

# County of Monterey

*Board of Supervisors Chambers  
168 West Alisal St., 1st Flr  
Salinas, CA 93901*



## Meeting Agenda

**Monday, December 19, 2022**

**12:00 PM**

**IMPORTANT COVID-19 NOTICE ON PAGE 2-4  
AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4  
Water Resources Agency Board of Directors**

*John Baillie, Chair  
Mike LeBarre, Vice Chair  
Mark Gonzalez  
Deidre Sullivan  
Ken Ekelund  
Mike Scattini  
Jason Smith  
Matt Simis  
Marvin Borzini*

### **Important Notice Regarding COVID-19**

**In order to minimize the spread of the COVID 19 virus, please do the following:**

**1. While the meeting room remain open, you are strongly encouraged to observe the live stream of the Board of Directors meetings at [http://monterey.granicus.com/ViewPublisher.php?view\\_id=19](http://monterey.granicus.com/ViewPublisher.php?view_id=19) or <http://www.mgtvonline.com/>**

**If you attend the Board of Directors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.**

**2. If you choose not to attend the Board of Directors meeting but wish to make a comment on a specific agenda item, please submit your comment via email by 5:00 p.m. on the Friday before the meeting.. Please submit your comment to the Secretary of the Board at [WRAPubliccomment@co.monterey.ca.us](mailto:WRAPubliccomment@co.monterey.ca.us) In an effort to assist the Secretary in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Directors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.**

**3. For ZOOM participation please join by computer audio at:  
<https://montereycty.zoom.us/j/99769079850>**

**OR to participate by phone call any of these numbers below:**

**+1 669 900 6833 US (San Jose)**

**+1 346 248 7799 US (Houston)**

**+1 312 626 6799 US (Chicago)**

**+1 929 205 6099 US (New York)**

**+1 253 215 8782 US**

**+1 301 715 8592 US**

**Enter this Meeting ID number: 997 6907 9850 when prompted. Please note there is no Participant Code, you will just press # again after the recording prompts you.**

**You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push \*9 on your keypad.**

### **Aviso Importante Sobre COVID-19**

**Para minimizar la propagación del virus COVID 19, haga lo siguiente:**

**1. Mientras la sala de reuniones permanezca abierta, se le recomienda firmemente que observe la transmisión de la reunión de la Junta Directiva en vivo por**

[http://monterey.granicus.com/ViewPublisher.php?view\\_id=19](http://monterey.granicus.com/ViewPublisher.php?view_id=19) o <http://www.mgtvonline.com/>

Si asiste a la reunión de la Junta de la Directiva en persona, se le pedirá que mantenga un distanciamiento social apropiado, es decir, mantenga una distancia de 6 pies entre usted y otras personas.

2. Si prefiere no asistir a la reunión de la Junta Directiva pero desea hacer un comentario sobre algún tema específico de la agenda, por favor envíe su comentario por correo electrónico antes de las 5:00 p.m. el Viernes antes de la reunion.. Envíe su comentario al Secretario de la junta al correo electronico [WRAPubliccomment@co.monterey.ca.us](mailto:WRAPubliccomment@co.monterey.ca.us) <mailto:WRAPubliccomment@co.monterey.ca.us> Para ayudar al Secretario a identificar el artículo de la agenda relacionado con su comentario, por favor indique en la linea de asunto del correo electronico el cuerpo de la reunion (es decir, la Agenda de la Junta Directiva) y el número de artículo (es decir, el Artículo No. 10). Su comentario se colocará en el registro de la reunion de esta Junta.

3. Para participar for ZOOM, por favor únase for audio de computadora por:  
[https://montereycty.zoom.us/j/997 6907 9850](https://montereycty.zoom.us/j/99769079850)

O para participar for teléfono, llame a cualquiera de los números a continuación:

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Se le colocará en la reunion como asistente; cuando desee hacer un comentario público si esta unido por la computadora utilice la opción de levantar la mano en el chat de la pantalla; o por teléfono presione \*9 en su teclado.

**Call to Order at 12:00 P.M.**

**Roll Call**

**Public Comments on Closed Session Items**

1. Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54956.9(d)(2) and (d)(4), the Board will confer with legal counsel regarding one matter of significant exposure to litigation and the potential initiation of litigation.

b. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding recruitment for the position of General Manager for the Water Resources Agency.

*Note: Continuance of Closed Session to be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting announced by the Chairperson of the Board. The public may comment on Closed Session items prior to the Board's recess to Closed Session.*

### **Recess to Closed Session**

### **Reconvene Meeting at 1:00 P.M.**

### **Pledge of Allegiance**

### **Public Comment**

### **Consent Calendar**

2. Approve the Action Minutes of November 21, 2022.

**Attachments:** [Draft BOD Minutes November 21, 2022](#)

3. Find, pursuant to AB 361 and in order for the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

**Attachments:** [Board Report](#)  
[Board Order](#)

4. Receive the Monterey County Water Resources Agency FY 2022-23 First Quarter Financial Status Report through September 30, 2022.

**Attachments:** [Board Report](#)  
[FY23 Q1 Financial Status Report](#)  
[Board Order](#)



5. Approve an Agreement with Maggiora Bros. Drilling, Inc. in the amount of \$215,720 to construct two new dedicated monitoring wells in the 180-Foot and 400-Foot Aquifers; and authorize the General Manager to execute the Agreement.

**Attachments:** [Board Report](#)  
[180Ft 400Ft DMW Agreement](#)  
[Board Order](#)

6. Approve Amendment No.6 to the Professional Services Agreement with McMillen Jacobs Associates for a term extension from December 31, 2022, to June 30, 2024 for the continued design of the Interlake Tunnel and Spillway Modification Project.

**Attachments:** [Board Report](#)  
[Amendment No's. 1-5 \(McMillen Jacobs\)](#)  
[Amendment No. 6 \(McMillen Jacobs\)](#)  
[Agreement for Professional Services](#)  
[Board Order](#)

### **Scheduled Items**

7. (a) Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and  
(b) Provide direction to staff as appropriate.

**Attachments:** [Board Report](#)  
[Proposed Ordinance No. \\_\\_\\_\\_\\_ \(tracked changes\)](#)

8. Consider authorizing the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

**Attachments:** [Board Report](#)  
[Well Management and Monitoring Agreement](#)  
[Board Order](#)

### **Key Information and Calendar of Events**

9. December, January and February 2023 Calendars

**Attachments:**    [December 2022](#)  
                              [January 2023](#)  
                              [February 2023](#)

### **General Manager's Report**

- 10.
- COVID-19 Update
  - Personnel Update
  - Prop. 1 Grant Update
  - Pajaro Update
  - Strategic Planning Update
  - Other

### **Committee Reports**

### **Information Items**

- 11.
- Information Items:
1. Reservoir Release and Storage Update
  2. Well Permit Applications Update

**Attachments:**    [Reservoir Storage Release Update](#)  
                              [Well Permit Application Update](#)

### **Correspondence**

- 12.
1. Letter dated November 17, 2022 to John Baillie, Chair, Monterey County Water Resources Agency Board of Directors, from Thomas S. Virsik Attorney at Law RE: Ordinance 3790 Amendment
  2. Letter dated November 18, 2022 Brent Buche, General Manager, Monterey County Water Resources Agency, from Sharon K. Tapia, Division Manager, Division of Safety and Dams RE: San Antonio Dam Spillway Replacement

**Attachments:**    [Virsik Letter Ordinance 3790 Amendment](#)  
                              [DSOD Letter San Antonio Spillway Replacement](#)

### **Board of Directors Comments**

### **Adjournment**





# County of Monterey

## Item No.1

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-191

December 19, 2022

**Introduced:** 12/7/2022

**Current Status:** Draft

**Version:** 1

**Matter Type:** WR General Agenda

Closed Session under Government Code section 54950, relating to the following items:

- a. Pursuant to Government Code section 54956.9(d)(2) and (d)(4), the Board will confer with legal counsel regarding one matter of significant exposure to litigation and the potential initiation of litigation.
- b. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding recruitment for the position of General Manager for the Water Resources Agency.

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# County of Monterey

## Item No.2

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: WRAG 22-186**

**December 19, 2022**

**Introduced:** 12/7/2022

**Current Status:** Draft

**Version:** 1

**Matter Type:** WR General Agenda

Approve the Action Minutes of November 21, 2022.

# County of Monterey

*Board of Supervisors Chambers  
168 West Alisal St., 1st Flr  
Salinas, CA 93901*



## Meeting Minutes

**Monday, November 21, 2022**

**12:00 PM**

### REVISED AGENDA

**IMPORTANT COVID-19 NOTICE ON PAGE 2-4  
AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4**

### **Water Resources Agency Board of Directors**

*John Baillie, Chair  
Mike LeBarre, Vice Chair  
Mark Gonzalez  
Deidre Sullivan  
Ken Ekelund  
Mike Scattini  
Jason Smith  
Matt Simis  
Marvin Borzini*

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#### Call to Order at 12:00 P.M.

The meeting was called to order at 12:01p.m.

#### Roll Call



**Present:** John Baillie, Mike Lebarre, Mark Gonzalez, Deidre Sullivan, Ken Ekelund, Mike Scattini  
(joined after reconvened at 1:02 p.m.), Jason Smith, Matthew Simis, Marvin Borzini  
**Absent:** None

**Public Comments on Closed Session Items**

**None**

1. Closed Session under Government Code section 54950, relating to the following items:
  - a. Pursuant to Government Code section 54956.9(d)(2) and (d)(4), the Board will confer with legal counsel regarding one matter of significant exposure to litigation and the potential initiation of litigation.
  - b. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding recruitment for the position of General Manager for the Water Resources Agency.

*Note: Continuance of Closed Session to be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting announced by the Chairperson of the Board. The public may comment on Closed Session items prior to the Board's recess to Closed Session.*

**Recess to Closed Session**

**Reconvene Meeting at 1:00 P.M.**

The meeting reconvened at 1:00 p.m. There were no reportable actions taken in Closed Session.

**Pledge of Allegiance**

**Public Comment**

George Fontes

**Presentations**

2. ~~Draft replacement well definition and conditions by Monterey County Health Department~~

**Consent Calendar**

Upon Motion by Mark Gonzalez and Second by Mike Scattini the Board approved the Consent Calendar.

**Ayes:** John Baillie, Mike Lebarre, Mark Gonzalez, Deidre Sullivan, Ken Ekelund, Mike Scattini,

Jason Smith Matthew Simis, Marvin Borzini

Noes: None

Absent: None

3. Approve the Action Minutes of October 17, 2022.

**Attachments:**     [Draft BOD Minutes October 17, 2022](#)

4. Find, pursuant to AB 361 and in order for the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

**Attachments:**     [Board Report](#)

[Board Order](#)

#### **Scheduled Items**

5. Consider receiving an update on the status of the Salinas River Habitat Conservation Plan

**Attachments:**     [Board Report](#)

[Board Order](#)

**Upon Motion by Matt Simis and Second by Mike Scattini the Board received an update on the status of the Salinas River Habitat Conservation Plan**

**Ayes: John Baillie, Mike Lebarre, Mark Gonzalez, Deidre Sullivan, Ken Ekelund, Mike Scattini, Jason Smith, Matthew Simis, Marvin Borzini**

**Noes: None**

**Absent: None**

**Public Comment: George Fontes, Nancy Isakson, Corinn Biglin**

6. Consider:
1. Finding the Revised Interim Operations Plan for San Antonio and Nacimiento Reservoirs qualifies as a Class 6 Categorical Exemption pursuant to section 15306 of the CEQA Guidelines; and
  2. Adopting the Revised Interim Operations Plan for San Antonio and Nacimiento Reservoirs based on natural condition triggers, in response to consecutive dry year conditions.

**Attachments:**     [Board Report](#)

[Revised IOP for Nacimiento and San Antonio Reservoirs](#)

[Board Order](#)

**Upon Motion by Mike Scattini and Second by Matt Simis the Board approved 1. Finding the Revised Interim Operations Plan for San Antonio and Nacimiento Reservoirs qualifies as a Class 6**

Categorical Exemption pursuant to section 15306 of the CEQA Guidelines; and 2. Adopting the Revised Interim Operations Plan for San Antonio and Nacimiento Reservoirs based on natural condition triggers, in response to consecutive dry year conditions. Board recommends to have item come before them annually, including Subcommittees.

**Ayes:** John Baillie, Mike Lebarre, Mark Gonzalez, Deidre Sullivan, Ken Ekelund, Mike Scattini, Jason Smith, Matthew Simis, Marvin Borzini

**Noes:** None

**Absent:** None

**Public Comment:** Nancy Isakson

7. ~~Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and Provide direction to staff as appropriate.~~

**Attachments:** [Board Report](#)  
[Ordinance 3790 Proposed Amendments \(redline\)](#)

8. Consider approving a continuance to December 19, 2022 on Yuki Farms Limited Partnership III LP ET AL's appeal hearing challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

**Attachments:** [Board Report](#)  
[Board Order](#)

Upon Motion by Mike Scattini and Second by Mike LeBarre the Board approved a continuance to December 19, 2022 on Yuki Farms Limited Partnership III LP ET AL's appeal hearing challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

**Ayes:** John Ballie, Mike Lebarre, Mark Gonzalez, Deidre Sullivan, Ken Ekelund, Jason Smith, Marvin Borzini

**Noes:** None

**Absent:** None

**Recused:** Matt Simis

### **Key Information and Calendar of Events**

9. November, December 2022 and January 2023 Calendars

**Attachments:** [November 2022](#)  
[December 2022](#)  
[January 2023](#)

### **General Manager's Report**

**Public Comment: George Fontes**

- 10.
- COVID-19 Update
  - Personnel Update
  - Prop. 1 Grant Update
  - Pajaro Update
  - Strategic Planning Update
  - Other

**Committee Reports**

**Information Items**

11. Information Items:
1. Quarterly Water Conditions Report
  2. Reservoir Release and Storage Update
  3. Well Permit Applications Update

**Attachments:**     [Quarterly Water Conditions](#)  
                              [Reservoir Storage Release Update](#)  
                              [Well Permit Applications Update](#)

**Board of Directors Comments**

**Adjournment**

The meeting adjourned at 3:19 p.m.

**Addenda/Supplemental**

12. Water Resources Agency Board of Directors Addenda/Revision for Monday November 21, 2022:  
~~Draft replacement well definition and conditions by Monterey County Health Department~~
13. Water Resources Agency Board of Directors Addenda/Revision for Monday November 21, 2022:  
~~Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and Provide direction to staff as appropriate.~~



# County of Monterey

## Item No.3

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-187

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Find, pursuant to AB 361 and in order for the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) in order to continue to meet remotely, find the following: that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

#### SUMMARY/DISCUSSION:

On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act's more narrow standard rules for participation in a meeting by teleconference. AB 361 provides that if a state or local health official recommends social distancing, a legislative body may meet remotely after September 30, 2021, provided that within 30 days of the first meeting after September 30, and every 30 days thereafter, the legislative body finds: 1) the Governor's proclaimed state of emergency is still in effect; 2) the legislative body has reconsidered the circumstances of the state of emergency; and 3) either the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies or the state of emergency continues to directly impact the ability of the members to meet in person.

The Monterey County Health Officer has recommended social distancing measures for meetings of legislative bodies, so the Board of Directors and its subcommittees, including Personnel & Administration, Finance, and Planning ("Subcommittees"), were able to meet remotely in October without making findings. However, in order to continue to meet remotely going forward, the Board of Directors and Subcommittees must make the findings outlined above.

Accordingly, staff recommends making the appropriate findings. This action will be required every 30 days in order to keep meeting remotely; a special meeting may be necessary for that purpose.

The Basin Management Advisory Committee and Reservoir Operations Advisory Committee are not included here because they have members who do not sit on the Board of Directors. These findings will have to be considered separately at the meetings of those legislative bodies.

OTHER AGENCY INVOLVEMENT:

The General Manager concurs in the recommendation.

FINANCING:

The only financial impact is the continuing cost of teleconferencing.

Prepared by: Jessell Fenley, Administrative Services Assistant, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860



# County of Monterey

## Item No.3

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-187

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Find, pursuant to AB 361 and in order for the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) in order to continue to meet remotely, find the following: that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

#### SUMMARY/DISCUSSION:

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The Monterey County Health Officer has recommended social distancing measures for meetings of legislative bodies, so the Board of Directors and its subcommittees, including Personnel & Administration, Finance, and Planning ("Subcommittees"), were able to meet remotely in October without making findings. However, in order to continue to meet remotely going forward, the Board of Directors and Subcommittees must make the findings outlined above.

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The Basin Management Advisory Committee and Reservoir Operations Advisory Committee are not included here because they have members who do not sit on the Board of Directors. These findings will have to be considered separately at the meetings of those legislative bodies.

OTHER AGENCY INVOLVEMENT:

The General Manager concurs in the recommendation.

FINANCING:

The only financial impact is the continuing cost of teleconferencing.

Prepared by: Jessell Fenley, Administrative Services Assistant, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860





***Before the Board of Directors of the Monterey County Water Resources Agency  
County of Monterey, State of California***

**BOARD ORDER No.**

**CONSIDER FINDING, PURSUANT TO AB 361 AND IN ORDER )  
FOR THE MONTEREY COUNTY WATER RESOURCES AGENCY )  
BOARD OF DIRECTORS AND ITS STANDING SUBCOMMITTEES )  
(PERSONNEL & ADMINISTRATION, FINANCE, AND PLANNING) )  
TO CONTINUE TO MEET REMOTELY, THAT THE COVID-19 )  
PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR )  
NEWSOM IS STILL IN EFFECT; THE BOARD AND SUBCOMMITTEES )  
HAVE RECONSIDERED THE CIRCUMSTANCES OF THE STATE OF )  
EMERGENCY; AND THE MONTEREY COUNTY HEALTH OFFICER )  
CONTINUES TO RECOMMEND SOCIAL DISTANCING MEASURES )  
FOR MEETINGS OF THE LEGISLATIVE BODIES )**

Upon motion of Director , seconded by Director , and carried by those members present, the Board of Directors hereby:

1. Finds, pursuant to AB 361 and in order for the Monterey County Water Resources Agency Board of Directors and its standing subcommittees (Personnel & Administration, Finance, and Planning) to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; the Board and subcommittees have reconsidered the circumstances of the state of emergency; and the Monterey County Health Officer continues to recommend social distancing measures for meetings of the legislative bodies.

