the Interlake Tunnel Project and the San Antonio Spillway Modification Projects:

- A.3.0.1.1 Prepare project work plan; and
- A.3.0.1.2 Diligent budget and schedule control measures for the design and bidding phases of the work; and
- A.3.0.1.3 Design the projects with the goal of staying within capital cost limitations established; and
- A.3.0.1.4 Development and monthly updates of a project schedule that includes design and bidding phase tasks; and
- A.3.0.1.5 Development of a planning level construction phase schedule to assist the MCWRA executives with management decisions; and
- A.3.0.1.6 Development and updates of a complete project capital cost estimate; and
- A.3.0.1.7 Provide monthly progress reporting in the format specified by the MCWRA, included with the submittal of monthly invoicing. Progress reporting shall include reports from the significant sub-consultant team members. Progress reports shall 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
- A.3.0.1.8 Submit timely invoicing, including invoicing from sub-consultants, in the format specified by MCWRA; and
- A.3.0.1.9 Development and utilization of a project design-phase file system, and shared with the Project team for uniformity; and
- A.3.0.1.10 Develop, implement and maintain a design quality control system; and
- A.3.0.1.11 Arrange for team meetings, including on-site meetings, and on-line meetings. On-line meetings shall utilize both audio and live streaming display of information; and
- A.3.0.1.12 Workshop planning and presentations associated with various scope items; and
- A.3.0.1.13 Participation in the Project's executive leadership team meetings organized by MCWRA and the Program Manager on a weekly bases, as needed, and as requested; and
- A.3.0.1.14 Coordinate the design work, operations plan and alternatives analysis with the environmental consultants retained separately by MCWRA to perform environmental clearance and permitting services for the projects; and
- A.3.0.1.15 Development of the Engineer's Report in conformance with the requirements of Proposition 218 tax assessment financing for use by MCWRA in the establishment of project financing via the Proposition 218 process; and
- A.3.0.1.16 Support MCWRA as a liaison of the Proposition 218 process with engineering cost estimates, benefit-cost evaluations, and preparation of information for release by MCWRA to the public for meetings and hearings including consideration of downstream benefits including, but not limited to Zone 2C and other areas of the Salinas Valley; and
- A.3.0.1.17 Prepare all deliverables in electronic (Microsoft Word to facilitate editing draft documents) and original software format customary of engineering design projects.

#### **A.4.0 Design-Build Contract Documents for the Interlake Tunnel Project**

- A.4.0.1 CONTRACTOR shall produce the design-build contract documents and Statement of Qualifications (SOQ) and Request for Proposal (RFP) in accordance with the requirements of AB 155 to procure a design-builder for the Interlake Tunnel Project. The CONTRACTOR's level of design shall be determined by the CONTRACTOR to achieve a certifiable 95% confidence of probable costs (anticipated to be 75% complete) before the design-build solicitation is released. The design-build RFP documents shall include the general and special provisions, general and technical requirements, the technical drawings and specifications, reference information, environmental and permitting information developed by the Environmental Consultant, and draft Design Build contract agreement.
- A.4.0.2 CONTRACTOR shall design the tunnel to be constructible within the capital cost constraints of the project taking into consideration hydraulics, alignment, environmental impact mitigation, constructability, tunnel configuration, and site conditions. The tunnel must be designed with careful consideration for geotechnical conditions and to minimize the construction impacts to property, facilities including groundwater wells, and the existing environment.
- a) Review and evaluate conceptual design and perform preliminary design of tunnel alignment, grade, diameter and operating function to the extent that design criteria for the project can be finalized (approximately 30% design).
  - b) Work with MCWRA to confirm the initial operating criteria used as the basis for conceptual design and develop proposed operating criteria for the tunnel that is compliant with discharge requirements, operating rules, requirements and water rights for the two reservoirs.
  - c) Prepare preliminary engineering reports and presentations at 30%, 60% and 90% completion of the scope of work.
  - d) Prepare design criteria and engineering design requirements for final design of the project.
- A.4.0.3 CONTRACTOR shall review the following project elements developed during the conceptual design and provide comments and any suggested alternatives. CONTRACTOR shall work closely with MCWRA in the determination of any prescriptive aspects of the design-build documents for these elements.
- a) The Nacimiento Intake Facility; shapes, positions, and dimensions;
  - b) Interlake Tunnel shape, alignment, and finished diameter.
  - c) The San Antonio Outlet Valve Facility; shapes, positions, and dimensions and the Energy Dissipating Structure;
  - d) Valve(s) with accumulator backup for control of the water between the two reservoirs.
  - e) Interlake Tunnel fish exclusion system.
- A.4.0.4 Identify and recommend to MCWRA, and seek approval, of any equipment procurement packages that would benefit MCWRA.
- A.4.0.5 Perform any site survey work deemed necessary by the Contractor to augment the survey work performed by MCWRA which includes but not limited to: establishment of the horizontal control for the Project (note that the horizontal control at the two lakes are based on different