**PASSED AND ADOPTED** on this **19th** day of **December 2022**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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BY: John Baillie, Chair  
Board of Directors

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ATTEST: Brent Buche  
General Manager



# County of Monterey

## Item No.4

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-193

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Receive the Monterey County Water Resources Agency FY 2022-23 First Quarter Financial Status Report through September 30, 2022.

#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Receive the Monterey County Water Resources Agency FY 2022-23 First Quarter Financial Status Report through September 30, 2022.

#### SUMMARY/DISCUSSION:

The Monterey County Water Resources Agency (Agency) FY 2022-2023 (FY23) adopted budget totals \$41.2 million in expenditures and \$36.4 million in revenue.

As of the first quarter of FY23 ending September 30, 2022, total revenue received is \$1.05 million at 2.9% of FY23 Budgeted Revenue. It includes grazing lease and rent revenue of \$180,914, Ad Valorem Taxes of \$1,348, Special Assessments of \$2,050, and other permits and fee revenue of \$57,874. It also includes \$806,000 of grant revenue, hydroelectric revenue, and water delivery fees earned in FY22 but received in FY23. Average percent revenue received from special assessments and ad valorem taxes in the first quarter of a fiscal year is approximately 0.03%, as the Agency receives 60% of such revenue by December and 100% by April.

Actual expenditure thru September 30, 2022, is \$13.1 million at 31.8% of the approved appropriations. It is higher than the 25% quarterly target as it includes encumbrances of \$4.3 million. The year-to-date amount is increased by \$2.4 million, comparing to those of FY22, is contributed by an increase of \$1.9 million in consultant services in various projects plus \$519,000 in grant's reimbursable cost. The actual expenditures of previous fiscal years were \$9.5 million in FY20, \$11.3 million in FY21, and \$10.6 million in FY22.

Summary of Agency's consolidated fund balances for FY2022-23 is as follows:

	Approved Budget	Actual Amt
FY23 Est. Beg. Fund Balance	\$22,818,135	\$22,818,135
FY23 Revenues	36,435,652	1,048,647
FY23 Expenditures	(41,222,295)	(13,102,627)
<b>FY23 Est. End. Fund Balance</b>	<b>\$17,372,992</b>	<b>\$10,764,155</b>

FINANCING:

There is no financial impact for receiving this report.

Prepared by: Nan Kyung Kim, Finance Manager III, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments:

1. FY23 Q1 Financial Status Report Summary



# County of Monterey

## Item No.4

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-193

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<b>FY23 Est. End. Fund Balance</b>	<b>\$17,372,992</b>	<b>\$10,764,155</b>

FINANCING:

There is no financial impact for receiving this report.

Prepared by: Nan Kyung Kim, Finance Manager III, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments:

1. FY23 Q1 Financial Status Report Summary

**MONTEREY COUNTY  
WATER RESOURCES AGENCY  
FY 2022-2023 FINANCIAL STATUS REPORT**

For Month Ending: September 30, 2022

% Monthly Time Elapsed: 25.00%

Updated: 10.17.2022			APPROVED BUDGET				YEAR-TO-DATE					
Fund	Unit	Fund Name	Estimated Beginning Fund Balance	Approved Budget Expenditures	Approved Budget Revenue	Estimated Ending Fund Balance	YTD Actual Expenditures	Percent Budget Expended	YTD Actual Revenue	Percent Budget Received	Estimated Ending Fund Balance	Fund
111	8267	WRA Administration Fund	2,594,426	4,429,019	4,044,703	2,210,110	899,313	20.3%	80,065	2.0%	1,775,177	111
112	8484	Pajaro Levee	546,800	1,715,794	1,439,970	(387,524)	389,778	22.7%	0	0.0%	157,022	112
116	8485	Dam Operations	2,512,012	9,093,596	8,036,460	1,454,876	3,007,285	33.1%	231,580	2.9%	(263,694)	116
121	8486	Soledad Storm Drain	237,642	108,318	102,447	231,771	17,019	15.7%	0	0.0%	220,624	121
122	8487	Reclamation Ditch	1,465,144	2,456,126	1,644,187	653,205	843,241	34.3%	0	0.0%	621,903	122
124	8488	San Lorenzo Creek	33,340	61,961	45,314	16,693	13,448	21.7%	0	0.0%	19,893	124
127	8489	Moro Cojo Slough	572,372	139,690	102,209	534,891	31,341	22.4%	0	0.0%	541,031	127
130	8490	Hydro-Electric Operations	1,449,802	860,240	53,239	642,801	194,532	22.6%	17,943	33.7%	1,273,213	130
131	8491	CSIP Operations	3,962,169	5,540,313	4,600,522	3,022,378	2,104,733	38.0%	16,215	0.4%	1,873,651	131
132	8492	SVRP Operations	2,343,677	4,466,232	4,804,855	2,682,300	1,676,801	37.5%	69	0.0%	666,946	132
134	8493	SRDF Operations	4,522,783	6,415,177	6,112,780	4,220,386	2,082,012	32.5%	416,248	6.8%	2,857,019	134
303	8267	CSIP Debt Service Fund	770,672	1,668,000	1,668,000	770,672	0	0.0%	0	0.0%	770,672	303
313	8494	Debt Services	1,034,991	1,758,338	1,758,338	1,034,991	1,299,919	73.9%	0	0.0%	(264,928)	313
426	8495	Interlake Tunnel Project	772,305	2,509,491	2,022,628	285,442	543,206	21.6%	286,528	14.2%	515,628	426
<b>TOTAL:</b>			<b>22,818,135</b>	<b>41,222,295</b>	<b>36,435,652</b>	<b>17,372,992</b>	<b>13,102,627</b>	<b>31.8%</b>	<b>1,048,647</b>	<b>2.9%</b>	<b>10,764,155</b>	



***Before the Board of Directors of the Monterey County Water Resources Agency  
County of Monterey, State of California***

BOARD ORDER No.

**Receive the Monterey County Water Resources     )  
Agency FY 2022-23 First Quarter                     )  
Status Report through September 30, 2022.         )**

Upon motion of Director, seconded by , and carried by those members present, the Board of Directors hereby:

1. Receive the Monterey County Water Resources Agency FY 2022-23 First Quarter Financial Status Report through September 30, 2022.

PASSED AND ADOPTED on this **19th** day of **December 2022**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

---

BY:     John Baillie, Chair  
          Board of Directors

---

ATTEST:     Brent Buche  
                  General Manager



# County of Monterey

## Item No.5

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-192

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Approve an Agreement with Maggiora Bros. Drilling, Inc. in the amount of \$215,720 to construct two new dedicated monitoring wells in the 180-Foot and 400-Foot Aquifers; and authorize the General Manager to execute the Agreement.

#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

- a. Approve an Agreement with Maggiora Bros. Drilling, Inc. in the amount of \$215,720 to construct two new dedicated monitoring wells in the 180-Foot and 400-Foot Aquifers; and
- b. Authorize the General Manager to execute the Agreement.

#### SUMMARY/DISCUSSION:

The Monterey County Water Resources Agency (Agency) intends to construct two new three-inch-diameter dedicated monitoring wells, one each in the 180-Foot and 400-Foot Aquifers. The proposed location for these wells is south of Castroville, in a County road easement. The selected location was identified as a data gap in the Agency's groundwater level and water quality monitoring networks in both the 180-Foot and 400-Foot aquifers.

The Agency released Request for Bids #22-002 in mid-September of this year and closed the bids on October 28th, 2022. There were two responsive bidders. Maggiora Bros Drilling, Inc. was the lowest responsive bidder, with a total project cost of \$215,720, and as such was tentatively awarded the project.

On December 2, 2022, the Agency's Finance Committee recommended that the Board of Directors of the Monterey County Water Resources Agency approve this agreement and authorize the General Manager to execute it.

This project is consistent with the Agency's Strategic Plan, specifically Goal B, Strategy 7 which is to use data and analysis to make informed decisions based on science. The new wells will contribute to keeping the Agency's monitoring efforts robust and maintaining spatial coverage for informational products that use the data, including groundwater level and seawater intrusion contours.

#### OTHER AGENCY INVOLVEMENT:

None

#### FINANCING:



The Agency's Fiscal Year 2022-23 budget includes \$250,000 for this project in Funds 111 and 116.

Prepared by: Nicole Koerth, Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachment:

1. Agreement for the 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California
2. Board Order



# County of Monterey

## Item No.5

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

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- b. Authorize the General Manager to execute the Agreement.

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#### OTHER AGENCY INVOLVEMENT:

None

#### FINANCING:

The Agency's Fiscal Year 2022-23 budget includes \$250,000 for this project in Funds 111 and 116.

Prepared by: Nicole Koerth, Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachment:

1. Agreement for the 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California
2. Board Order

# **AGREEMENT**

## **180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California**

THIS AGREEMENT (hereinafter, the "AGREEMENT"), is made and entered into by and between the MONTEREY COUNTY WATER RESOURCES AGENCY (hereinafter, the "AGENCY"), and                      **Maggiora Bros. Drilling, Inc.** (hereinafter the "CONTRACTOR").

### **RECITALS:**

1. The AGENCY solicited bid proposals for the 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California; and,
2. CONTRACTOR submitted the lowest responsive and responsible bid and proposal to complete the 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California.

### **ARTICLE 1: SCOPE OF WORK**

- 1.1 The CONTRACTOR shall, within the time stipulated, perform the contract as herein defined and shall furnish all work, labor, equipment, transportation, material, and services to construct and complete in a good, expeditious, workmanlike, and substantial manner, the project: 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation Project, Monterey County, California (hereinafter the "Project").
- 1.2 All work shall be completed in strict conformance with this AGREEMENT, the plans, specifications, and working details set forth in contract documents listed below, incorporated herein by this reference and attached hereto as Exhibits, and to the satisfaction of Agency:  
  
Exhibit A: Contract Documents Part 1 – Notice to Bidders  
  
Exhibit B: Contract Documents Part 2 – Technical Specifications and Attachments.  
  
Exhibit C: Completed CONTRACTOR's Payment and Performance Bonds.  
  
Exhibit D: CONTRACTOR's Certificate(s) of Insurance.  
  
Exhibit E: CONTRACTOR's Additional Insured Insurance Policy Endorsements.
- 1.3 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:

Permits from other agencies as may be required by law govern over Change Orders,  
Change Orders govern over this AGREEMENT,  
AGREEMENT govern over Bid Addenda,  
Bid Addenda govern over CONTRACTOR's proposal,

CONTRACTOR's proposal govern over Bid Form,  
Bid Form govern over Technical Specifications,  
Technical Specifications govern over Drawings,  
Drawings govern over Referenced Standard Specifications.

With respect to the Drawings, the order of precedence is as follows:

Figures govern over scaled dimensions,  
Detail drawings govern over general drawings,  
Addenda/change order drawings govern over Contract drawings,  
Contract drawings govern over standard drawings.

## **ARTICLE 2: TIME FOR START AND COMPLETION**

**2.1** This Agreement commences on the date mentioned on the Notice to Proceed.

### **2.2 Substantial Completion:**

#### **2.2.1 Substantial Completion Defined:**

Substantial Completion is defined as completion of all work except site clean-up and demobilization, described in Specification Section 12010, Paragraph 1.2.

#### **2.2.2 Substantial Completion Date:**

CONTRACTOR shall commence the work on the starting date established in the Notice to Proceed and shall achieve Substantial Completion within sixty (60) calendar days after said starting date.

### **2.3 Final Completion:**

#### **2.3.1 Final Completion Defined:**

Final Completion is defined as completion of all required work under this AGREEMENT.

#### **2.3.2 Final Completion Date:**

CONTRACTOR shall achieve Final Completion within fifteen (15) calendar days after the date of Substantial Completion.

### **2.4 Weekly Progress Meetings:**

CONTRACTOR's project representative shall meet weekly with AGENCY, or AGENCY's designated representative, to report on progress of the work, schedule for upcoming work and coordinate activities between the parties as needed.

### **2.5 Notices of Completion:**

CONTRACTOR shall give reasonable notice to AGENCY as to when Substantial Completion and Final Completion are anticipated and CONTRACTOR and AGENCY shall inspect the work.

AGENCY shall notify CONTRACTOR in writing of any incomplete or deficient work and CONTRACTOR shall complete such work or remedy such deficiencies. AGENCY shall not unreasonably withhold inspection of or certification of Substantial Completion or Final Completion. Upon final Completion, the AGENCY shall file a Notice of Completion with the Monterey County Recorder.

### ARTICLE 3: CONTRACT PRICE

- 3.1 CONTRACTOR shall be compensated as full consideration under this AGREEMENT on a lump sum basis per completed bid item in accordance with the terms contained in the Bid Form, attached hereto, up to a total amount of **\$ 215,720.00.**
- 3.2 Compensation shall remain firm for term of this AGREEMENT, unless agreed otherwise by written Change Order as provided in Article 4 below.
- 3.3 Retention of five percent (5%) of each approved progress payment will be withheld by the AGENCY. At Substantial Completion the AGENCY, at its option, may release any portion of the retained amount to the CONTRACTOR.
- 3.4 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 thirty (30) days.
- 3.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from AGENCY via written Change Order.

### ARTICLE 4: CHANGE ORDERS

- 4.1 **Change Order:** “Change Order” means a written modification of the Contract between the AGENCY and the CONTRACTOR, signed by the AGENCY and the CONTRACTOR.
- 4.2 **Change Order Proposal:** “Change Order Proposal” means a CONTRACTOR-generated document in response to a Change Order Request (COR).
- 4.3 **Change Order Request:** “Change Order Request” (COR) means a document which informs the CONTRACTOR of a proposed change in the Work, and appropriately describes or otherwise documents such change.
- 4.4 **Change Orders:** The AGENCY, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. The contract shall be adjusted accordingly. All such changes in the work shall be authorized by change order, and shall be executed under the applicable conditions of the contract documents. The contract sum may be changed only by change order.

The amount to be paid to the CONTRACTOR pursuant to the Contract Documents shall, where applicable, be increased or decreased in the manner hereinafter set forth; provided however, that if the CONTRACTOR should proceed with a Change in the Work upon an oral order, by whomsoever given, it shall constitute a waiver by the CONTRACTOR of any claim for an increase in the Contract Sum on account thereof. Upon receipt of a written Change Order, the CONTRACTOR shall promptly proceed with the Change in the Work, even though the amount of any resultant increase or decrease in the contract sum has not yet been determined. All Changes in the Work shall be performed in accordance with the Contract Documents.

#### 4.5 Method to Calculate Adjustments in Contract Price:

Determination of the method to be used to calculate adjustments in the Contract Price shall be at the sole discretion of the AGENCY. The use by the CONTRACTOR of the Total Cost Method (calculating the total sum of expenses incurred on the project, less amounts paid, marked up by overhead and profit) of pricing changes and claims is expressly prohibited (provided however, the AGENCY may use a “make whole” analysis to determine the reasonableness of the CONTRACTOR’s claim). One of the following methods shall be used:

- A. Unit Price Method;
- B. Firm Fixed Price Method (also known as Lump Sum); or
- C. Time and Materials Method.

4.5.1 Unit Price Method:

1. Whenever AGENCY or its representative authorizes CONTRACTOR to perform on a Unit Price basis, AGENCY’s authorization shall clearly state the:
  - a. Scope of Work to be performed;
  - b. Applicable Unit Price; and,
  - c. Not to exceed amount of reimbursement as established by the AGENCY.
2. The applicable unit price shall include reimbursement for all direct and indirect costs of the Work, including overhead and profit.
3. CONTRACTOR shall only be paid under this method for the actual quantity of materials incorporated in or removed from the Work and such quantities must be supported by field measurement statements verified by AGENCY.

4.5.2 Firm Fixed Price Method:

1. The CONTRACTOR and AGENCY may mutually agree on a fixed amount as the total compensation for the performance of changed work.
2. Any adjustments to the Contract Price using the Firm Fixed Price Method shall include, when appropriate, all reasonable costs for labor, equipment, material, overhead and profit. Such overhead and profit shall be calculated in accordance with provision 15.04(b) (4) F.
3. Whenever the AGENCY authorizes CONTRACTOR to perform changed work on a Firm Fixed Price Method, the AGENCY’s authorization shall clearly state:
  - a. Scope of Work to be performed;
  - b. Total Fixed Price payment for performing such work.

4.5.3 Time and Materials Method:

1. Whenever the AGENCY authorizes the CONTRACTOR to perform Work on a Time and Materials basis, AGENCY’s authorization shall clearly state:
  - a. Scope of Work to be performed;
  - b. Not to exceed amount of reimbursement as established by the AGENCY.
2. CONTRACTOR shall:

- a. Cooperate with AGENCY and assist in monitoring the Work being performed;
  - b. The CONTRACTOR's and subcontractors' labor hours, materials, and equipment charged to work under the Time and Materials Method shall be substantiated by detailed time cards or logs completed on a daily basis before the close of business each working day. The CONTRACTOR shall initial each time card and/or log at the close of each working day. Records of the CONTRACTOR and subcontractors pertaining to work paid for on a Time and Material method shall be maintained and available for inspection as requested by the AGENCY or its representatives;
  - c. Perform all work in accordance with this provision as efficiently as possible; and
  - d. Not exceed any cost limit(s) without AGENCY's prior written approval.
3. CONTRACTOR shall submit costs and any additional information requested by the AGENCY to support CONTRACTOR's requested price adjustment.

#### **4.6 Unallowable Costs:**

No change in the Contract Price shall be allowed to the extent (1) CONTRACTOR's changed cost of performance is due to the fault, acts, or omissions of CONTRACTOR, or anyone for whose acts or omissions CONTRACTOR is responsible; (2) the change is concurrently caused by CONTRACTOR and AGENCY; or, (3) the change is caused by an act of *Force Majeure*.

The AGENCY shall not be responsible for, and the CONTRACTOR shall not be entitled to, unallowable costs. Unallowable costs include, but are not limited to, (1) interest or attorney's fees of any type other than those mandated by California statutes, (2) claim preparation or filing costs, (3) the cost of preparing or reviewing Change Proposals or Requests for Change Orders, (4) lost profits, lost income or earnings, (5) rescheduling costs, (6) costs for idle equipment when such equipment is not at the Site, has not been employed in the Work and is not scheduled to be used at the Site, (7) lost earnings or interest on unpaid retention, (8) claims consulting costs, (9) the costs of corporate officers or staff visiting the Site or participating in meetings with the AGENCY, (10) any compensation due to the fluctuation of foreign currency conversions or exchange rates, (11) loss of other business, and (12) any other special, consequential, or incidental damages incurred by the CONTRACTOR or subcontractors.

#### **4.7 Signatures on Change Orders:**

A change order shall be in writing and shall be signed by the AGENCY's General Manager, or his designee. Except as otherwise provided herein, the change order shall also be signed by the CONTRACTOR in order to be effective, indicating the CONTRACTOR's consent to the changes made.

#### **4.8 Changes Requiring an Increase in Contract Sum:**

4.8.1 If the AGENCY elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum proposal which shall be submitted by the CONTRACTOR to the AGENCY within five (5) workdays of the AGENCY's request, but the AGENCY's request for a lump sum proposal shall not be deemed an election by the AGENCY to have the Change in the Work performed on a lump sum basis.

4.8.2 If the AGENCY elects to have the Change in the work performed on a unit-cost basis, its election shall be based on a unit price proposal which shall be submitted by the CONTRACTOR to the AGENCY within five (5) workdays of the AGENCY's request, but the AGENCY's request for a unit price proposal shall not be deemed an election by



the AGENCY to have the Change in the work performed on a unit price basis.

- 4.8.3 If the AGENCY elects to have the Change in the work performed on a time and material basis, the same shall be performed, its election shall be based on a time and materials price proposal which shall be submitted by the CONTRACTOR within five (5) workdays of the AGENCY's request, but the AGENCY's request for a time and materials price proposal shall not be deemed an election by the AGENCY to have the Change in the work performed on a time and materials basis.
- 4.8.4 Nothing herein contained shall preclude the AGENCY from requesting a lump sum proposal, a unit price proposal, and a time and materials price proposal, or any two of those, with respect to the same Change in the Work, in which event, the CONTRACTOR shall submit all proposals requested.
- 4.8.5 Until such time as the AGENCY makes its election under this paragraph, the CONTRACTOR shall submit daily time and material tickets to the AGENCY as required under subparagraph 4.8.3, which shall be subject to authentication as therein provided. At such time as the AGENCY makes its election under this paragraph, an appropriate Change Order will be issued; provided however, that until such time, the AGENCY shall pay to the CONTRACTOR up to the AGENCY's reasonable estimated value of the Change in the Work.

#### **4.9 Changes Requiring a Decrease in Contract Sum:**

If the Change in the Work will result in a decrease in the contract sum, the AGENCY may request a quotation by the CONTRACTOR of the amount of such decrease for use in preparing a Change Order. The CONTRACTOR's quotation shall be forwarded to the AGENCY within five (5) days of the AGENCY's request and, if acceptable to the AGENCY, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the work, as determined by the AGENCY in its reasonable judgment, plus ten percent (10%) thereof as overhead and profit.

#### **4.10 Disputes Regarding Changes:**

If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the contract time as a result of a Change in the Work, the CONTRACTOR shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the AGENCY in writing. The AGENCY shall, however, pay to the CONTRACTOR up to the AGENCY's reasonable estimate of the value of the Change in the Work, regardless of the dispute, if said Change in the Work results in an increase in the Contract Sum; and the AGENCY shall have the right to decrease the Contract Sum to the AGENCY's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the contract sum.

#### **4.11 Limitations:**

Except as expressly provided by this Section, there shall be no change whatsoever in the plans and specifications and in the work. CONTRACTOR shall not vary the work, the contract documents, or change, add to or omit any element, component part, or portion of the work

without the express written consent of AGENCY's Project Manager contained in an executed change order or field order as herein provided. AGENCY shall not be liable for the cost for any extra work or any substitutions, changes, additions, omissions, or deviations from the plans and specifications unless the same have been authorized by and the cost thereof approved in writing by change order. No extension of time for performance of the work shall be allowed hereunder unless claim for such extension shall be made at the time changes in the work are ordered and such duly adjusted in writing by AGENCY. CONTRACTOR recognizes and acknowledges that timely completion of the work is paramount and that its duty is to proceed with the work in accordance with the contract documents, notwithstanding any request for change in the work, to the extent that proceeding is reasonable and feasible under the circumstances.

## **ARTICLE 5: WARRANTIES**

- 5.1** CONTRACTOR shall warrant the work performed under this AGREEMENT against faulty or defective materials, equipment, or workmanship for a period of one (1) year from the date of Substantial Completion.
- 5.2** 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 AGENCY, or immediate family of an employee of the AGENCY.
- 5.3** CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.4** CONTRACTOR shall at all times enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him. Any person in the employ of the CONTRACTOR whom the County may deem incompetent or unfit shall be dismissed from the work and shall not again be employed on it except with the written consent of the AGENCY.

## **ARTICLE 6: INDEMNIFICATION**

- 6.1** CONTRACTOR shall indemnify, defend, and hold harmless AGENCY, the County of Monterey, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of AGENCY. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## **ARTICLE 7: INVOICES AND PURCHASE ORDERS**

**7.1** Invoice amounts shall be billed directly to the AGENCY, and delivered to:

ATTN: Tamara Voss  
Monterey County Water Resources Agency  
Address: 1441 Schilling Place, North Building, Salinas, CA 93901

**7.2** CONTRACTOR shall reference the Project Name and contract number on all invoices submitted to AGENCY. CONTRACTOR shall submit such invoices monthly or at the completion of services, but in any event, not later than thirty (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 as called for in the Bid Form and such other information pertinent to the invoice. AGENCY shall certify the invoice, either in the requested amount or in such other amount as AGENCY approves in conformity with this AGREEMENT, and shall promptly submit such invoice to AGENCY Auditor-Controller for payment. AGENCY Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.

**7.3 Unauthorized Surcharges or Fees:**

Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by AGENCY. Surcharges and additional fees not included in the AGREEMENT must be approved by AGENCY in writing via Change Order.

**ARTICLE 8: BOND REQUIREMENTS**

The CONTRACTOR shall furnish Performance and Payment Bonds, each in the amount 100 percent of the contract total price as security for the faithful performance and payment of all CONTRACTOR's obligations under the AGREEMENT. These Bonds shall remain in effect until the bonded obligations are satisfied in full, provided that if any lawsuit is filed to enforce such obligations the bonds shall remain in effect until said lawsuit is finally resolved and any judgment satisfied, except as otherwise provided by law or regulation.

**ARTICLE 9: INSURANCE**

**9.1 Evidence of Coverage:**

9.1.1 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.

9.1.2 This verification of coverage shall be sent to the AGENCY'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 AGENCY. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

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

## **9.2 Insurance Coverage Requirements:**

- 9.2.1 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:
- 9.2.2 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 \$3,000,000 per occurrence and \$5,000,000 aggregate.
- 9.2.3 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.
- 9.2.4 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.

## **9.3 Other Insurance Requirements:**

- 9.3.1 All insurance required by this AGREEMENT shall be with a company acceptable to AGENCY 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.
- 9.3.2 Each liability policy shall provide that AGENCY 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.
- 9.3.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the AGENCY 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 AGENCY 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.

- 9.3.4 Prior to the execution of this AGREEMENT by AGENCY, CONTRACTOR shall file certificates of insurance with AGENCY's contract administrator and AGENCY'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.
- 9.3.5 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 AGENCY, annual certificates to AGENCY's Contract Administrator and AGENCY's Contracts/Purchasing Division. If the certificate is not received by the expiration date, AGENCY shall notify CONTRACTOR and CONTRACTOR shall have five (5) 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 AGENCY, at its sole discretion, to terminate this AGREEMENT immediately.

## **ARTICLE 10: OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS**

### **10.1 Independent CONTRACTOR:**

CONTRACTOR shall be an independent CONTRACTOR and shall not be an employee of Monterey County, the AGENCY, nor immediate family of an employee of Monterey County or the AGENCY. 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 Minimum Work Performance Percentage:**

CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent (50%) of the original total AGREEMENT amount, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total AGREEMENT amount before computing the amount of work required to be performed by CONTRACTOR with his own organization or per a consortium.

## **ARTICLE 11: SAFETY**

### **11.1 CONTRACTOR's Responsibility for Safety:**

The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all

reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:

- (a) All employees on the work and all other persons who may be affected thereby;
- (b) All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the CONTRACTOR or any subcontractor; and
- (c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

#### **11.2 Compliance with Safety Requirements:**

The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. The CONTRACTOR shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

#### **11.3 Trench Safety:**

For all trenches to be made in connection with the work, the CONTRACTOR shall submit a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trenches. If such plan varies from the shoring system standards, a registered civil or structural engineer shall prepare the plan. The plan shall be reviewed, and must receive approval as adequate to protect worker safety, by the AGENCY or by a registered civil or structural engineer employed by the AGENCY, in advance of excavation. The shoring, sloping, or protective system must be at least as effective as that required by the Construction Safety Orders. See California Labor Code Section 6705.

#### **11.4 Hazardous Substances:**

The term "hazardous substance" means any substance on the list of hazardous substances established by the Director of Industrial Relations pursuant to the California Labor Code Section 6382, which includes asbestos, lead, toxic chemicals, contaminants, any substance designated by the Environmental Protection Agency as a hazardous substance, and other pollutants and contaminants.

11.4.1 If CONTRACTOR encounters on the property any substance reasonably believed to be a Hazardous Substance that has not been rendered harmless, i.e., not potentially hazardous to human health, CONTRACTOR shall immediately stop work in the area affected and report the condition to the AGENCY's Project Manager in writing.

11.4.2 Neither the CONTRACTOR nor any subcontractor shall cause or permit any Hazardous Substance to be brought upon the property or used in the work without the prior written consent of the AGENCY. CONTRACTOR and each subcontractor shall comply with all laws regarding the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation, or

disposal of Hazardous Substances brought onto the property by CONTRACTOR, its subcontractors, and/or their personnel.

11.4.3 Any handling, treatment, removal, decontamination, cleanup, transportation, disposal, or disturbance in any of Hazardous Substances shall only be performed by the CONTRACTOR or any subcontractor licensed and certified to perform the work. Any hazardous substance abatement or remediation work will be performed in such a way that is legally consistent with the recommendations of the certified County agent, appropriate governmental agencies, and all applicable laws.

11.4.4 If there is a Hazardous Substance on the property, CONTRACTOR shall protect adjoining property and shall provide barricades, temporary fences, and covered walkways required to protect the health and safety of passersby as required by this Agreement, prudent construction practices, and all applicable laws.

**11.5 CONTRACTOR's Safety Monitoring:**

The CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the AGENCY.

**11.6 Unsafe Loading:**

The CONTRACTOR shall not load or permit any part of the work to be loaded so as to endanger its safety.

**11.7 Emergencies:**

In any emergency affecting the safety of persons or property, the CONTRACTOR shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the CONTRACTOR on account of emergency work shall be determined as provided in Article 4 for changes in the work.

**11.8 Accidents:**

CONTRACTOR shall promptly report in writing to the AGENCY all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or off the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, CONTRACTOR shall report the accident immediately to the Project Manager by telephone or messenger. CONTRACTOR shall thereafter promptly report the facts in writing to the AGENCY giving full details of the accident.

**ARTICLE 12: SUBCONTRACTORS**

**12.1 No Contractual Relationship between AGENCY and Subcontractors:**

Nothing contained in the contract documents shall create any contractual relation between the AGENCY and any subcontractor.

**12.2 Work Performed by Subcontractors; Substitutions:**

Subcontracted work shall be performed only by the subcontractors identified in CONTRACTOR's bid documents, as provided by Public Contract Code sections 4100, et seq. Substitution of subcontractors may be made only in conformity with the Subletting and

Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq. Subcontractors are to be registered with the California Division of Industrial Relations.

### **12.3 Contracts with Subcontractors:**

All work performed for the CONTRACTOR by a subcontractor shall be pursuant to a written agreement between the CONTRACTOR and the subcontractor (and where appropriate, between subcontractors and sub-subcontractors). All such agreements shall require performance by the subcontractors in conformity with the terms of this contract, and shall include all the terms of this contract, which are applicable to subcontractors.

### **12.4 Payments to Subcontractors:**

12.4.1 The CONTRACTOR shall pay each subcontractor, upon receipt of payment from the AGENCY, any amount equal to the percentage of completion allowed to the CONTRACTOR on account of such subcontractor's work, less the percentage retained from payments to the CONTRACTOR. The CONTRACTOR shall also require each subcontractor to make similar payments to his subcontractors. The AGENCY shall have the right, but not the obligation, to issue payment by joint checks payable to the order of CONTRACTOR and any of its subcontractors.

12.4.2 If the AGENCY fails to issue a certificate for payment for any cause which is the fault of the CONTRACTOR and not the fault of a particular subcontractor, the CONTRACTOR shall pay the subcontractor on demand, made at any time after the certificate for payment should otherwise have been issued, for his work to the extent completed, less the retained percentage.

12.4.3 The AGENCY shall not have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law. All monies paid to CONTRACTOR hereunder shall immediately become and constitute a trust fund and shall be applied by CONTRACTOR for the benefit of all persons supplying labor, materials or equipment in connection with the work and shall not be diverted to any other purpose until the claims of such persons have been discharged.

### **12.5 Information Provided to Subcontractors:**

The AGENCY'S Project Manager may, on request and at his discretion, furnish to any subcontractor, if practicable, information regarding percentages of completion certified to the CONTRACTOR on account of work done by such subcontractors.

### **12.6 CONTRACTOR's Responsibility for Work of Subcontractors:**

CONTRACTOR shall be as fully responsible to AGENCY for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by the subcontractors, as he is for acts and omissions of persons directly employed by him.

## **ARTICLE 13: NOTIFICATION OF THIRD-PARTY CLAIMS**

AGENCY shall notify CONTRACTOR of the receipt of any third-party claim relating to the contract and is entitled to recover its reasonable costs incurred in providing the notification as provided in Public Contract Code Section 9201.

## **ARTICLE 14: LIQUIDATED DAMAGES**



THE PARTIES AGREE THAT IN CASE ALL THE WORK CALLED FOR UNDER THE CONTRACT IN ALL PARTS AND REQUIREMENTS IS NOT COMPLETED WITHIN THE TIME SPECIFIED IN THE CONTRACT DOCUMENTS, DAMAGE WILL BE SUSTAINED BY THE AGENCY, AND THAT IT IS AND WILL BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE WHICH THE AGENCY WILL THEREBY SUSTAIN. THE PARTIES THEREFORE AGREE THAT THE CONTRACTOR WILL PAY TO THE AGENCY THE SUM OF **TWO HUNDRED NINETY-FOUR DOLLARS (\$294.00) PER DAY** FOR EACH CALENDAR DAY OF DELAY UNTIL THE WORK IS COMPLETED AND ACCEPTED. CONTRACTOR AND HIS SURETY SHALL BE LIABLE FOR THE TOTAL AMOUNT THEREOF. THE CONTRACTOR AGREES TO PAY SAID LIQUIDATED DAMAGES ESTABLISHED HEREIN, AND FURTHER AGREES THAT THE AGENCY MAY DEDUCT THE AMOUNT THEREOF FROM ANY MONIES DUE OR THAT MAY BECOME DUE THE CONTRACTOR UNDER THE CONTRACT.

## **ARTICLE 15: RECORDS AND CONFIDENTIALITY**

### **15.1 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 AGENCY or prepared in connection with the performance of this AGREEMENT, unless AGENCY specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to AGENCY 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.

### **15.2 AGENCY Records:**

When this AGREEMENT expires or terminates, CONTRACTOR shall return to AGENCY any AGENCY records which CONTRACTOR used or received from AGENCY to perform services under this AGREEMENT.

### **15.3 Maintenance of Records:**

CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and AGENCY rules and regulations related to services performed under this AGREEMENT.

### **15.4 Access to and Audit of Records:**

AGENCY 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. Pursuant to Government Code section 8546.7, if this AGREEMENT involves the expenditure of public funds in excess of \$10,000, the parties to this AGREEMENT may be subject, at the request of AGENCY or as part of any audit of AGENCY, 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.

## **ARTICLE 16: CONFLICT OF INTEREST PROHIBITION**

CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR'S services under this AGREEMENT.

## **ARTICLE 17: COMPLIANCE WITH APPLICABLE LAWS AND PERMIT REQUIREMENTS**

- 17.1** 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 Services under this AGREEMENT.
- 17.2** CONTRACTOR shall report immediately to AGENCY'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.
- 17.3** 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.

## **ARTICLE 18: EMPLOYMENT PRACTICES**

### **18.1 Non-Discrimination in Employment Practices:**

CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

#### 18.1.1. "Discrimination" Defined:

As used in this contract, the term "discrimination" includes but is not limited to the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or any other prohibited discriminatory practice. The term also includes any act or retaliation.

#### 18.1.2. Application of Monterey County Code, Chapter 2.80:

The provisions of Monterey County Code, Title 2, Chapter 2.80, apply to activities conducted pursuant to this contract. CONTRACTOR and its officers and employees, in their actions under this contract, are agents of the Owner within the meaning of Chapter 2.80, and are responsible for ensuring that their workplace and the services that they provide are free from discrimination, as required by Chapter 2.80. Complaints of discrimination made by CONTRACTOR,

subcontractor(s), or any of their employees or agents against the Owner may be investigated and resolved using the procedures established by Chapter 2.80. CONTRACTOR shall establish and follow its own written procedures for the prompt and fair resolution of discrimination complaints made against CONTRACTOR by its own employees, agents and third parties, and shall provide a copy of such procedures to the AGENCY upon demand by the AGENCY.

#### 18.1.3 Compliance with Laws:

During the performance of this agreement, CONTRACTOR shall comply with all applicable federal, state, and local laws and regulations, which prohibit discrimination, including but not limited to the following:

- (a) California Labor Code section 1735;
- (b) California Fair Employment and Housing Act, Government Code sections 12900 et seq., and the administrative regulations issued thereunder, Title 2 California Code of Regulations, sections 7285.0 et seq. (Division 4 - Fair Employment and Housing Commission);
- (c) California Government Code sections 11135 - 11139.5 (Title 2, Div. 3, Part 1, Chap.1, Art. 9.5) and any applicable administrative regulations issued thereunder;
- (d) Federal Civil Rights Acts of 1964 and 1991 (see especially Title VII, 42 USC sections 2000d et seq.), as amended, and all administrative rules and regulations issued thereunder (see especially 45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;
- (e) The Rehabilitation Act of 1973, sections 503 and 504 (29 USC sections 793 and 794), as amended; all requirements imposed by the applicable HHS regulations (45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;
- (f) Americans With Disabilities Act of 1990 (P.L. 101- 336), as amended, 42 USC sections 12101 et seq., and 47 USC sections 225 and 611, and any federal regulations issued pursuant thereto (see 24 CFR Chapter 1; 28 CFR Parts 35 and 36; 29 CFR Parts 1602, 1627 and 1630; and 36 CFR Part 1191;
- (g) Unruh Civil Rights Act, California Civil Code sections 51 et seq.; and
- (h) Monterey County Code, Title 2, Chapter 2.80, as amended and procedures issued pursuant thereto.