zones of the state plane coordinate system, and the coordinates between the two shall include conversion of the state plane coordinate system of the hydraulic structures at the two lakes into the same state plane coordinate system, suggesting that facilities at San Antonio use the Zone 5 coordinate system); establishment of the vertical control for the Project using the same vertical control of Nacimiento Reservoir and Dam; detailed site topographic surveys and mapping of adequate area at a scale of 1-inch equals 20-feet for all intake and outlet facility sites to facilitate detailed planning and design; plan-profile surveys and mapping of the tunnel alignment at a scale of 1-inch equals 40-feet. (Refer to RFP 10591 regarding survey data that will be collected by MCWRA's surveying consultant and made available to the Contractor.)

- A.4.0.6 Assist MCWRA as needed with support for rights-of-way, including but not limited to, the following: exhibits of legal descriptions (drafts and finals) of the parcel lines and project's rights-of-way on private properties, legal description sketches and engineering sketches that depict MCWRA's infrastructure and the rights sought on private properties, research of existing rights-of-ways by others and the depiction and presentation of those rights on the project's rights-of-way exhibits, research of existing parcel boundaries necessary to develop the project's rights-of-way exhibits. Assume that MCWRA will need to secure easements from 10 private property owners. MCWRA will process all easements with the landowners. The CONTRACTOR is requested to propose a lump sum unit cost per private property owner associated with the specified support services and include it with Attachment J – Sealed Submittal of Lump Sum Proposal.
- A.4.0.7 Perform all geotechnical field exploration and laboratory analyses and reporting. Develop a geotechnical exploration, testing, and reporting plan for review and comment by MCWRA. Incorporate MCWRA comments, and provide liaison support to MCWRA with meeting and discussing the plan with the California Department of Water Resources, Division of Safety of Dams (DSOD), and Federal Energy Regulatory Commission (FERC). Incorporate DSOD and FERC comments.
- A.4.0.8 Implement the geotechnical plan. Prepare draft geotechnical data report and geotechnical interpretative report for review and comment by MCWRA. Incorporate MCWRA's comments into final versions of these documents. Prepare a draft Geotechnical Baseline Report (GBR) for the hydraulic structures and the tunnel, and submit to MCWRA for review and comment. Incorporate the comments and issue a final report.
- A.4.0.9 CONTRACTOR shall provide preparation of technical documents and operations plan to support the environmental consultants with the impact and alternatives analyses, including responses to comments and environmental and regulatory approval for the Projects.
- A.4.0.10 Prepare and submit 30%, 60% and 100% design-build documents including PS&E to MCWRA to review and comment. Incorporate MCWRA comments.
- A.4.0.11 Provide a final version of the design-build documents for use by MCWRA to process as the request for proposals.
- A.4.0.12 Support the MCWRA during the design-build request for proposal phase, including: respond to technical questions submitted by proposers to the MCWRA, prepare addenda to the request for proposals which include design modifications to the PS&E, assist the MCWRA with proposal evaluations.