#### 18.1.4 Written Assurances:

Upon request by the AGENCY, CONTRACTOR will give any written assurances of compliance with the Civil Rights Acts of 1964 and 1991, as amended, the Rehabilitation Act of 1973, as amended, the Americans With Disabilities Act of 1990, as amended, and/or Executive Order 11246, as may be required by the federal government in connection with this contract, pursuant to 45 CFR Sec. 80.4 or 45 CFR Sec. 84.5 or other applicable state or federal regulations.

#### 18.1.5 Written Non-Discrimination Policy:

CONTRACTOR shall maintain a written statement of its non-discrimination policies, which shall be consistent with the terms of this agreement. Such statement shall be available to CONTRACTOR's employees, the Owner, Owner's officers and employees, and members of the public, upon request.

#### 18.1.6 Access to Records by Government Agencies:

CONTRACTOR shall permit access by Owner and by representatives of the California Department of Fair Employment and Housing and the U.S. Equal Employment Opportunity Commission, and any federal and/or state AGENCY providing funds for this contract upon reasonable notice at any time during normal business hours, but in no case on less than 24-hour notice, to such of its books, records, accounts, facilities, and other sources of information as the inspecting party may deem appropriate to ascertain compliance with these non-discrimination provisions.

#### 18.1.7 Binding on Subcontractors:

The provisions of Article 18.1 above shall also apply to all of CONTRACTOR's subcontractors. CONTRACTOR shall include the non-discrimination and compliance provisions of these paragraphs in all subcontracts to perform work or provide services under this agreement.

### **18.2 Eight-hour Day, 40-Hour Week:**

No work shall be performed by employees of CONTRACTORS in excess of eight (8) hours per day or forty (40) hours during any one week, unless such employees are compensated for all such excess hours at not less than one-and-one-half times the basic rate of pay, as provided in Labor Code Sec. 1815. Holiday work when permitted by law shall also be compensated at not less than one-and-one-half times the basic rate of pay.

#### 18.2.1 Penalties:

Pursuant to California Labor Code Section 1813, the CONTRACTOR shall forfeit, as a penalty to the AGENCY, \$25 for each worker employed in the execution of the contract by the CONTRACTOR or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the California Labor Code Sections 1810-1815.

#### 18.2.2 Approvals:

CONTRACTOR will not be entitled to additional compensation for work performed outside of regular working hours, except to the extent such compensation is approved in writing by AGENCY Project Manager in advance. If so approved, such compensation shall in such event cover only the direct cost of the premium portion of the time involved, when permitted, and be without any overhead or profit, unless agreed otherwise by AGENCY.

### **18.3 Prevailing Wages:**

#### 18.3.1 Prevailing Wage Rates Determined:

The Director of the California Department of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which said public work is to be performed for each craft, classification or type of worker needed to execute the contract in accordance with California Labor Code (sections 1720, et seq.). Copies of the prevailing rate of per diem wages are on file and shall be made available to any interested party on request in the Monterey County Water Resources Agency offices located at 893 Blanco Circle, Salinas, California. Current prevailing wage rate schedules can also be found at the California Department of Industrial Relations website located at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

#### 18.3.2 Payment of Prevailing Wage Rates Required:

CONTRACTOR and all subcontractors performing work under this contract shall pay wages to their workers employed on such work at not less than the general prevailing rate of per diem wages for such work, as required by California Labor Code Section 1771.

#### 18.3.3 Penalties:

Failure to pay such prevailing wages shall subject the employer to the penalties set forth in California Labor Code Section 1775.

### **18.4 Payroll Records:**

#### 18.4.1 Compliance with California Labor Code Section 1776:

CONTRACTOR and all subcontractors shall comply with California Labor Code Section 1776, the requirements of which are set forth in this article. The CONTRACTOR shall be responsible for compliance with these provisions by his subcontractors.

#### 18.4.2. Accurate Payroll Records Required:

CONTRACTOR and each subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice worker, or other employee employed by him or her in connection with the public work.

#### 18.4.3 Certification and Inspection of Payroll Records:

The payroll records enumerated under paragraph 26.02 shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR or subcontractor on the following basis:

- (a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
- (b) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available for inspection, or furnished upon request to a representative of the AGENCY, the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through the AGENCY, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of the CONTRACTOR.

#### 18.4.4 Filing of Records:

The CONTRACTOR and each subcontractor shall file a certified copy of the records enumerated in paragraph 18.4.2 with the entity that requested such records within ten (10) days after receipt of a written request.

#### 18.4.5 Elimination of Personal Identification:

Any copy of records made available for inspection as copies and furnished upon request to the public or any public AGENCY by the AGENCY, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR or subcontractor awarded the contract or performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29USC 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number.

#### 18.4.6 Notice to AGENCY Concerning Location of Records:

The CONTRACTOR and each subcontractor shall inform the AGENCY as to the location of the records enumerated under paragraph 26.02, including the street address, city, and county, and shall, within five (5) workdays, provide a notice of any change of location and address.

#### 18.4.7 Notice of Non-Compliance; Penalties:

In the event of non-compliance with the requirements of this section, the CONTRACTOR or subcontractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such CONTRACTOR or subcontractor must comply with this section. Should non-compliance still be evident after such ten (10) day period, the CONTRACTOR or subcontractor shall, as a penalty to the AGENCY, forfeit \$25 for each calendar day, or portion thereof, for each worker, until strict compliance is effected. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

### **18.5 Local Hiring Per County of Monterey Code 5.08.120:**

All provisions included in County of Monterey Code 5.08.120 are applicable to this AGREEMENT, including but not limited to:

County of Monterey Code Section 5.08.120 General Provisions; Unless such a provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works of improvement, all County contracts for public works of improvement shall contain provisions pursuant to which the CONTRACTOR promises to make a good-faith effort to hire

qualified individuals who are, and have been for at least one year prior to the opening of bids, residents of the Monterey Bay Area in sufficient numbers so that no less than fifty percent (50%) of the CONTRACTOR's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Monterey Bay Area residents. For the purpose of this Section, the following terms have the meanings indicated:

- "Board" shall mean the Monterey County Board of Supervisors.
- "Qualified individual" shall mean a person who is specially trained, skilled, and experienced in the work, trade, or craft specified in the portion of the public work of improvement to be performed or who is enrolled in a certified State or federally approved apprenticeship program in the applicable trade or who is a journey person in his or her applicable trade.
- "Resident of Monterey Bay Area" shall mean a person who resides within the boundaries of Monterey County, Santa Cruz County, or San Benito County.

## **ARTICLE 19: GENERAL TERMS AND CONDITIONS**

### **19.1 Notice:**

Notices required under this AGREEMENT shall be in writing and delivered personally or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery or on the third day after deposit with the U.S. Postal Service. CONTRACTOR shall give AGENCY prompt notice of any change of address. Unless changed according to these notice provisions, notices shall be addressed to:

TO AGENCY:

Attn: Tamara Voss  
Monterey County Water Resources Agency  
1441 Schilling Place, North Building  
Salinas, CA 93901  
Tel: (831) 755-4860  
Email: [vosstl@co.monterey.ca.us](mailto:vosstl@co.monterey.ca.us)

TO CONTRACTOR:

Attn: Michael Maggiora  
Maggiora Bros. Drilling, Inc.  
595 Airport Blvd.  
Watsonville, CA 95076  
Tel: (831) 724-1338  
Email: [watsonville@maggiorabros.com](mailto:watsonville@maggiorabros.com)

"Notice" shall be included in the subject line. Notice by facsimile or electronic mail shall not constitute "Notice" under this section.

### **19.2 Governing Law:**

This Agreement is made under and will in all respects be interpreted, enforced and governed by the laws of the State of California, without regard to that state's conflict of laws principles.

### **19.3 Amendment:**

This Agreement cannot be altered, amended or modified in any respect, except by a writing duly executed by the Parties.

### **19.4 Non-Waiver:**

No course of dealing between or among the Parties shall be deemed to affect, modify, amend or discharge any provision or term of this Settlement Agreement. No delay in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise of any right or remedy shall operate as waiver hereof, and so single or partial exercise of any such right or remedy shall preclude other or future exercise thereof. This Settlement Agreement is the result

of good faith negotiations and compromise. The agreements and releases contained in this Settlement Agreement effect the settlement of claims which are denied and contested, and nothing set forth herein shall be construed as an admission by any party hereto of any liability of any kind to the other, or to any other person, corporation or any other type of entity. This Settlement Agreement is executed solely as a compromise to avoid the expense of litigation.

#### **19.5. Claims and Dispute Resolution:**

19.5.1 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.

19.5.2 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

19.5.3 The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

19.5.4. Prompt resolution of differences required:

It is the intention of this Article that differences between the parties arising under and by virtue of this Contract be brought to the attention of Engineer at the earliest possible time in order that such matters may be promptly settled, if possible, or other appropriate action may be taken promptly. To that end, Agency and Contractor agree to attempt informal resolution of disputes prior to initiating the Claim process.

19.5.5. Contract interpretations/performance judging/decisions by Engineer:

(a) All Claims may be presented informally first to Engineer. To the extent that resolution of the Claim does not involve an extension of time or additional payments, Engineer may resolve, in writing, or otherwise, Claims that have been presented informally.

(b) The Engineer will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of performance there under by both Agency and Contractor. The Engineer will, within a reasonable time, render such interpretations, as may deem necessary for the proper execution or progress of the Work. Claims, disputes, and other matters in question between Contractor and Agency relating to the execution or progress of the Work or interpretation of the Contract Documents shall be referred initially to the Engineer for decision which Engineer will render, in writing, within a reasonable time. In Engineer's capacity as interpreter and judge, Engineer will exercise his or her best efforts to ensure faithful performance by both Agency and Contractor and will not show partiality to either. All interpretations and decisions of the Engineer shall be consistent with the intent of the Contract Documents.

19.5.6 Obligation to Seek Informal Resolution Prior to Filing Claim for Disputed Work:

Should it appear to Contractor that the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any Work performed, Work omitted, extra Work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time, compensation or payment FOR ANY REASON WHATSOEVER, then Contractor shall first follow procedures set forth in the



Contract. If a dispute remains, then Contractor shall give written notice to Agency that expressly invokes this Article 33. Agency shall decide the issue in writing within fifteen (15) days; and Agency's written decision shall be final and conclusive.

#### 19.5.7 Time for giving notice:

Notice of dispute or potential Claim must be given in writing by the Contractor as follows:

- (a) For a potential Claim of an increase in the Contract Sum, Contractor shall give the Engineer written notice thereof within ten (10) days after the occurrence of the event giving rise to such Claim; in addition, this notice shall be given by Contractor before proceeding to execute the portion of the Work to which the Claim relates, except in an emergency endangering life or property, and except where Contractor could not reasonably have discovered the facts giving rise to the Claim prior to commencement of that portion of the Work.
- (b) For a potential Claim of an extension of time, Contractor shall give written notice to the Engineer no more than ten (10) days after the occurrence of the delay; otherwise they shall be waived. In the case of a continuing cause of delay, only one (1) Claim is necessary.
- (c) In all other cases, notice shall be given within ten (10) days after the happening of the event, thing, or occurrence giving rise to the potential Claim.

#### 19.5.8 Form and Contents of Claim:

If Contractor disagrees with Agency's decision, or if Contractor contends that Agency failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written Claim setting forth Contractor's position as required herein. The Claim shall be submitted to Agency within thirty (30) calendar days of receiving Agency's written decision, or the date Contractor contends such decision was due. The Contractor shall furnish reasonable documentation to support the Claim. Contractor's written Claim must identify itself as a "Claim" under this Article 19 and must include the following: (1) a narrative of pertinent events; (2) citation to contract provisions; (3) theory of entitlement; (4) complete pricing of all cost impacts; (5) a time impact analysis of all time delays that shows actual time impact on the critical path; and (6) documentation supporting items (1) through (5). The Claim must be verified under penalty of perjury by Contractor as to the Claim's accuracy, and shall be priced like a Change Order, and must be updated monthly as to cost and entitlement if a continuing Claim. The Claim must be sent by registered mail or certified mail with return receipt requested to the Agency, Notices, of the Agreement. Routine contract materials, for example, correspondence, RFI, Change Order requests, or payment requests shall not constitute a Claim. Contractor shall bear all costs incurred in the preparation and submission of a Claim.

#### 19.5.9 Actions by Agency Upon Receipt of Claim:

- (a) Upon receipt of a Claim, the Agency shall conduct a reasonable review of the Claim and, within a period not to exceed forty-five (45) days, shall provide the Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed.
- (b) The Agency and the Contractor may, by mutual agreement, extend the time period provided in this Article.
- (c) If the Agency needs approval from the Board of Supervisors to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the Board does not meet within the forty-five (45) days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the Agency shall have up to three (3) days following the next duly publicly

noticed meeting of the governing body after the forty-five (45) day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

**19.5.10 Written Statement by Agency:**

Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Agency issues its written statement. Failure by the Agency to issue a written statement shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the Agency's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Article 19, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.

**19.5.11 Contactor's Dispute of Written Response:**

If the Contractor disputes the Agency's written response, or if the Agency fails to respond to a Claim issued pursuant to this Article within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the Agency shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

**19.5.12 Written Statement by Agency After Meet and Confer Conference:**

Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the Agency shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Agency issues its written statement.

**19.5.13 Nonbinding Mediation:**

(a) Any disputed portion of the Claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the Agency and the Contractor sharing the associated costs equally. The Agency and Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

(b) Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this Article.

(c) If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this Article.

(d) Unless otherwise agreed to by the Agency and the Contractor in writing, the mediation conducted pursuant to this Article shall excuse any further obligation under Section 20104.4 of the Public Contract Code to mediate after litigation has been commenced.

(e) The Claim resolution procedures in this Article do not preclude the Agency from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this Article does not resolve the parties' dispute.

19.5.14 Amounts Not Paid Timely:

Amounts not paid in a timely manner as required by this Article shall bear interest at 7 percent per annum.

19.5.15 Claims by Subcontractors:

If a Subcontractor or a lower tier Subcontractor lacks legal standing to assert a Claim against the Agency because privity of contract does not exist, the Contractor may present to the Agency a Claim on behalf of a Subcontractor or lower tier Subcontractor. A Subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a Claim for Work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the Subcontractor. The Subcontractor requesting that the Claim be presented to the public entity shall furnish reasonable documentation to support the Claim. Within forty-five (45) days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Claim to the Agency and, if the original Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.

19.5.16 Prompt response when needed:

Whenever it appears that a prompt response is essential, Agency will respond to Claims sooner than the limits prescribed above.

19.5.17 Compliance:

(a) The provisions of this Article constitute a non-judicial Claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a Claim. Any Claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the Claims procedure herein and the previous dispositions of the Claims asserted. Pursuant to Government Code Section 930.2, the one (1) year period in Government Code Section 911.2 shall be reduced to one hundred and fifty (150) days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.

(b) Failure to submit and administer Claims as required in Article 19 shall waive Contractor's right to Claim on any specific issues not included in a timely submitted Claim. Claim(s) or issue(s) not raised in a timely protest and timely Claim submitted under this Article 19 may not be asserted in any subsequent litigation, Government Code Claim, or legal action.

(c) Agency shall not be deemed to waive any provision under this Article 19, if at Agency's sole discretion; a Claim is administered in a manner not in accord with this Article 19. Waivers or modifications of this Article 19 may only be made through a signed Change Order approved as to form by legal counsel for both Agency and Contractor; oral or implied modifications shall be ineffective.

19.5.18 Filing of Government Code claims:

If the Contractor still remains unsatisfied and desires to preserve his/her right to pursue the matter further, Contractor must then file a claim with Agency, pursuant to Government Code Sections 900 et seq. or Sections 910 et seq.

19.5.19 Civil action:

If the Government Code claim is denied, Contractor may file an action in court. Such action shall be subject to Public Contract Code Sections 9204 or 20104.4. This Section applies only to claims subject to Public Contract Code Sections 9204 or 20104. If a claim is not subject to Public Contract Code Sections 9204 or 20104, the Contractor's right to file a civil action shall be as otherwise provided by law.

**19.5.20 Claims for damages:**

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his/her/its employees, agents, or others for whose acts he/she/it is legally liable, Claim shall be made, in writing, to such other party within a reasonable time after the first observance of such injury or damage, provided that in no case may such a Claim be filed after expiration of any applicable statute of limitations for filing such a Claim. Claims against Agency that are subject to this Article shall comply with all procedures set forth in the California Government Code concerning claims against public entities.

**19.5.21 Consistency with Public Contract Code Sections 9204 and 20104 et seq:**

If any Claim arising under this Contract is subject to the provisions of Public Contract Code Sections 9204 or 20104 et seq. (Div. 2, Part 3, Chapter 1, Article 1.5), and if provisions of that Article require a procedure or procedural element different from that established in this Contract, then the provisions of that Article shall apply in place of the conflicting procedure or procedural element established herein.

**19.6 Enforcement:**

If there is litigation of any kind between the Parties arising out of or concerning the enforcement of this Settlement Agreement or if the releases set forth herein are interposed as a defense in any litigation between the Parties, the prevailing party shall be entitled to recover from the other party the reasonable attorney's fees and costs incurred in connection with such litigation.

**19.7 Counterparts:**

This Settlement Agreement may be executed in counterparts and has the same force and effect as if all the signatures were obtained in one document.

**ARTICLE 20: OTHER PROVISIONS**

**20.1** In order to induce Agency to enter into this Agreement, CONTRATOR represents that it is duly organized, existing and in good standing under applicable state law; is licensed to perform all aspects of the Work; will employ only persons and Subcontractors and designers with all required licenses and certifications; that CONTRACTOR is duly qualified to conduct business in the State of California; that CONTRACTOR has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents and the Work to be performed herein; and that the Contract Documents do not violate or create a default under any instrument, Agreement, order or decree binding on CONTRACTOR.

**20.2** CONTRACTOR shall not assign any portion of the Contract Documents.

**20.3** Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect

and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding Agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).

- 20.4** It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of Agency or acting as an employee, agent, or representative of Agency, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of Agency is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 20.5** In entering into a Public Works Contract or a Subcontract to supply goods, services or materials pursuant to a Public Works Contract, CONTRACTOR or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the Public Works Contract of the Subcontract. This assignment shall be made and become effective at the time Agency tenders final payment to CONTRACTOR, without further acknowledgment by the parties.
- 20.6** Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at Agency's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code Sections 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every CONTRACTOR will be required to secure the payment of compensation to his/her/its employees. CONTRACTOR represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and CONTRACTOR shall comply with such provisions before commencing the performance of the Contract Documents.
- 20.7** Agency shall have the right to review all phases of CONTRACTOR's design of deferred submittals including, but not limited to, Drawings, Specifications, Shop Drawings, samples and submittals, as specified in the Contract Documents. Such review and other action shall not relieve CONTRACTOR of its responsibility for a complete design of deferred submittals complying with the requirements of the Contract Documents; but rather, such review shall be in furtherance of Agency's monitoring and accepting the design of deferred submittals as developed and issued by the CONTRACTOR, consistent with these Contract Documents. CONTRACTOR's responsibility to design deferred submittals and construct the Project in conformance with the Contract Documents shall be absolute.
- 20.8** This Agreement and the Contract Documents shall be deemed to have entered into in the Monterey County Water Resources Agency, and governed in all aspects by California law

(excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Monterey.

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

**MONTEREY COUNTY**

**WATER RESOURCES AGENCY**

\_\_\_\_\_  
Brent Buche

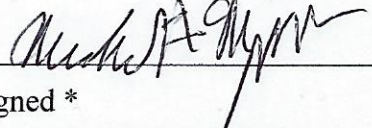
General Manager

\_\_\_\_\_  
Date

**CONTRACTOR**

**NAME: Maggiore Bros Drilling, Inc.**

\_\_\_\_\_  
Signed \*

  
\_\_\_\_\_  
Michael F. Maggiore

\_\_\_\_\_  
Print Name

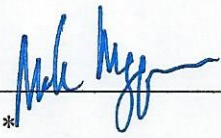
\_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
Title

\_\_\_\_\_  
12/06/2022

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signed \*

  
\_\_\_\_\_  
Mark D. Maggiore

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Corporate Treasurer

\_\_\_\_\_  
Title

\_\_\_\_\_  
12/06/2022

\_\_\_\_\_  
Date

- \* If CONTRACTOR is a corporation (including limited liability and non-profit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with 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 his or her business, if any, and shall personally sign the Agreement.

Approved as to form:

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Deputy County Counsel

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Date

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Risk Management

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Date

---

Auditor-Controller's Office

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Date

---

County Administrative Office

---

Date

180-FOOT AND 400-FOOT AQUIFER DEDICATED  
MONITORING WELL INSTALLATION PROJECT

**EXHIBIT A:**  
NOTICE TO BIDDERS



# EXHIBIT A

## MONTEREY COUNTY WATER RESOURCES AGENCY

### REQUEST FOR BIDS

#### WELL CONSTRUCTION CONTRACTORS

NOTICE IS HEREBY GIVEN that the Monterey County Water Resources Agency (“Agency”) is soliciting bids for well construction contractors for the 180-Foot and 400-Foot Aquifers Dedicated Monitoring Well Installation project. Questions may be referred to the Agency by telephoning 831-755-8914 or by emailing [vosstl@co.monterey.ca.us](mailto:vosstl@co.monterey.ca.us).

#### **Purpose**

The Monterey County Water Resources Agency is seeking bids from qualified organizations to provide well construction services for constructing two new 3-inch diameter dedicated monitoring wells, one each to be screened in the 180-Foot and 400-Foot Aquifers, in the coastal Salinas Valley south of Castroville.

#### **Required Information**

Interested bidders are required to return pages 3-32 (Exhibit A) of RFB #22-002 to the Monterey County Water Resources Agency by 9:00 AM on October 28, 2022. The complete RFB is available on the Agency’s website:

<https://www.co.monterey.ca.us/home/showpublisheddocument/115163/637985885427148042>

Bids will be accepted only from contractors with a current State of California C-57 Well Drilling Contractor’s License at the time of the bid opening.

#### **Bid Submission**

Bids shall be submitted to the following address and should be received no later than 9:00 AM on Friday, October 28, 2022. At such time, bids will be publicly opened and read aloud.

Monterey County Water Resources Agency  
1441 Schilling Place, North Bldg.  
Salinas, CA 93901

#### **Selection Timetable (Tentative)**

- |                                |                                    |
|--------------------------------|------------------------------------|
| - Release of Request for Bids: | September 12, 2022                 |
| - Proposal Receipt Deadline:   | October 28, 2022, by 9:00 AM (PST) |
| - Contract Award:              | December 2022                      |
| - Project Completion:          | June 30, 2023                      |

#### **Final Contract Approval by the Agency**

The Agency retains the right to exercise its judgment concerning the selection of a bid and the terms of any resultant contract and to determine which bid best serves the interests of the Agency. The Agency makes the final decision to award, or not to award, a contract.

180-FOOT AND 400-FOOT AQUIFER DEDICATED  
MONITORING WELL INSTALLATION PROJECT

**EXHIBIT B:**  
TECHNICAL SPECIFICATIONS AND ATTACHMENTS

# **EXHIBIT B**

## **SECTION 01000 – GENERAL REQUIREMENTS**

### **SECTION 01000 - PROJECT PURPOSE**

The purpose of this project is to construct two new 3-inch diameter dedicated monitoring wells, one screened in the 180-Foot Aquifer and the other in the 400-Foot Aquifer, in a location identified as a data gap in the AGENCY's current groundwater level and water quality monitoring networks. The monitoring wells will be located along Preston Road, south of Castroville, in a county road easement. A location map for the proposed wells is included in Attachment A.

### **SECTION 01010 - DESCRIPTION OF WORK**

The CONTRACTOR shall furnish all materials, equipment, supplies, permits, transportation, labor, and perform all operations and WORK, all in accordance with the requirements of the Contract Documents and Monterey County Health Department Well Destruction Permit and regulations. Furthermore, all construction practices and materials must comply with the California Water Well Standards Bulletin 74-81 and 74-90. In addition, the practices must also follow any requirements set forth in the Monterey County Code Chapter 15.08.

In general, the WORK to complete the project includes: Site mobilization/demobilization, well drilling, drill cutting sampling and recording, geophysical surveys, final well design, furnishing and installing well casing, furnishing and installing gravel pack, installing annular seal, conducting well development, surface completion including installing locking protective well casing, concrete surface pads and bollards, and site cleanup. WORK also includes removal and disposal of all water and well drilling cuttings.

### **SECTION 01020 - SHOP DRAWING, SAFETY PLAN AND SAMPLE SUBMITTAL SCHEDULE**

- A. All shop drawings, samples, and items listed under CONTRACTOR SUBMITTALS in the various Technical Specifications shall be submitted to the AGENCY Representative for review before the CONTRACTOR mobilizes to the work site. CONTRACTOR shall not commence WORK until the submittal associated with that WORK is approved by the AGENCY Representative.
- B. The AGENCY shall review and respond to each submittal, and re-submittal within five (5) working days of receiving it. The AGENCY's response to each CONTRACTOR submittal will be one of the following:
  - RECEIVED: This response applies only to the Safety Plan.
  - NO EXCEPTIONS TAKEN: No further information is required.
  - AMEND and RE-SUBMIT: Some portion(s) of the submittal does not meet requirements of the Contract Documents and needs to be amended and re-submitted for AGENCY Representative review. The AGENCY Representative shall sufficiently describe to the CONTRACTOR the changes required to meet Contract Document requirements.

## EXHIBIT B

- **REJECTED and RE-SUBMIT:** The submittal does not meet requirements of the Contract Documents and needs to be amended and re-submitted for AGENCY Representative review. The AGENCY Representative shall sufficiently describe to the CONTRACTOR the changes required to meet Contract Document requirements.

C. AGENCY Representative's review of CONTRACTOR shop drawings, samples, items listed under CONTRACTOR SUBMITTALS in the Technical Specifications, Safety Plan and Construction Schedule shall not relieve the CONTRACTOR of the responsibility for the correctness of details and dimensions. The CONTRACTOR shall assume responsibility for any misfits due to any errors in CONTRACTOR submittals.

### SECTION 01030 - CONSTRUCTION SCHEDULE AND SAFETY PLAN

- A. The CONTRACTOR shall submit to the AGENCY Representative for approval a Construction Schedule that contains the following information for each phase of the WORK:
1. Sequence of operations.
  2. Estimated dates of each operation.
  3. Dates subcontractor(s) are estimated to be on site including name of subcontractor(s).
- B. The CONTRACTOR shall submit to the AGENCY Representative a Safety Plan pertaining to the WORK. The Safety Plan is the responsibility of the CONTRACTOR.
- C. The CONTRACTOR shall not mobilize to the work site until the AGENCY Representative has returned the Construction Schedule and Safety Plan according to the review process described in Section 01020. The AGENCY Representative's review of the Construction Schedule will consist of observing allowances for specified time constraints and overall time of completion.
- D. CONTRACTOR shall start well construction WORK as soon as approved and shall complete the well construction WORK by June 30, 2023.

### SECTION 01040 - CONTRACTOR WORK AREA

The CONTRACTOR shall keep all work activities, materials and equipment within the CONTRACTOR work area staked in the road easement by the AGENCY Representative, unless otherwise approved by the AGENCY Representative. No work activities, material storage or equipment staging shall occur in crop areas, whether crop is currently planted or unplanted. CONTRACTOR is responsible for securing all equipment, material staging area(s), and work areas. AGENCY will not be responsible for loss of equipment or damage to work throughout the duration of the project.

Overhead electrical power lines are located near the work site. CONTRACTOR shall maintain clearances in accordance with applicable laws and Utility company requirements.

## **EXHIBIT B**

CONTRACTOR shall be responsible for notifying Underground Service Alert (USA) at 800-642-2444, prior to any digging. The CONTRACTOR shall bear all responsibility and cost for determining the location of all utilities found on WORK site prior to any digging.

CONTRACTOR shall be responsible for providing portable sanitation facilities at the job site for CONTRACTOR usage.

CONTRACTOR is responsible for providing and maintaining appropriate spill containment supplies on site for potential spills of hazardous materials such as oil or fuel.

CONTRACTOR shall properly secure, cover the surface, and berm any wellbore or well opening to ensure public safety and to prevent the entry of foreign material whenever work is interrupted by such events as overnight shutdown, poor weather, waiting periods, and/or interruptions.

### **SECTION 01050 - WORK BY OTHERS**

The well site and CONTRACTOR work area is adjacent to actively farmed, privately owned agricultural fields, actively used private farm roads, privately owned and operated irrigation and electrical equipment and public utility facilities. The CONTRACTOR shall fully cooperate with farm personnel to allow access to private lands and facilities and utility personnel to allow access to public utilities within and adjacent the work site and staging area for their respective essential duties.

### **SECTION 01060 - PROTECTION OF EXISTING FACILITIES AND CROP**

PG&E owned electrical equipment may exist within the work site and staging area. The CONTRACTOR shall be responsible for protecting those facilities from damage caused by the WORK. CONTRACTOR shall be responsible for repairing any damage to such facilities caused by CONTRACTOR's personnel or equipment. Privately grown crops exist immediately adjacent the work area and the CONTRACTOR shall be responsible for reimbursing the grower for any damage to crops, soils or structures caused by CONTRACTOR's personnel, equipment or performance of the work.

### **SECTION 01070 - DISCHARGE WATER**

All water resulting from the well construction WORK must be contained on site. Mud pits are not allowed. The CONTRACTOR shall furnish all necessary piping, pumps, equipment and appurtenances, and shall make all other necessary provisions for water disposal. Well cuttings can be temporarily stock piled on site during well construction WORK, and at completion of WORK must be disposed off-site. The CONTRACTOR shall be responsible for properly disposing of all water and well cuttings resulting from the WORK. All water and well cuttings shall be disposed of in conformance with applicable local, state, and federal requirements and standards. Costs of water and well cuttings disposal shall be borne by the CONTRACTOR and no additional payment will be made, therefore.

### **SECTION 01080 - PERMITS AND NOTIFICATIONS**

## EXHIBIT B

The CONTRACTOR shall obtain Well Construction Permits from the Monterey County Health Department, Environmental Health Bureau (MCHD), Easement Permits from the Monterey County Public Works department, and obtain all other required permits necessary to complete the WORK. CONTRACTOR shall pay all related fees for such permits. CONTRACTOR shall comply with and perform all conditions mandated by the MCHD Well Construction and Public Works Encroachment Permits.

CONTRACTOR shall be responsible for notifying all appropriate inspectors regarding work requiring inspection by a permitting authority. The CONTRACTOR shall notify the Monterey County Health Department, Environmental Health Bureau a minimum of 24 hours prior to mobilization to the work site and provide notification 24 hours prior of any grouting operation.

The Monterey County Health Department Environmental Health Bureau is located at 1270 Natividad Road, Salinas, CA 93960.

### SECTION 01090 - GENERAL WORK SEQUENCE

The CONTRACTOR's general work sequence is estimated below:

1. Site mobilization;
2. Well drilling;
3. Drill cutting recording;
4. Geophysical surveys;
5. Final well design;
6. Furnishing and installing well casing;
7. Furnishing and installing gravel pack;
8. Installing annular seal;
9. Conducting well development;
10. Surface completion including installing locking protective well casing, concrete surface pad, and bollards;
11. Site cleanup and demobilization;
12. Potential drilling fluid removal and disposal.

### SECTION 01110 – FINAL WELL DESIGN

The final well design shall be completed after well has been drilled and all well data has been reviewed by the AGENCY. The CONTRACTOR will provide the final well design to the AGENCY Representative before Step 6 in the General Work Sequence.

For each monitoring well, the final well design will include:

- Total completed well depth
- Well casing blank quantity and placement
- Well casing screen material, aperture, quantity, and placement
- Filter pack specifications and placement

## **EXHIBIT B**

- Bentonite seal specifications and placement
- Well annular seal specifications and placement

### **SECTION 01120 – PAYMENT**

Payment for compliance with these General Requirements shall be included in the various items of work, and no additional payment shall be made therefor.

### **SECTION 01130 – SUBSTANTIAL COMPLETION**

Substantial completion is defined as when all WORK has been completed except the site cleanup and demobilization, or item 11 in the general work sequence. The CONTRACTOR shall have ninety (90) days from the start date specified in the Notice to Proceed to reach substantial completion.

CONTRACTOR shall notify AGENCY Representative when CONTRACTOR determines Substantial Completion has occurred. Inspection of the site and WORK will then be made together by the CONTRACTOR and AGENCY Representative at the earliest convenient date. CONTRACTOR and AGENCY may provide personnel at their own expense to perform the inspection as desired by each party. After inspection, AGENCY shall provide a written list of any remaining work items to be completed, and whether Substantial Completion has been reached. If AGENCY agrees Substantial Completion has been reached, the date of Substantial Completion shall be included with the list of any remaining work items. If AGENCY does not agree that Substantial Completion has been reached, work items to complete necessary to reach Substantial Completion will be identified in writing by the AGENCY. Once Substantial Completion is reached, remaining work items must be completed within fifteen (15) business days of the date of Substantial Completion.

### **SECTION 01140 – FINAL COMPLETION**

Final completion shall occur when all WORK has been completed. Final completion shall occur within fifteen (15) business days after the date of substantial completion.

CONTRACTOR shall notify the AGENCY immediately upon Final Completion for AGENCY inspection.

Upon verification that all work items are completed, AGENCY shall file a Notice of Completion with the Monterey County Recorder upon AGENCY Board of Directors direction.

### **SECTION 01150 – FINAL ACCEPTANCE**

FINAL ACCEPTANCE: two fully developed, sand-free monitoring wells with finished surface completion, verified by the AGENCY with as-built design documented on Well Completion Reports submitted to the California Department of Water Resources.

END OF SECTION

## EXHIBIT B

### SECTION 12000- WELL DESIGN and PERMITTING

#### 1. GENERAL:

##### 1.1 GENERAL

CONTRACTOR shall confirm preliminary specifications and bid quantities and/or propose revisions and alternatives, including recommended annular seal depths, screened depths, and total drilled depths to monitor the 180-Foot and 400-Foot Aquifers. CONTRACTOR shall consult with AGENCY Representative regarding recommended design alternatives to those outlined in this Scope of Work.

CONTRACTOR shall obtain Well Construction Permits from the Monterey County Health Department, Environmental Health Bureau (MCHD), and obtain all other required permits necessary to complete the WORK as required by Monterey County Code Chapter 15.08. CONTRACTOR shall pay all related fees for such permits. CONTRACTOR shall comply with and perform all conditions mandated by the MCHD Well Construction Permits.

CONTRACTOR shall obtain Encroachment Permits from the Monterey County Housing and Community Development (HCD) Department. CONTRACTOR shall pay all related fees for such permits. CONTRACTOR shall comply with and perform all conditions mandated by the HCD Encroachment Permits.

Well construction WORK shall be completed in accordance with local ordinance and California Well Bulletins 74-81 and 74-90, or revisions thereto.

##### 1.2 CONTRACT SUBMITTALS

CONTRACTOR shall submit to the AGENCY Representative the following:

- A. Well construction design, drawings
- B. Copies of well construction permits from the MCHD
- C. Copy of encroachment permit from Monterey County Public Works

#### 2. PRODUCTS (Not Used)

#### 3. EXECUTION:

##### 3.1 PAYMENT

Payment for well construction design, drawings and permitting shall be on a lump sum basis and include payment for furnishing all materials, labor, equipment and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION



## **EXHIBIT B**

### **SECTION 12010 – MOBILIZATION and DEMOBILIZATION**

#### **1. GENERAL:**

##### **1.1 MOBILIZATION**

Mobilization includes CONTRACTOR submittals to AGENCY Representative, including the CONTRACTOR Safety Plan and Construction Schedule as required in the General Requirements section 01030, and the assembly and transportation of all necessary tools, equipment, personnel and materials to and from the site of the WORK to perform all the WORK required under these specifications.

##### **1.2 CLEAN-UP AND DEMOBILIZATION**

Before final acceptance of the WORK, all grounds occupied by the CONTRACTOR in connection with the WORK shall be cleaned by CONTRACTOR of all rubbish, excess materials, temporary structures, and equipment used in the WORK; and all parts of the work site shall be left in a neat and acceptable condition, substantially like that of pre-mobilization.

CONTRACTOR shall submit a Well Completion Report to the California Department of Water Resources, Monterey County Health Department Environmental Health Bureau, and the AGENCY Representative within thirty (30) days of Final Completion of WORK.

#### **2. PRODUCTS**

##### **2.1 POTABLE WATER**

CONTRACTOR shall bear all cost and responsibility for providing potable water for well construction and development WORK.