- A.4.0.13 Support the MCWRA in the application process for electrical utilities at the Nacimiento Intake Facility and San Antonio Outlet Valve Facility, and any other location that may need electrical services.
- A.4.0.14 Coordinate with the building and planning departments for the “plan check” review process of both Monterey and San Luis Obispo counties. Ascertain how the process is to be implemented by the design-builder, and specify the requirements within the design-build documents.
- A.4.0.14 Assist the MCWRA and Program Manager with preparation of outreach meeting exhibits and handouts. Assume 1 outreach meeting every 2 months over the design duration.

#### **A.5.0 Design -Build Contract Documents for the San Antonio Spillway Modification Project**

- A.5.0.1 The CONTRACTOR shall perform preliminary engineering and prepare Design-Build bidding documents for the San Antonio Spillway Modification Project. The bidding documents shall include the general and special conditions, general requirements, the technical drawings and specifications, the technical reference information, and the environmental and permitting information adequate to describe the scope of the project for the Design-Build contractor.
- A.5.02 Evaluate the upstream facilities that would be inundated as a result of the increased capacity of San Antonio Reservoir and submit in the form of a report to MCWRA.
- A.5.0.3 Identify and recommend to the MCWRA, and seek approval, of any equipment procurement packages that would benefit the MCWRA.
- A.5.0.4 Perform any site survey work deemed necessary by the Contractor to augment survey work performed by MCWRA which includes but not necessarily limited to: establishment of the horizontal control for the project using Zone 4 of the state plane coordinate system (confirm the control matches existing control at San Antonio Dam); establishment of the vertical control for the project using the same vertical control of San Antonio Dam; detailed site topographic surveys and mapping of the spillway facility at a scale of 1-inch equals 10-feet; plan-profile surveys and mapping of the spillway entrance channel and discharge chute at a scale of 1-inch equals 20-feet. (Refer to RFP 10591 regarding survey data that will be collected by MCWRA’s surveying consultant and made available to the Contractor.)
- A.5.0.5 Confirm the hydraulic design of the MCWRA’s proposed spillway modification, and confirm the hydrology routing of the Probable Maximum Flood (PMF) through the revised San Antonio Reservoir Spillway.
- A.5.0.6 Perform all geotechnical field exploration and laboratory analyses and reporting. Develop a geotechnical exploration, testing, and reporting plan for review and comment by the MCWRA. Incorporate MCWRA comments, and provide liaison support to MCWRA with meeting and discussing the plan with the California DSOD. Incorporate DSOD comments.
- A.5.0.7 Implement the geotechnical plan. Prepare draft geotechnical data report (GDR) and geotechnical interpretative report (GIR) for review and comment by the MCWRA. Incorporate MCWRA’s comments into final versions of these documents. Provide liaison support to the

MCWRA with meeting and discussing the GDR and GIR with the California DSOD. Incorporate DSOD comments and issue these as final.

- A.5.0.8 Perform a Value Engineering study on the 30-percent design.
- A.5.0.9 The energy loss capabilities of any San Antonio Energy Dissipating Structure shall be evaluated by use of a physical hydraulic model because it is judged to be sufficiently outside the parameters specified by the United States Bureau of Reclamations. Furthermore, identify and recommend to the MCWRA, and seek approval, of any physical hydraulic modeling deemed necessary for the performance of the other hydraulic structures. Upon approval, procure the services, perform witness testing, and issue the final report. Provide liaison support to the MCWRA reviewing the hydraulic model results with the DSOD .
- A.5.5.10 Prepare physical hydraulic modeling specification, witness testing, and final report. Provide liaison support to the MCWRA with meeting and discussing the hydraulic model results with the DSOD.
- A.5.0.11 CONTRACTOR shall coordinate and provide technical documents and operations plan to support the environmental consultants throughout the design of the Projects.
- A.5.0.12 Prepare and submit 30, 60, and 90 percent design-build documents including PS&E to MCWRA for review and comment. Incorporate MCWRA comments, and provide submittal sets for DSOD review and comments. Incorporate DSOD comments.
- A.5.0.13 Prepare and submit 100-percent design-build documents including PS&E for MCWRA review and comment. Incorporate MCWRA comments and provide liaison support to the MCWRA with meeting and discussing the design with the DSOD. Incorporate DSOD comments.
- A.5.0.14 Prepare final design-build bidding documents, including PS&E for the MCWRA to submit to the MCWRA's Board of Supervisors and the MCWRA Board of Directors for approval to release for bidding.
- A.5.0.15 Support the MCWRA during the bidding phase, including: respond to technical questions submitted by bidders to the MCWRA, prepare bidding addenda which include design modifications to the PS&E, assist the MCWRA with bid tabulation evaluation, and preparation of camera-ready Conformed set of contract documents for the MCWRA's use in making award to the successful bidder.
- A.5.0.16 Support the MCWRA in the application process for electrical utilities at the San Antonio Spillway.
- A.5.0.17 Coordinate with the building and planning departments for the "plan check" review process of Monterey County.

## **A.6.0 Schedule**

The CONTRACTOR as part of their submittal shall provide a proposed schedule of project activities and timing of the activities. The CONTRACTOR shall schedule a kick-off meeting with the MCWRA within ten (10) days after the Notice to Proceed is issued. The overall program has the following anticipated timeline schedule:

## A.6.0.1 RFP Process for Design Engineering Services:

<b>Event</b>	<b>Due Date</b>
Advertise RFP:	March 2015
Receive Proposals:	June 2015
Notice to Proceed:	December 2016

## A.6.0.2 Design Engineering Services:

Survey and Geotechnical Services:	December 2016 – May 2017
Preliminary Engineering:	January 2017 – June 2017
Engineer's Report (Prop 218):	January 2016 – April 2018
Interlake Tunnel and Spillway Modification Design-Build Statement of Qualifications Solicitation:	September 2017

## A.6.0.3 Other Program Schedule Activities:

<b>Event</b>	<b>Due Date</b>
Preparation of Draft EIR	October 2016 – November 2017
Final EIR approved	April 2018
Land Use Permit Applications to Permitting Agencies:	March 2017
Project financing closed	February 2019
Design-Build Selection Process:	September 2017 – February 2018
Notice to Proceed to Contractors	September 2018

## A.7.0 Budget

- A.7.0.1 The CONTRACTOR shall provide a sealed lump sum proposal organized by task as Attachment-J to the Contract. The budget shall clearly identify costs for work associated with the Interlake Tunnel Project, and costs associated with the San Antonio Spillway Modification Project.
- A.7.0.2 The MCWRA has identified a need for diligent budget controls. The CONTRACTOR shall provide detailed discussions on the budget management and mitigation techniques used for projects of similar complexity. The discussion shall identify the role that the MCWRA and the MCWRA's Program Manager have in the budget controls process.
- A.7.0.3 The established total capital cost (inclusive of design, construction management, construction costs, and contingency) targets for the Projects are as follows:

- Interlake Tunnel \$53,500,000
- San Antonio Spillway Modification \$15,000,000

## EXHIBIT B - PAYMENT FOR SERVICES

Project: **Interlake Tunnel Final Design**

Task	Description	Total Amount
<b>1 Project Management and Team Coordination</b>		
1.1	Prepare project work plan	\$7,520
1.2	Establish and maintain budget and schedule control measures	\$19,040
1.3	Develop & monthly design & bidding phase project schedule updates	\$18,080
1.4	Develop planning level construction phase schedule	\$15,120
1.5	Develop & monthly updates of project capital cost estimate	\$34,440
1.6	Monthly progress reporting for schedule and budget	\$23,040
1.7	Prepare / submit invoicing	\$17,568
1.8	Develop / utilize project design file system for Project Team	\$8,932
1.9	Develop / maintain design QC system	\$17,200
1.10	Arrange / conduct team / onsite / online meetings (18)	\$121,200
1.11	Workshop planning and presentations (see individual scope items)	
1.12	Participate in Project's executive leadership team weekly meetings	\$58,240
<b>Task 1: Project Management and Team Coordination</b>		<b>\$340,380</b>
<b>2a Preliminary Engineering - Conceptual Design Review</b>		
2a.1	Preliminary Engineering Kickoff Meeting / Workshop	\$16,741
2a.2	Review / Develop Comments and / or Alternatives to Hollenbeck TM	\$18,904
2a.3	Present to MCWRA / Meeting	\$8,893
2a.4	QA/QC	\$3,840
<b>Task 2a: Preliminary Engineering - Conceptual Design Review</b>		<b>\$48,378</b>
<b>2b Preliminary Engineering - Site Survey</b>		
2b.1	Develop Site Survey Work Plan	\$1,840
2b.2	Establish control, topo survey of tunnel alignment and I/O structures.	\$71,354
2b.3	Assist MCWRA with ROW support	\$11,736
2b.4	QA/QC	\$1,472
<b>Task 2b: Preliminary Engineering - Site Survey</b>		<b>\$86,402</b>
<b>2c Preliminary Engineering - Geotechnical Investigation Program</b>		
2c.1	Develop Geotechnical Exploration, Testing, Reporting Plan	\$16,440
2c.2	Meet with MCWRA, DSOD, FERC	\$7,945
2c.3	Perform Geotechnical Field Exploration, Lab Testing, Report	\$403,198