#### **3. EXECUTION:**

##### **3.1 PAYMENT**

Payment for mobilization, potable water, clean-up and demobilization shall be on a lump sum basis. The lump sum price paid shall cover all costs of Construction Schedule and Safety Plan, submittal preparation and submission, transporting tools, equipment, personnel and materials to and from the site of the WORK, site preparation and cleanup work required. Payment shall include full compensation for furnishing all labor, materials, tools and equipment, and the performance of all WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

# EXHIBIT B

## SECTION 12020- WELL DRILLING

### 1. GENERAL:

#### 1.1 WELL BOREHOLE DRILLING

CONTRACTOR shall drill two separate 8-inch diameter boreholes. The estimated boring depths, and the depths to be assumed for bidding purposes, shall be 250 feet below ground surface for the 180-Foot Aquifer monitoring well and 600 feet below ground surface for the 400-Foot Aquifer monitoring well. CONTRACTOR shall prepare a stratigraphic log of the earth materials encountered.

#### 1.2 CONTRACTOR SUBMITTALS

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Copies of all drilling records, including stratigraphic log of earth materials encountered, type and amount of drilling fluid additives used, and drilling bit types used and at what depth.

### 2. PRODUCTS (Not Used)

### 3. EXECUTION:

#### 3.1 WELL BOREHOLE DRILLING

CONTRACTOR shall drill two separate boreholes to prevent communication between aquifers. Each borehole shall be 8 inches in diameter. The estimated boring depths are 250 feet below ground surface for the 180-Foot Aquifer monitoring well and 600 feet below ground surface for the 400-Foot Aquifer monitoring well. The distance between the boreholes shall not exceed six feet. The borings for each monitoring well shall be cleaned and conditioned to allow for geophysical logging of the well and then installation of the casing.

Wells shall be drilled by conventional direct-rotary methods with drilling equipment of sufficient capacity to drill the 8-inch diameter boreholes to a maximum depth of 600 feet. CONTRACTOR shall ensure all drilling equipment including mast, draw works, air compressors, drilling fluid pumps, drill pipe, etc., must be of sufficient size, capacity and in suitable condition to drill and set casing to the estimated depths.

CONTRACTOR shall keep a stratigraphic log of the cuttings, including the depth and description of the earth materials encountered. CONTRACTOR shall keep a log of drilling fluid test results, a log listing the amounts and type of drilling fluid additives used with corresponding time and depths, and a log of drilling bit types and depths at which drill it changes are made. All drilling records shall be delivered to the AGENCY Representative upon completion of the well.

## EXHIBIT B

### 3.2 PAYMENT

Payment for drilling the two boreholes shall be on a Unit Price basis per Linear Foot. Payment will be for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

# **EXHIBIT B**

## **SECTION 12030- GEOPHYSICAL SURVEYS**

### **1. GENERAL:**

#### **1.1 GENERAL**

CONTRACTOR shall stabilize the 600-foot borehole to allow for geophysical logging of the well. Geophysical logging shall be performed by the CONTRACTOR or Sub-Contractor. Logging shall include: Caliper, Natural Gamma Ray, Spontaneous Potential (SP) with water quality analysis, Resistivity (long-and short-normal, and single point), Inclinator (Borehole deviation) and Differential Temperature.

If the logging probe fails to descend to the desired depth, the CONTRACTOR, at their own expense, shall condition the hole and permit the logging probe to descend to the bottom of the hole. Standby time will not be paid for additional cleaning and conditioning of the hole to enable logging operations to proceed.

#### **1.2 CONTRACTOR SUBMITTALS**

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Digital and paper copy of the Geophysical Survey Reports.

### **2. PRODUCTS (Not Used)**

### **3. EXECUTION:**

#### **3.1 PAYMENT**

Payment for Geophysical Survey Logs shall be on a Unit Price basis per Linear Foot and shall include payment for WORK performed in accordance with these specifications. Payment shall include full compensation for furnishing all labor, materials, tools and equipment, and the performance of all WORK in accordance with these specifications.

END OF SECTION

## **EXHIBIT B**

### **SECTION 12040- FINAL WELL DESIGN PROPOSAL**

#### **1. GENERAL:**

##### **1.1 GENERAL**

CONTRACTOR shall propose a Final Well Design to the AGENCY Representative including designating materials, quantities, and dimensions. The Final Well Design shall include items discussed in Section 01110.

##### **1.2 CONTRACTOR SUBMITTALS**

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Final Well Design proposal in PDF format, including a list of all materials and quantities.

#### **2. PRODUCTS (Not Used)**

#### **3. EXECUTION:**

##### **3.1 PAYMENT**

Payment the Final Well Design proposal shall be included in the various line items and shall include payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

## EXHIBIT B

### SECTION 12050- WELL CASING INSTALLATION

#### 1. GENERAL:

##### 1.1 GENERAL

CONTRACTOR shall furnish and install 3-inch internal diameter SCH-80 PVC casing based on the final well design approved by the AGENCY Representative. This shall include placement of the blank and screened section of casing, plumbed and centered in the borehole, and installation of centralizers and a bottom plug or end cap. Each monitoring well's PVC casing should extend three feet above ground surface. The top of the casing or borehole should be provided with a locking cover at all times when personnel are not on the site.

##### 1.2 CONTRACTOR SUBMITTALS

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. All manufacturer certifications of materials and specification sheets prior to installation, including specifications and placement for the blank well casing, screened well casing and centralizers used.

#### 2. PRODUCTS:

##### 2.1 MONITORING WELL CASING

The casing for each monitoring well shall be 3-inch internal diameter SCH-80 PVC casing meeting ASTM F480 manufacture standards. Casing shall be connected using flush-threaded joints and in a manner that ensures water tightness. All materials shall be in new condition. The final casing type and quantity shall be included in the Final Well Design and approved by the AGENCY Representative, following review of geophysical logging data.

##### 2.2 BOTTOM PLUG

The bottom of the monitoring well screen shall be fitted with a 10-foot cellar made of blank monitoring well casing. The casing shall have a bottom plug or endcap to prevent sediment from entering the well. The material of the bottom plug or endcap shall be fabricated from new materials and be of the same materials as the monitoring well casing.

##### 2.3 MONITORING WELL SCREEN

The screened casing shall be 3-inch internal diameter SCH-80 PVC. Well screens shall consist of 0.032-inch, horizontal machine-cut slots. Each monitoring well should have a screened section of 50 feet in length. The final specifications of the screen will be in the Final Well Design and should include slot size, quantity of material, and placement of the screened casing sections.

##### 2.4 WELL CASING CENTRALIZERS

## EXHIBIT B

Well casing centralizers shall be installed below the well screen, above the bentonite plug seal, and at intervals not exceeding 60-feet along the blank well casing sections. Plastic centralizers shall be used; metal centralizers will not be allowed. Locations and type of the centralizers installed in the well should be included in the Final Well Design.

### 3. EXECUTION:

#### 3.1 INSTALLATION OF CASING

CONTRACTOR shall install the casing, well screen, bottom plug/end cap and centralizers for each monitoring well as determined in the final well design. The well casings should be secured to the well screen by flush-jointed threads and placed into the borehole and plumbed by the use of centralizers and/or by use of a plumb bob and level. The well casing and screen may also be suspended and plumbed in the borehole by means of a hoist on a drill rig. Centralizers shall be installed below the well screen, above the bentonite plug seal, and at intervals not exceeding 60-feet along the blank well casing sections. The specific placement of centralizers may be decided based on site conditions.

#### 3.2 PAYMENT

- A. Payment for furnishing the blank well casing shall be on a Unit Price per Linear Foot basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.
- B. Payment for furnishing the screened well casing shall be on a Unit Price per Linear Foot basis and include payment for furnishing all materials, labor, equipment, incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.
- C. Payment for the furnishing the bottom plug/ end cap, well centralizers and installation of the well casing shall be included in the various line items and include payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

# EXHIBIT B

## SECTION 12060- FILTER PACK INSTALLATION

### 1. GENERAL:

#### 1.1 GENERAL

Each monitoring well should have a filter pack extending from the bottom of the well to the ten feet above the well screen. The estimated filter pack length to be assumed for bidding purposes shall be 70 feet for each monitoring well. Each monitoring well shall have a bentonite plug seal placed on top of the filter pack to separate it from the annular seal. The CONTRACTOR shall furnish and install the filter pack specified in the final well design approved by the AGENCY Representative.

#### 1.2 CONTRACTOR SUBMITTALS

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Filter pack manufacturer certifications of material composition and description prior to installation.
- B. Bentonite plug seal manufacturer certifications of material composition, description and amount used.

### 2. PRODUCTS:

#### 2.1 FILTER PACK MATERIAL

The filter pack material shall be an 8x16 filter pack manufactured by RMC Lonestar, Silica Resources, or equivalent. Filter pack material shall be predominantly siliceous (90%), water-worn, sub-rounded to rounded, and washed clean of silt, fine sand, clay, or foreign materials. Delivery and storage of the filter pack should ensure protection from the ground, pollutants, contaminants, or other foreign materials.

The filter pack shall extend from the bottom of the well to 10 feet above the well screen. The filter pack material selected, and final quantity required shall be included in the Final Well Design and approved by the AGENCY Representative.

#### 2.2 BENTONITE PLUG SEAL

Each filter pack shall be sealed with a minimum thickness of 2 feet of bentonite pellets. The bentonite seal material selected, and final quantity required shall be included in the Final Well Design and approved by the AGENCY Representative.

### 3. EXECUTION:

#### 3.1 INSTALLATION OF FILER PACK

After the casing string has been installed in the borehole, the CONTRACTOR shall install the filter pack for each monitoring well without delay. The filter pack material shall be



## EXHIBIT B

installed using a tremie pipe lowered to the bottom of the annular space between the borehole and outside of the casing. As the filter pack material is poured into the tremie pipe, water shall be introduced to help carry the material. The height of the filter pack shall be checked to ensure the volume of the filter pack is nearly equivalent to the computed amount.

### 3.2 INSTALLATION OF BENTONITE PLUG SEAL

After the filter pack has been installed, the CONTRACTOR shall install a bentonite plug seal in each monitoring well as determined by the final well design. The bentonite plug seal shall be installed using a tremie pipe lowered to the top of the filter pack in the annular space between the borehole and outside of the casing to a thickness of two feet. The bentonite plug seal should be allowed to hydrate a minimum of eight hours or the manufacturer's recommended hydration time, whichever is longer.

### 3.3 PAYMENT

- A. Payment for furnishing and installing the filter pack shall be on a Unit Price per Linear Foot basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.
- B. Payment for furnishing and installing the filter pack and bentonite pellet seal shall be included in the various line items and shall include payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

## EXHIBIT B

### SECTION 12070- ANNULAR SEAL INSTALLATION

#### 1. GENERAL:

##### 1.1 GENERAL

The sealing material for each monitoring well should be neat cement. The CONTRACTOR needs to be aware of the heat of hydration and propose appropriate measures to slow cure time as to not damage the PVC casing. The estimated annular seal lengths, and the lengths to be assumed for bidding purposes, shall be 180 feet below ground surface for the 180-Foot Aquifer monitoring well and 530 feet below ground surface for the 400-Foot Aquifer monitoring well. The final annular seal depths will be based on site-specific conditions and the depth of aquifer layers encountered. The CONTRACTOR shall furnish and install the annular seal specified in the final well design approved by the AGENCY Representative.

CONTRACTOR shall perform all requirements for grouting cement per the Monterey County Well Construction Permit along with any additional requirements set forth in California Well Standards Bulletin 74-81 and 74-90. This shall include notifying the Monterey County Environmental Health Department and the AGENCY Representative of any grouting operation 24 hours in advance.

##### 1.2 CONTRACTOR SUBMITTALS

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Annular seal material supplier certification of the material composition, list of all additives, mixture makeup and volumes of each constituent.

#### 2. PRODUCTS

##### 2.1 ANNULAR SEAL MATERIAL

The sealing material for each monitoring shall be neat cement. The neat cement grout shall be composed of 94 pounds of Portland cement and no more than 6 gallons of water. Up to 5 percent of bentonite (4.7 pounds bentonite per 94 pounds of Portland cement) may be added to help slow cure time and reduce shrinkage. With the use of 5 percent of bentonite, the water ratio may be increased to 8.5 gallons of water per sack of Portland cement. The CONTRACTOR needs to be aware of the heat of hydration and propose appropriate measures to slow cure time. The grout mixture shall contain no additives that would reduce the curing time and increase the heat during curing. The final annular seal material shall be approved by the AGENCY Representative.

#### 3. EXECUTION:

##### 3.1 INSTALLATION OF ANNULAR SEAL

## EXHIBIT B

CONTRACTOR shall install an annular seal from the top of the bentonite plug seal to the ground surface for each monitoring well as determined in the final well design. The annular seal shall be installed using a tremie pipe lowered to the top of the bentonite seal in the annular space between the borehole and outside of the casing. The placement of the annular seal shall be completed under pressure from the bottom of the seal depth to the surface in one continuous operation. The discharge end of the tremie pipe shall remain below the level of the grout in the borehole throughout the placement. The tremie pipe shall be maintained full of grout at all times. Each monitoring well casing shall be filled with water and maintained at the ground surface during the sealing operation and curing period. After installation of each seal, no work will be undertaken for a minimum of 24 hours. After the annular seal has cured, the depth of the well shall be sounded to verify that casing collapse has not occurred.

### 3.2 PAYMENT

Payment for installing the annular seal shall be on a Unit Price per Linear Foot basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

# EXHIBIT B

## SECTION 12080- WELL DEVELOPMENT

### 1. GENERAL:

#### 1.1 GENERAL

Each monitoring well will be developed by the CONTRACTOR through the process of swabbing and airlifting unless other methods are deemed necessary. Well development time should continue until water being produced from the well is consistently clear and free from sand or mud. The estimated well development time, and the time to be assumed for bidding purposes, shall be 10 hours.

#### 1.2 CONTRACTOR SUBMITTALS

CONTRACTOR shall submit the following to the AGENCY Representative:

- A. Details and dimensions of any tools used during well development.
- B. Details and quantity of any development additives used.

### 2. PRODUCTS

#### 2.1 DEVELOPMENT FLUID ADDITIVES

Site specific conditions may determine the use of additives to assist or accelerate the well development process. Any additives used shall have its specifications submitted to the AGENCY Representative and approved for use.

### 3. EXECUTION:

#### 3.1 CONDUCTING WELL DEVELOPMENT

CONTRACTOR shall furnish and install swabbing and airlifting tools required to complete the well development cycle. A minimum rate of 1 hour per 10 feet of screen installed in each monitoring well shall be used. For bidding purposes, assume each well shall take a minimum of 5 hours to complete.

CONTRACTOR shall continue well development by swabbing and airlifting until the well produces water free from sand or mud and has been verified by the AGENCY Representative. CONTRACTOR shall coordinate with AGENCY Representative to allow the AGENCY Representative to collect a water quality sample at the end of well development.

Development water from the monitoring wells shall be directed to temporary containment tank(s) on site. CONTRACTOR shall be responsible for disposing of all water in conformance with applicable local, state, and federal requirements and standards.

#### 3.2 PAYMENT

## **EXHIBIT B**

Payment for well development by swabbing and airlifting shall be on a Unit Price per Hour basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION

# EXHIBIT B

## SECTION 12090- SURFACE COMPLETION

### 1. GENERAL:

#### 1.1 GENERAL

Each monitoring well casing shall be completed to three feet above ground surface. CONTRACTOR shall install an above-ground locking protective metal casing and concrete surface pad for each monitoring well, and two to three bollards around the clustered well site. Desired surface completion is included in Attachment B.

### 2. PRODUCTS

#### 2.1 LOCKING WELL CASING

CONTRACTOR shall install an above-ground outer protecting casing around each monitoring well. The protective casing should be of steel construction, or other appropriate material approved by the AGENCY Representative, with a hinged, locking cap. The protective casing should have sufficient clearance around the sides and top of the PVC well casing as to not come in contact with the PVC well casing. The protective casing should extend into the ground for a minimum of two feet in a concrete footing. Extra concrete may be required to fill the inside of the protective casing so that the level of concrete inside the protective casing is at or above the level of the surrounding ground surface. The protective casings should have a weep hole to allow for drainage of accumulated rain or spilled purge water from inside the protective casing. The outside of the locking casing shall be painted with high visibility paint.

#### 2.2 CONCRETE SURFACE PAD

CONTRACTOR shall install a concrete surface pad around each monitoring well at the same time as the outer protective casing. Each surface pad should be formed around the well casing and should be a minimum of 3 feet x 3 feet x 4 inches in size. A round concrete pad is also acceptable. The surface pad should extend a minimum of 1 inch below grade to prevent undermining by erosion. The surface pad should be slightly sloped so that drainage will flow away from the well casing and off the pad.

#### 2.3 CONCRETE BOLLARDS

CONTRACTOR shall install two to three bollards around the clustered well site. Bollards shall be 3 to 4 inches in diameter, installed to a minimum of two feet below ground surface in a concrete footing, and extend a minimum of three feet above ground surface. Bollards shall be of concrete material. Steel rails in lieu of concrete bollards are not allowed. Bollards shall not be connected to the protective casing. The concrete bollards shall be painted with high visibility paint.

### 3. EXECUTION:

## EXHIBIT B

### 3.1 INSTALLATION OF LOCKING WELL CASINGS, CONCRETE SURFACE PADS, AND BOLLARDS

CONTRACTOR shall install an above-ground locking protective metal casing and concrete surface pad for each monitoring well. CONTRACTOR shall install two to three bollards around the well site to further protect the well. Desired surface completion can be seen in Attachment B.

### 3.2 PAYMENT

- A. Payment for installation of the locking protective metal casing shall be on a Unit Price per well basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.
- B. Payment for installation of the concrete surface pads shall be on a Unit Price per well basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.
- C. Payment for installation of the bollards shall be on a Lump Sum basis and includes payment for furnishing all materials, labor, equipment, and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

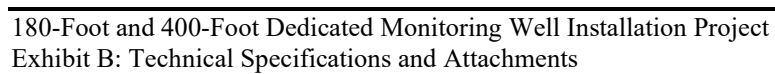
END OF SECTION

## EXHIBIT B

# ATTACHMENTS



## ATTACHMENT A: PROPOSED MONITORING WELL LOCATION



## EXHIBIT B

### **ATTACHMENT B: DESIRED SURFACE COMPLETION**

Each monitoring well should be completed two to three feet above the ground surface, with an above ground locking metal protective housing installed around the PVC well casing, and two to three bollards. An example of the desired surface completion, based on other Agency owned monitoring wells, is below.