2c.4	Draft Geotechnical Data Report (GDR)	\$37,056
2c.5	Final Geotechnical Data Report (GDR)	\$13,982
2c.6	Draft Interpretive Baseline Report (GIR)	\$24,096
2c.7	Final Geotechnical Interpretive Report (GIR)	\$11,758
2c.8	QA/QC	\$12,920
<b>Task 2c: Preliminary Engineering - Geotechnical Investigation Program</b>		<b>\$527,395</b>
<b>Preliminary Engineering - Design Criteria</b>		
<b>2d Memorandum</b>		
2d.1	Draft Design Criteria Memorandum	\$24,615
2d.2	Review Meeting w/ MCWRA - Draft Memorandum Comments	\$5,532
2d.3	Final Design Criteria Memorandum	\$9,195
2d.4	QA/QC	\$1,920
<b>Task 2d: Preliminary Engineering - Design Criteria Memorandum</b>		<b>\$41,262</b>
<b>2e Preliminary Engineering - Report (30% Design Level)</b>		
2e.1	Draft Preliminary Engineering Report	\$66,188
2e.2	Review Meeting w/ MCWRA - Draft Preliminary Engineering Report	\$8,432
2e.3	Final Preliminary Engineering Report	\$58,034
2e.4	Identify and present to MCWRA recommendation for eqpt proc package	\$6,800
2e.5	Hydraulic Analysis/ Reservoir Routing / Physical Model	
2e.6	QA/QC	\$1,920
<b>Task 2e: Preliminary Engineering - Report (30% Design Level)</b>		<b>\$141,374</b>
<b>3 Design-Build Documents (Incl PS&amp;E)</b>		
3.1	50% Design-Build Documents (Incl PS&E)	\$262,492
3.2	Review Meeting w/ MCWRA - 50% D-B Docs	\$11,129
3.3	75% Design-Build Documents (Incl PS&E)	\$216,192
3.4	Draft Geotechnical Baseline Report (GBR)	\$15,233
3.5	Review Meeting w/ MCWRA - 75% D-B Docs	\$10,084
3.6	100% Design-Build Documents (Incl PS&E)	\$150,857
3.7	Final Geotechnical Baseline Report (GBR)	\$9,188
3.8	Review Meeting w/ MCWRA - 100% D-B Docs)	\$11,044
3.9	Final, Issue-For-Bid (RFP) Documents	\$79,780
3.10	Hydraulic Analysis/ Reservoir Routing / Physical Model	\$20,704
3.11	Support MCWRA in electrical utility applications for I/O facilities	\$6,600
3.12	Coordinate w/ building & planning dept. Mont/SLO Counties plan check	\$14,120
3.13	Provide prep of tech docs and operations to supt. Envir. Consultant	\$14,584
3.14	QA/QC	\$28,800
<b>Task 3: Design-Build Documents</b>		<b>\$850,807</b>
<b>4 Engineer's Report</b>		
4.1	Draft Project Description	\$18,458
4.2	Draft Assessment Methodology	\$108,408
4.3	Review Meeting with MCWRA - Draft Engineer's Report	\$4,845
4.4	Pre-Final Project Description	\$16,137

4.5	Pre-Final Assessment Methodology	\$9,588
4.6	Review Meeting with MCWRA - Final Engineer's Report	\$4,845
4.7	Final Engineer's Report (Incl Project Description and Assess. Meth.)	\$19,894
4.8	Assist MCWRA and Program Manager with Outreach Mtg. Exhibits	\$9,664
4.9	QA/QC	\$3,840
<b>Task 4: Engineer's Report</b>		<b>\$195,679</b>
<b>5 Bidding Phase Services</b>		
5.1	Respond to technical questions	\$12,992
5.2	Prepare addenda to RFP	\$9,060
5.3	Assist MCWRA with proposal evaluations	\$14,224
5.4	Pre-Bid Site Visit	\$3,760
5.5	QA/QC	\$3,840
<b>Task 5: Bidding Phase Services</b>		<b>\$43,876</b>
<b>6 EIS Support</b>		
6.1	Kickoff Meeting	\$5,640
6.2	Assist in Developing Project Description	\$4,720
6.3	Prepare Engineering Support Documents for Alternatives	\$30,448
6.4	Assist in Developing EIS Documents	\$13,552
6.5	Review Draft EIS	\$7,520
6.6	Coordination Meetings	\$14,960
6.7	General EIS Support	\$30,960
<b>Task 6: EIS Support</b>		<b>\$107,800</b>
<b>7 General Engineering Support</b>		
7.1	Review and Analysis Groundwater Data	\$4,124
7.2	Develop Alternative Gate Shaft Design	\$58,440
7.3	Optimize Tunnel Design	\$62,800
7.4	Optimize Intake Design	\$63,380
<b>Task 7: General Engineering Support</b>		<b>\$188,744</b>
<b>TOTAL ALL TASKS</b>		<b>\$2,572,097</b>

<b>OP Optional Tasks</b>		
OP.1	Right-of-Way (detailed exhibit development)	\$92,000
OP.2	Physical Hydraulic Model of Energy Dissipation Structure	\$110,000
OP.4	Reservoir Modeling for Prop 218 Benefit Assessment	\$60,000
<b>TOTAL OPTIONAL TASKS</b>		<b>262,000</b>

**(Interlake Tunnel ) San Antonio Spillway  
Final Design**

Project:

<b>Task</b>	<b>Description</b>	<b>Total Amount</b>
<b>1 Evaluate Spillway Alternatives</b>		
1.1	Data Collection and Review	\$9,694
1.2	Prepare Geotech & Survey Workplans	\$16,356
1.3	Field Workplan Review / Approval	\$8,042
1.4	Survey / Mapping	\$32,704
1.5	Geotechnical Investigation & Report	\$167,628
1.6	Preliminary Gate Alternatives & Hydraulic Capacity	\$25,000
1.7	PMF Routing Update	\$16,064
1.8	Structural / Seismic Capacity of Training Walls	\$17,128
1.9	Modification Alts - Conceptual Design & Cost Estimate	\$40,368
1.10	Review Workshop with DSOD	\$11,538
1.11	Draft Alternatives Technical Memorandum	\$18,444
1.12	Review	\$3,824
1.13	Finalize Alternative Technical Memorandum	\$9,730
1.15		
<b>Task 1: Evaluate Spillway Alternatives</b>		<b>\$376,520</b>
<b>2 Spillway Hydraulic Design</b>		
2.1	Draft Updated PMF Routing Technical Memorandum	\$17,036
2.2	Review	\$4,576
2.3	Final Updated PMF Routing Technical Memorandum	\$7,600
2.4	Hydraulic Analysis	\$34,520
2.5	Workplan / Procurement of Physical Model Study	\$10,192
2.6	Physical Model Study / Report	\$259,500
2.7	Draft Hydraulic Design Technical Memorandum	\$17,788
2.8	Review	\$3,824
2.9	Final Hydraulic Design Technical Memorandum	\$7,934
2.10		
<b>Task 2: Spillway Hydraulic Design</b>		<b>\$362,970</b>
<b>3 Embankment Stability Evaluation</b>		
3.1	Review / Update Prior Stability Analyses	\$43,032
3.2	Draft Stability Analysis Technical Memorandum	\$24,468
3.3	Review	\$3,824
3.4	Final	\$10,930
3.5		
<b>Task 3: Embankment Stability Evaluation</b>		<b>\$82,254</b>
<b>4 Preliminary Design (30%)</b>		
4.1	30% Drawings and AACE Class 4 Cost Opinion	\$85,260
4.1A	30% Electrical (McMillen Jacobs Assoc.)	\$50,000
4.2	Draft Design Criteria Technical Memorandum	\$31,534