180-FOOT AND 400-FOOT AQUIFER DEDICATED  
MONITORING WELL INSTALLATION PROJECT

**EXHIBIT C:**  
CONTRACTOR'S  
PAYMENT AND PERFORMANCE BONDS



# EXHIBIT C

## MONTEREY COUNTY WATER RESOURCES AGENCY

### **PERFORMANCE BOND**

(Public Contract Code section 20129)

Bond #: HA10104712

Premium: \$5,314.00 subject to final contract price adjustment

THIS CONSTRUCTION PERFORMANCE BOND ("Bond") is dated November 14 2022, is in the amount of Two Hundred Fifteen Thousand ("Penal Sum"), which is 100% of the Contract Sum and is entered into by and between the parties listed below to ensure the faithful performance of the Contract identified below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 13 attached to this page. Any singular reference to Maggiora Bros. Drilling, Inc. ("Contractor"), Hudson Insurance Company ("Surety"), MONTEREY COUNTY WATER RESOURCES AGENCY ("Owner" or "Agency"), or other party shall be considered plural where applicable.

\*Seven Hundred Twenty and 00/100 (\$215,720.00)

#### **CONTRACTOR:**

Maggiora Bros. Drilling, Inc.

Address:

595 Airport Blvd

City/State/Zip:

Watsonville, CA 95076

#### **SURETY:**

Hudson Insurance Company

Address:

23975 Park Sorrento Ste 225

City/State/Zip:

Calabasas, CA 91302

#### **CONTRACTOR:**

Agreement for the Monterey County Water Resources Agency **2022 MONTEREY COUNTY WATER RESOURCES AGENCY 180-FOOT AND 400-FOOT AQUIFER DEDICATED MONITORING WELL INSTALLATION** located in Monterey County, California, <sup>on or about</sup> dated November 14 2022, in the amount of Two Hundred Fifteen Thousand Seven Hundred Twenty and 00/100 (\$215,720.00)

#### **CONTRACTOR AS PRINCIPAL**

Company: (Corp. Seal)

Maggiora Bros. Drilling, Inc.

#### **SURETY**

Company: (Corp. Seal)

Hudson Insurance Company

Signature: 

Name: Michael F. Maggiora

Title: Secretary

Signature: 

Name: Catherine A. Pinney

Title: Attorney in Fact

# EXHIBIT C

## BOND TERMS AND CONDITIONS

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner and the State of California for the complete and proper performance of the Construction Contract, which is incorporated herein by reference.
2. If Contractor completely and properly performs all of its obligations under the Construction Contract, Surety and Contractor shall have no obligation under this Bond.
3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - 3.1. Owner provides Surety with written notice that Owner has declared a Contractor Default under the Construction Contract pursuant to the terms of the Construction Contract; and
  - 3.2. Owner has agreed to pay the Balance of the Contract Sum:
    - 3.2.1. To Surety in accordance with the terms of this Bond and the Construction Contract; or
    - 3.2.2. To a Contractor selected to perform the Construction Contract in accordance with the terms of this Bond and the Construction Contract.
4. When Owner has satisfied the conditions of Paragraph 3 above, Surety shall promptly (within 40 days) and at Surety's expense elect to take one of the following actions:
  - 4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Construction Contract (but Owner may withhold consent, in which case the Surety must elect an option described in Paragraphs 4.2, 4.3 or 4.4 below); or
  - 4.2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; provided, that Surety may not select Contractor as its agent or independent contractor or Contractor without Owner's consent; or
  - 4.3. Undertake to perform and complete the Construction Contract by obtaining bids from qualified contractors acceptable to Owner for a contract for performance and completion of the Construction Contract and, upon determination by Owner of the lowest responsive and responsible Bidder, arrange for a contract to be prepared for execution by Owner and the contractor or Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract; and, if Surety's obligations defined in Paragraph 7 below, exceed the Balance of the Contract Sum, then Surety shall pay to Owner the amount of such excess; or
  - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor or Contractor, and with reasonable promptness under the circumstances and, after investigation and consultation with Owner, determine in good faith its monetary obligation to Owner under Paragraph 7 below, for the performance and completion of the Construction Contract and, as soon as practicable after the amount is determined, tender payment therefor to Owner with full explanation of the payment's calculation. If Owner accepts Surety's tender under this Paragraph 4.4, Owner may still hold Surety liable for future damages then unknown or unliquidated resulting from the Contractor Default, as agreed by Owner and Surety at the time of tender. If Owner disputes the amount of Surety's tender under this Paragraph 4.4, Owner may exercise all remedies available to it at law to enforce Surety's liability under Paragraph 7 below.

## EXHIBIT C

5. If Surety does not proceed as provided in Paragraph 4 above then Surety shall be deemed to be in default on this Bond ten Days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond. Such Surety default shall be independent from the Contractor Default. To the extent Surety's independent default causes Owner to suffer damages, including, but not limited to, delay damages, which are different from, or in addition to (but not duplicative of) damages which Owner is entitled to receive under the Construction Contract, Surety shall also be liable for such damages.
6. At all times Owner shall be entitled to enforce any remedy available to Owner at law or under the Construction Contract including, without limitation, and by way of example only, rights to perform work, protect Work, mitigate damages, advance critical Work to mitigate schedule delay, and coordinate Work with other consultants or contractors.
7. If Surety timely elects to act under Paragraphs 4.1, 4.2 or 4.3 above and complies with its obligations under this Bond, Surety's obligations under this Bond are commensurate with the obligations of Contractor under the Construction Contract. Surety's obligations shall include, but are not limited to:
  - 7.1. The responsibilities of Contractor under the Construction Contract for completion of the Construction Contract and correction of Defective Work;
  - 7.2. The responsibilities of Contractor under the Construction Contract to pay liquidated damages; and,
  - 7.3. Additional legal, professional and delay costs resulting from Contractor Default or resulting from the actions or failure to act of the Surety under Paragraph 4 above (but excluding attorney's fees incurred to enforce this Bond).
8. If Surety timely elects to act under Paragraphs 4.1, 4.3 or 4.4 above and complies with its obligations under this Bond, Surety's monetary obligation under this Bond is limited by the amount of this Bond identified herein as the Penal Sum.
9. No right of action shall accrue on this Bond to any person or entity other than Owner or its successors or assigns.
10. Surety hereby waives notice of any change, alteration or addition to the Construction Contract or to related subcontracts, agreements, purchase orders and other obligations, including changes of time, and of any Owner action in accordance with Paragraph 6 above. Surety consents to all terms of the Construction Contract, including provisions on changes to the Contract. No extension of time, change, alteration, Modification, deletion, or addition to the Contract Documents, or of the Work (including services) required thereunder, or any Owner action in accordance with Paragraph 6 above shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond, unless such action is an Owner Default. Except in the event of an Owner Default, and to the extent Surety is damaged thereby, Surety hereby waives the provisions of California Civil Code section 2809, and any other law which either prohibits, restricts, limits or modifies in any way any obligation of a surety which is larger in amount or in any other respect more burdensome than that of the principal.
11. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between Owner and Contractor regarding the Construction Contract, or in the courts of the County of Monterey, or in a court of competent jurisdiction in the

## EXHIBIT C

location in which the Work is located. Communications from Owner to Surety under Paragraph 3.1 above shall be deemed to include the necessary agreements under Paragraph 3.2 above unless expressly stated otherwise.

12. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Owner shall be mailed or delivered as provided in the Agreement for the **2022 MONTEREY COUNTY WATER RESOURCES AGENCY 180-FOOT AND 400-FOOT AQUIFER DEDICATED MONITORING WELL INSTALLATION** (Agreement). Actual receipt of notice by Surety, Owner or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.
13. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.

### **DEFINITIONS:**

**Balance of the Contract Sum:** The total amount payable by Owner to Contractor pursuant to the terms of the Construction Contract after all proper adjustments have been made under the Construction Contract, for example, deductions for progress payments made, and increases/decreases for approved Modifications to the Construction Contract.

**Construction Contract:** The agreement between Owner and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.

**Contractor Default:** Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract, limited to "default" or any other condition allowing a termination for cause as provided in the Construction Contract.

**Owner Default:** Material failure of Owner, which has neither been remedied nor waived, to pay Contractor progress payments due under the Construction Contract or to perform other material terms of the Construction Contract, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Construction Contract.

# EXHIBIT C

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Sonoma )

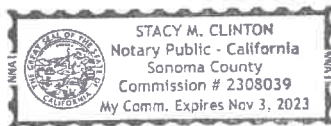
On November 14, 2022 before me, Stacy M. Clinton, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Catherine A. Pinney  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

### OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☒ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





Bond Number: HA10104712

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

**Catherine A. Pinney**  
of the State of CA

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of

**Two Hundred and Fifteen Thousand Seven Hundred and Twenty Dollars and Zero Cents**

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 2nd day of June, 20 22 at New York, New York.

**HUDSON INSURANCE COMPANY**

By Michael P. Cifone  
**Michael P. Cifone**  
Senior Vice President

Attest Dina Daskalakis  
**Dina Daskalakis No. 01MU6067553**  
Corporate Secretary

STATE OF NEW YORK  
COUNTY OF NEW YORK. SS.

On the 2nd day of June, 20 22 before me personally came Michael P. Cifone to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of HUDSON INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)



Ann M. Murphy  
**ANN M. MURPHY**  
Notary Public, State of New York  
No. 01MU6067553  
Qualified in Nassau County  
Commission Expires December 10, 2025

## CERTIFICATION

STATE OF NEW YORK  
COUNTY OF NEW YORK. SS.

The undersigned **Dina Daskalakis** hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27<sup>th</sup>, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOLVED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 14th day of November, 20 22.

seal)

By Dina Daskalakis  
**Dina Daskalakis, Corporate Secretary**



# EXHIBIT C

## MONTEREY COUNTY WATER RESOURCES AGENCY

### **PAYMENT BOND**

(Civil Code section 9550)

Bond #: HA10104712  
Premium: Included in that of  
Performance Bond

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, the County of Monterey Water Resources Agency has awarded CONTRACTOR, a contract for the following project:

**2022 MONTEREY COUNTY WATER RESOURCES AGENCY  
180-FOOT AND 400-FOOT AQUIFER  
DEDICATED MONITORING WELL INSTALLATION**

AND WHEREAS, CONTRACTOR is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, material-men, and other persons furnishing labor and materials on the project as provided by law;

NOW, THEREFORE, we Maggiore Bros. Drilling, Inc. as CONTRACTOR,  
and Hudson Insurance Company

as Surety, are held and firmly bound unto the County of Monterey Water Resources Agency (hereinafter called "AGENCY"), and to the persons named in California Civil Code section 9100 in the penal sum of Two Hundred Fifteen Thousand Seven Hundred Twenty and 00/100 for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION IS SUCH THAT:

If the CONTRACTOR or any of CONTRACTOR's heirs, executors, administrators, successors, assigns, or subcontractors, (1) fails to pay in full all of the persons named in Civil Code section 9100 with respect to any labor or materials furnished by said persons on the project described above, or (2) fails to pay in full all amounts due under California Unemployment Insurance Code with respect to work or labor performed on the project described above, or (3) fails to pay for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the CONTRACTOR and Subcontractors pursuant to Unemployment Insurance Code section 13020 with respect to such work and labor, then the Surety shall pay for the same.

Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

## EXHIBIT C

If suit is brought upon this bond by the AGENCY and judgment is recovered, the Surety shall pay all litigation expenses incurred by the AGENCY in such suit, including attorneys' fees, court costs, expert witness fees, and investigation expenses.

This bond inures to the benefit of any of the persons named in Civil Code section 9100, and such persons or their assigns shall have a right of action in any suit brought upon this bond, subject to any limitations set forth in Civil Code sections 3247 *et seq.* (Civil Code, Division 3, Part 4, Title 15, Chapter 7: Payment Bond for Public Works).

IN WITNESS WHEREOF the above-bounden parties have executed this instrument under several seals this 14th day of November, 2022, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Maggiore Bros. Drilling, Inc.

Principal

By:

Print Name:

Title:

(Corporate Seal)

Hudson Insurance Company

Surety

By:

Print Name:

Title:

Attach: 1) A Copy of authorization for signature for Principal, and 2) An original or certified copy of unrevoked appointment, Power of Attorney, Attorney-in-Fact Certificate bylaws or other instrument entitling or authorizing person executing bond on behalf of Surety to do so.

# EXHIBIT C

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Sonoma )

On November 14, 2022 before me, Stacy M. Clinton, Notary Public,  
Date Here Insert Name and Title of the Officer

personally appeared Catherine A. Pinney  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

### OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☒ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Bond Number: HA10104712

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

**Catherine A. Pinney**  
of the State of CA

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of

**Two Hundred and Fifteen Thousand Seven Hundred and Twenty Dollars and Zero Cents**

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 2nd day of June, 20 22 at New York, New York.



Attest (seal)

*Dina Daskalakis*  
Dina Daskalakis No. 01MU6067553  
Corporate Secretary

HUDSON INSURANCE COMPANY

By *Michael P. Cifone*  
Michael P. Cifone  
Senior Vice President

STATE OF NEW YORK  
COUNTY OF NEW YORK. SS.

On the 2nd day of June, 20 22 before me personally came Michael P. Cifone to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of HUDSON INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)



*Ann M. Murphy*  
ANN M. MURPHY  
Notary Public, State of New York  
No. 01MU6067553  
Qualified in Nassau County  
Commission Expires December 10, 2025

## CERTIFICATION

STATE OF NEW YORK  
COUNTY OF NEW YORK. SS.

The undersigned **Dina Daskalakis** hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27<sup>th</sup>, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOVLED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 14th day of November, 20 22.



seal)

By *Dina Daskalakis*  
Dina Daskalakis, Corporate Secretary

180-FOOT AND 400-FOOT AQUIFER DEDICATED  
MONITORING WELL INSTALLATION PROJECT

**EXHIBIT D:**  
CONTRACTOR'S  
CERTIFICATE(S) OF INSURANCE



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/14/2022

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

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

<b>PRODUCER</b> <b>USI Insurance Services, LLC</b> <b>201 Mission St 11th Fl</b> <b>San Francisco, CA 94105</b> <b>628 201-9001</b>		<b>CONTACT NAME:</b> <b>Teresa A Rose</b> <b>PHONE (A/C, No, Ext):</b> <b>628 201-9001</b> <b>E-MAIL ADDRESS:</b> <b>teresa.rose@usi.com</b> <b>FAX (A/C, No):</b>	
<b>INSURED</b> <b>Maggiore Bros. Drilling Inc.</b> <b>595 Airport Boulevard</b> <b>Watsonville, CA 95076</b>		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A : National Fire Insurance Co. of Hartford</b> <b>INSURER B : Continental Insurance Company</b> <b>INSURER C : Redwood Fire and Casualty Insurance Co.</b> <b>INSURER D : Nautilus Insurance Company</b> <b>INSURER E : Continental Casualty Company</b> <b>INSURER F :</b>	<b>NAIC #</b> <b>20478</b> <b>35289</b> <b>11673</b> <b>17370</b> <b>20443</b>

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>PD Ded: 5,000</b> <input checked="" type="checkbox"/> <b>XCUI Included</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		4015556058	01/01/2022	01/01/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
E	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY		4016912684	01/01/2022	01/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000		4016912670	01/01/2022	01/01/2023	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	MAWC337227	01/01/2022	01/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	<b>Professional Liab</b> <b>Pollution Liab</b>		CPP202831713 CPP202831713	03/05/2022 03/05/2022	03/05/2023 03/05/2023	\$1,000,000 Each Claim \$1,000,000 Each Occ \$2,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Bind No 22-002 - 180-Foot and 400-Foot Dedicated Monitoring Well Installation project, Monterey, CA

Monterey County Water Resources Agency its officers, agents, and employees are named Additional Insured as respects General Liability and Automobile Liability per the attached endorsement Forms with respect to all work performed by or on behalf of the Named Insured at all locations under contract with the Certificate Holder. Primary and Non-contributory wording applies to General Liability per the attached endorsement.

## CERTIFICATE HOLDER

## CANCELLATION

Monterey County Water Resources Agency  
 1441 Schilling Place, North Bldg  
 Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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180-FOOT AND 400-FOOT AQUIFER DEDICATED  
MONITORING WELL INSTALLATION PROJECT

**EXHIBIT E:**  
CONTRACTOR'S ADDITIONAL INSURED  
INSURANCE POLICY ENDORSEMENTS



# EXHIBIT E

POLICY NUMBER: 4016912684

COMMERCIAL AUTO  
CA 04 44 10 13

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Maggiore Bros. Drilling, Inc.

**Endorsement Effective Date:** 01/01/2022

### **SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

ANY PERSON OR ORGANIZATION FOR WHOM  
OR WHICH YOU ARE REQUIRED BY WRITTEN  
CONTRACT OR AGREEMENT TO OBTAIN THIS  
WAIVER FROM US. YOU MUST AGREE TO THAT  
REQUIREMENT PRIOR TO LOSS.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

# EXHIBIT E

CNA71527XX  
(Ed. 10/12)

4016912684

## ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

### SCHEDULE

Name of Additional Insured Persons Or Organizations
---

<p>"Any person or organization that you are required by written contract to make an additional insured under this insurance is an "insured", but only with respect to that person or organization's legal liability for acts or omissions of a person who qualifies as an "insured" for Liability Coverage under Section II – Who Is An Insured of this Coverage Form."</p>
---

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section II – LIABILITY COVERAGE, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "accident" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the Policy remain unchanged.