4.3	Review	\$8,950
4.4	NA	
<b>Task 4: Preliminary Design (30%)</b>		<b>\$175,744</b>
<b>5 Final Design</b>		
5.1	60% PS&E (AACE Class 3 Est; Outline Specs)	\$77,708
5.2	Basis of Design Technical Memorandum (Engineer's Rept)	\$35,100
5.3	60% Design Review	\$9,500
5.4	90% PS&E (Updated AACE Class 3)	\$81,356
5.5	Final Basis of Design Technical Memorandum (Engineer's Rept)	\$18,736
5.6	Draft Bid / Contract Documents	\$38,764
5.7	90% Design Review	\$9,500
5.8	100% PS&E for DSOD Review/Approval	\$31,660
5.8A	Final Electrical Design (McMillen Jacobs Associates)	\$95,000
5.9	Finalize Approved Drawings & Specifications	\$16,564
5.10	Finalize Bid/Contract Documents	\$14,548
<b>Task 5: Final Design</b>		<b>\$428,436</b>
<b>6 DSOD Review &amp; Approval</b>		
6.1	Preliminary Design Workshop & Response	\$14,566
6.2	60% Design Workshop & Response	\$14,566
6.3	90% Design Review Meeting & Response	\$14,566
6.4	100% Review Meeting & Response	\$14,566
6.5		
<b>Task 6: DSOD Review &amp; Approval</b>		<b>\$58,264</b>
<b>7 Not Defined</b>		
7.1		
<b>Task 7: Not Defined</b>		
<b>8 EIS Permitting Support</b>		
8.1	Project Description Assistance (80 hr allowance)	\$16,072
8.2	Participate in Public Meetings (80 hr allowance)	\$19,120
8.3	Construction Impact Support (80 hr allowance)	\$16,072
8.4		
<b>Task 8: EIS Permitting Support</b>		<b>\$51,264</b>
<b>9 Construction Procurement Support</b>		
9.1	Contract Document Repro/Distribution	\$18,412
9.2	Bid Advertisement Support	\$4,664
9.3	Pre-Bid Meeting	\$6,242
9.4	Respond to Bidder Questions	\$13,808
9.5	Addenda Support	\$21,452
9.6	Bid Opening Support	\$6,706
9.7	Bid Tab/Evaluation	\$13,056
9.8		
<b>Task 9: Construction Procurement Support</b>		<b>\$84,340</b>

<b>10 Project Management</b>		
10.1	Project set-up, work plan	\$9,592
10.2	QA/QC, staffing, budget, schedule control	\$40,864
10.3	Invoicing, cash flow, status reporting	\$33,084
10.4	Project Meetings, management, coordination	\$63,360
10.5		
<b>Task 10: Project Management</b>		<b>\$146,900</b>
<b>TOTAL ALL TASKS</b>		<b>\$1,766,692</b>

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

MONTEREY COUNTY WATER  
RESOURCES AGENCY

CONTRACTOR

\_\_\_\_\_  
General Manager

By: \_\_\_\_\_

Signature of Chair, President, or  
Vice-President

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Printed Name and Title

*Approved as to Fiscal Provisions:*

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Auditor/Controller

By: \_\_\_\_\_

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

\_\_\_\_\_  
Dated:

*Approved as to Liability Provisions:*

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Risk Management

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Dated:

*Approved as to Form:*

\_\_\_\_\_  
Deputy County Counsel

\_\_\_\_\_  
Dated:

Agency Board of Supervisors' Board Order 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.