CNA71527XX (10/12)

Page 1 of 1

Insured Name:

Policy No:

Endorsement No:

Effective Date:

**EXHIBIT E**

	<b>Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement</b>
--	---

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

<b>SCHEDULE</b>
<b>Name Of Person Or Organization:</b>
<p style="text-align: center;">Any person or organization with whom you have agreed in writing in a contract or agreement to waive any right of recovery against such person or organization, but only if the contract or agreement:</p> <ol style="list-style-type: none"> <li>1. Is in effect or becomes effective during the term of this policy; and</li> <li>2. Was executed prior to loss.</li> </ol>



(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.
--



## General Aggregate Limit - Per Project Endorsement

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. For each single construction or service project away from premises the **Named Insured** owns or rents, a separate Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:
  - A. all **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
  - B. all medical expenses under **Coverage C**;
 

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Project General Aggregate Limit applicable to any other project.
- II. All:
  - A. **damages** under **Coverage B**, regardless of the number of locations or projects involved;
  - B. **damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
  - C. medical expenses under **Coverage C**, caused by accidents which cannot be attributed solely to ongoing operations at a single project,

will reduce the General Aggregate Limit shown in the Declarations.
- III. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular project.
- IV. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.
- V. If a single construction or service project away from premises owned by or rented to the **Named Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, such project will still be deemed to be the same project.
- VI. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
  - A. in the performance of your ongoing operations subject to such **written contract**; or
  - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    1. the **written contract** requires you to provide the additional insured such coverage; and
    2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
  - A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
  - B. additional insured coverage with "arising out of" language; or
  - C. additional insured coverage to the greatest extent permissible by law;
 then paragraph I. above is deleted in its entirety and replaced by the following:  
**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
  - A. coverage broader than required by the **written contract**; or
  - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
  - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    2. supervisory, inspection, architectural or engineering activities; or
  - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

CNA75079XX (10-16)

Page 1 of 3

Insured Name:

Policy No:

Endorsement No:

Effective Date:

## EXHIBIT E

### Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

#### Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

**VI.** Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VII.** Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
  1. the **bodily injury or property damage**; or
  2. the offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA75079XX (10-16)

Page 2 of 2

Insured Name:

Policy No:

Endorsement No:

Effective Date:

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# EXHIBIT E

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 99 04 10 C  
(Ed. 01-19)

## WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA BLANKET BASIS

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be calculated by applying a factor of 2% to the total manual premium, with a minimum initial charge of \$350, then applying all other pricing factors for the policy to this calculated charge to derive the final cost of this endorsement.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

### Schedule

#### Blanket Waiver

##### Person/Organization

Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

##### Job Description

All CA Operations

##### Waiver Premium (prior to adjustments)

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 1/1/22

Policy No.: MAWC337227

Endorsement No.:

Insured: Maggiora Bros. Drilling Inc.

Premium \$

Insurance Company: Redwood Fire and Casualty

Countersigned by \_\_\_\_\_

WC 99 04 10 C  
(Ed. 01-19)



***Before the Board of Directors of the Monterey County Water Resources Agency  
County of Monterey, State of California***

BOARD ORDER No. \_\_\_\_\_

**APPROVE AN AGREEMENT WITH MAGGIORA BROS )  
DRILLING, INC. IN THE AMOUNT OF \$215,720 TO )  
CONSTRUCT TWO NEW DEDICATED MONITORING WELLS IN )  
THE 180-FOOT AND 400-FOOT AQUIFERS; AND AUTHORIZE )  
THE GENERAL MANAGER TO EXECUTE THE AGREEMENT )**

Upon motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, and carried by those members present, the Board of Directors hereby:

1. Approves an agreement with Maggiora Bros Drilling, Inc., inc., in the amount of \$215,720 to construct two new dedicated monitoring wells in the 180-Foot and 400-Foot aquifers; and
2. Authorizes the General Manager to execute the Agreement.

PASSED AND ADOPTED on this **19<sup>th</sup>** day of **December 2022**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
BY: John Baillie, Chair  
Board of Directors

\_\_\_\_\_  
ATTEST: Brent Buche  
General Manager





# County of Monterey

## Item No.6

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-197

December 19, 2022

**Introduced:** 12/8/2022

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** WR General Agenda

Approve Amendment No.6 to the Professional Services Agreement with McMillen Jacobs Associates for a term extension from December 31, 2022, to June 30, 2024 for the continued design of the Interlake Tunnel and Spillway Modification Project.

#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Approve Amendment No. 6 to the Professional Services Agreement with McMillen Jacobs Associates for a term extension from December 31, 2022, to June 30, 2024 for the continued design of the Interlake Tunnel and Spillway Modification Project.

#### SUMMARY/DISCUSSION:

On March 7, 2017, the Monterey County Water Resources Agency Board of Supervisors approve the Professional Services Agreement (“Agreement”) with McMillen Jacobs Associates (“MJA”) in an amount not to exceed \$4,600,789 for a term of two years with the option to extend the Agreement for three additional one year periods for a maximum agreement of five years for the design of the Interlake Tunnel (“ILT”) and Spillway Modification Project.

The Board also authorized the General Manager to amend the Agreement up to three times, provided the amendments did not increase the contract amount or significantly change the scope of the Project.

On August 30, 2018, the Monterey County Water Resources Agency (“Agency”) processed Amendment No. 1 to the Agreement to modify and adjust the scope of work to provide a Subsurface Investigation of the San Antonio Dam and additional Geotechnical Borings for the Interlake Tunnel and to fund this modification by deleting/adjusting other budgeted scope of services in the Agreement.

On June 26, 2019, Amendment No. 2 to the was processed to extend the term of the Agreement from March 16, 2017 to March 16, 2020 and to revise Exhibit B-1 to include Exhibit B-1A (McMillen Jacobs Associates Billing Rate Sheet).

On May 20, 2020, Amendment No. 3 was processed to extend the term of the Agreement from March 16, 2020 to March 16, 2021.

On March 5, 2021, Amendment No. 4 was processed to extend the term of the Agreement from March 16, 2021, to March 16, 2022.

On July 9, 2021, Amendment No. 5 was processed to extend the term of the Agreement from March 16, 2022 to December 31, 2022 and to replace Exhibit B-2.

Amendment No. 6 will extend the term of the Agreement from December 31, 2022, to June 30, 2024. A request to extend terms of the ILT Grant has been submitted to Department of Water Resources for approval and Amendment No. 6 allows MJA to provide services needed for the ILT project through the extended grant terms.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

The FY2022-23 Adopted Budget of Fund 426-9300-WRA036- 8267 has sufficient appropriations to fund Amendment No. 6 of the Agreement with MJA for the ILT Project and expenses incurred by MJA for Interlake Tunnel Project is reimbursed by the ILT grant.

Prepared and Approved by: Brent Buche, General Manager, (831) 755 4860

Attachments:

1. Amendment No. 6
2. Amendments 1, 2, 3, 4 and 5
3. Agreement for Professional Services
4. Board Order



# County of Monterey

## Item No.6

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

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#### RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Approve Amendment No. 6 to the Professional Services Agreement with McMillen Jacobs Associates for a term extension from December 31, 2022, to June 30, 2024 for the continued design of the Interlake Tunnel and Spillway Modification Project.

#### SUMMARY/DISCUSSION:

On March 7, 2017, the Monterey County Water Resources Agency Board of Supervisors approve the Professional Services Agreement ("Agreement") with McMillen Jacobs Associates ("MJA") in an amount not to exceed \$4,600,789 for a term of two years with the option to extend the Agreement for three additional one year periods for a maximum agreement of five years for the design of the Interlake Tunnel ("ILT") and Spillway Modification Project.

The Board also authorized the General Manager to amend the Agreement up to three times, provided the amendments did not increase the contract amount or significantly change the scope of the Project.

On August 30, 2018, the Monterey County Water Resources Agency ("Agency") processed Amendment No. 1 to the Agreement to modify and adjust the scope of work to provide a Subsurface Investigation of the San Antonio Dam and additional Geotechnical Borings for the Interlake Tunnel and to fund this modification by deleting/adjusting other budgeted scope of services in the Agreement.

On June 26, 2019, Amendment No. 2 to the was processed to extend the term of the Agreement from March 16, 2017 to March 16, 2020 and to revise Exhibit B-1 to include Exhibit B-1A (McMillen Jacobs Associates Billing Rate Sheet).

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OTHER AGENCY INVOLVEMENT:

None

FINANCING:

The FY2022-23 Adopted Budget of Fund 426-9300-WRA036- 8267 has sufficient appropriations to fund Amendment No. 6 of the Agreement with MJA for the ILT Project and expenses incurred by MJA for Interlake Tunnel Project is reimbursed by the ILT grant.

Prepared and Approved by: Brent Buche, General Manager, (831) 755 4860

Attachments:

1. Amendment No. 6
2. Amendments 1, 2, 3, 4 and 5
3. Agreement for Professional Services
4. Board Order

## **AMENDMENT No. 1 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 1** is made to the PROFESSIONAL SERVICES AGREEMENT (AGREEMENT) for the provision of preliminary engineering and design services for the Inter Lake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter "CONTRACTOR", and the Monterey County Water Resources, a California flood control and water resources agency, hereinafter referred to as "Agency", dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and adjust the scope of work to provide a Subsurface Investigation of the San Antonio Dam and Additional Geotechnical Borings for the Interlake Tunnel and to fund this modified scope by deleting or adjusting other budgeted scope of services in the AGREEMENT; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 1 will remain the same as before this Amendment No. 1; and

**WHEREAS**, all of the tasks called for by the Agreement, as modified and adjusted by this Amendment No. 1, are reflected in a new Exhibit B (San Antonio Spillway Final Design), as described below.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

Section 1. Section 1.1 of the Agreement is amended by the following items at the end of the list of documents:

Amendment No. 1 to Agreement by and between Monterey County Water Resources Agency and McMillen Jacobs Associates - Exhibit Amendment 1.

Section 2. Exhibit B to the Agreement is superseded by EXHIBIT B-1 - PAYMENT FOR SERVICES – (As modified and amended by Amendment No. 1 to the Agreement). A copy of Exhibit B-1 is attached to this Amendment No. 1.

Section 3. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT No. 1 and shall continue in full force and effect as set forth in the AGREEMENT.

A copy of this AMENDMENT No. 1, together with Exhibit B-1, shall be attached to the original AGREEMENT dated March 16, 2017.

*This space left blank intentionally*

IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 on the last day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

CONTRACTOR

By: David E. Chardavoyne  
General Manager

By: Mara McMillen  
Signature of Chair, President, or  
Vice-President

Dated: 30 August 2018

Mara McMillen, President  
Printed Name and Title

Approved as to Fiscal Provisions:

Dated: August 15, 2018

[Signature]  
Deputy Auditor/Controller

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer) \*

Dated: 8/30/18

Approved as to Liability Provisions:

Morton D. McMillen, Executive Sr VP  
Printed Name and Title

Risk Management

Dated: August 15, 2018

Dated:

Approved as to Form:

[Signature]  
Deputy County Counsel

Dated: 8/29/18

\*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:

**EXHIBIT B-1 - PAYMENT FOR SERVICES – (As modified and amended by Amendment No. 1 to the Agreement)**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>\$57,470</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 structs.	\$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>\$0</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</b>	<b>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>\$32,170</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>\$21,131</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>\$60,747</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>Task 8: Additional Geotechnical Field Exploration and Testing</b>		<b>\$266,200</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>\$262,000</b>
<b>TOTAL OPTIONAL TASKS</b>		<b>\$152,000</b>

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

Task	Description	Total Amount
<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	<del>Workplan / Procurement of Physical Model Study</del>	<del>\$10,192</del>
2.6	<del>Physical Model Study / Report</del>	<del>\$259,500</del>
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>\$93,278</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 (Engr's Rept)	\$18,736
5.6	Draft Bid / Contract Documents	\$38,764
		<del>\$9,500</del>
5.7	90% Design Review	<del>\$6,062</del>
5.8	100% PS&E for DSOD Review/Approval	<del>\$31,660</del>
5.8A	Final Electrical Design (McMillen Jacobs Associates)	\$95,000
5.9	Finalize Approved Drawings & Specifications	<del>\$16,564</del>
5.10	Finalize Bid/Contract Documents	<del>\$14,548</del>
<b>Task 5: Final Design</b>		<b>\$428,436</b>
		<b>\$362,226</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>\$0</b>
<b>10 Project Management</b>	
10.1 Project setup, 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>Task 11: San Antonio Dam Subsurface Investigation</b>	<b>\$420,242</b>
<b>TOTAL ALL TASKS</b>	<b>\$1,766,692</b>



## **AMENDMENT No. 2 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 2** is made to the PROFESSIONAL SERVICES AGREEMENT (“Agreement”) for the provision of preliminary engineering and design services for the Interlake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter “CONTRACTOR”, and the Monterey County Water Resources, a California flood control and water resources agency, hereinafter referred to as “Agency”, dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and extend the term of this Agreement to March 16, 2020; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 2 will remain the same as before this Amendment No. 2.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the Agreement in the following manner:

Section 3.1 of the Agreement is amended to read as follows:

The term of this Agreement shall begin on March 16, 2017 by CONTRACTOR and Agency, and will terminate on March 16, 2020, unless earlier terminated as provided herein.

Section 4.7 of this Agreement is amended to revise Exhibit B-1 as follows:

Exhibit B-1 PAYMENT FOR SERVICES is amended to include Exhibit B-1A McMILLEN JACOBS ASSOCIATES BILLING RATE SHEET

Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 2 and shall continue in full force and effect as set forth in the Agreement.

A copy of this AMENDMENT No. 2, shall be attached to the original Agreement dated March 16, 2017.

*This space left blank intentionally*

IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 2 on the day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

By: [Signature]  
General Manager

Dated: 6/26/19

Approved as to Fiscal Provisions:

[Signature]  
Deputy Auditor/Controller

Dated: 6-19-19

Approved as to Liability Provisions:

Risk Management

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

Approved as to Form:

[Signature]  
Deputy County Counsel

Dated: 6/19/19

CONTRACTOR

By: Mara McMillen  
Signature of Chair, President, or  
Vice-President

Mara McMillen, President  
Printed Name and Title

Dated: 6-17-19

By: Marcus Emmons  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

Marcus Emmons, Corporate Secretary  
Printed Name and Title

Dated: 6/17/19

\*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.

# EXHIBIT B-1A

## McMillen Jacobs Associates Billing Rate Sheet

Employee	Title	2016-2017 Rates	2019-2020 Rates
Mort McMillen	Principle	\$240.00	\$254.40
John Kaplin	Principle	\$240.00	\$254.40
Dave Crouthamel	Principle	\$240.00	\$254.40
Troy Page	Sr. Cost Estimator	\$240.00	\$254.40
Mark Merklein	Sr. Structural Engineer	\$230.00	\$243.80
Tom Pennington	Lead Associate	\$210.00	\$222.60
Don Jarrett	Sr. Mechanical Engineer	\$205.00	\$217.30
Matt Lawson	Consultant I&C Engineer	\$185.00	\$196.10
Kyle DeSomber	Sr. Mechanical Engineer	\$185.00	\$196.10
John Bakken	Sr. Electrical Engineer	\$185.00	\$196.10
Christopher Curtis	Sr. Electrical Engineer	\$185.00	\$196.10
Jeff Heindel	Sr. Biologist	\$184.00	\$195.04
Bryan Duevel	Sr. Geotechnical Engineer	\$175.00	\$185.50
Paul Richards	Sr. Geotechnical Engineer	\$175.00	\$185.50
Vincent Autier	Sr. Civil Engineer (Fisheries)	\$175.00	\$185.50
Randy Presleigh	Consultant Structural Engineer	\$175.00	\$185.50
Jodi Burns	Consultant Civil Engineer	\$120.00	\$174.00
Nathan Cox	Sr. Hydraulic Engineer	\$150.00	\$159.00
Ron Wood	Sr. CAD Designer	\$131.00	\$138.86
Kevin Jensen	Hydraulic Engineer	\$130.00	\$137.80
Marci Mickelsen	Accountant II	\$126.00	\$133.56
Sean Ellenson	Mechanical Engineer	\$121.00	\$128.26
Zack Autin	Structural Engineer	\$115.00	\$121.90
Barb Whiton	Tech Editor	\$152.00	\$120.00
Mitch Skelton	Electrical Engineer	\$110.00	\$116.60
Jakob Walter	Tunnel Engineer	\$110.00	\$116.60
	CAD Designer	\$110.00	\$116.60

## **AMENDMENT No. 3 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 3** is made to the PROFESSIONAL SERVICES AGREEMENT (“Agreement”) for the provision of preliminary engineering and design services for the Interlake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter “CONTRACTOR”, and the Monterey County Water Resources, a California flood control and water resources agency, hereinafter referred to as “Agency”, dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and extend the term of this Agreement to March 16, 2021; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 3 will remain the same as before this Amendment No. 3.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the Agreement in the following manner:

Section 3.1 of the Agreement is amended to read as follows:

The term of this Agreement shall begin on March 16, 2017 by CONTRACTOR and Agency, and will terminate on March 16, 2021, unless earlier terminated as provided herein.

Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 3 and shall continue in full force and effect as set forth in the Agreement.

A copy of this AMENDMENT No. 3, shall be attached to the original Agreement dated March 16, 2017.

*This space left blank intentionally*



**IN WITNESS WHEREOF**, the parties have executed this AMENDMENT No. 3 on the day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

By:



General Manager

Dated: E-signed 5/20/2020

*Approved as to Fiscal Provisions:*



Deputy Auditor/Controller

Dated: 05/18/2020

*Approved as to Liability Provisions:*

Risk Management

Dated:

*Approved as to Form:*

s/Kelly L. Donlon

Deputy County Counsel

Dated: 5/15/20

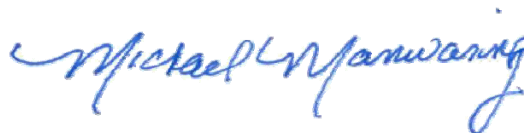
CONTRACTOR

By: 

Signature of Chair, President, or  
Vice-President

Marcus Emmons, Director of Operations, VP  
Printed Name and Title

Dated: May 14, 2020



By:

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

Michael Manwaring, Corp. Secretary, McMillen LLC  
Printed Name and Title

Dated: May 15, 2020

\*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.

## **AMENDMENT No. 4 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 4** is made to the PROFESSIONAL SERVICES AGREEMENT (“Agreement”) for the provision of preliminary engineering and design services for the Interlake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter “CONTRACTOR”, and the Monterey County Water Resources Agency, a California flood control and water resources agency, hereinafter referred to as “Agency”, dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and extend the term of this Agreement to March 16, 2022; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 4 will remain the same as before this Amendment No. 4.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the Agreement in the following manner:

Section 3.1 of the Agreement is amended to read as follows:

The term of this Agreement shall begin on March 16, 2017 by CONTRACTOR and Agency, and will terminate on March 16, 2022, unless earlier terminated as provided herein.

Section 4.7 of this Agreement is amended as follows:

Exhibit B-2 PAYMENT FOR SERVICES will supersede Exhibit B-1 and Exhibit B-1A PAYMENT FOR SERVICES (as modified and amended by Amendment No. 2 to the agreement). A copy of Exhibit B-2 is attached to this Amendment No. 4.

Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 4 and shall continue in full force and effect as set forth in the Agreement.

A copy of this AMENDMENT No. 4, shall be attached to the original Agreement dated March 16, 2017.

*This space left blank intentionally*



IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 4 on the day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

By:   
General Manager

Dated: E-signed 3/5/2021

Approved as to Fiscal Provisions:

  
Deputy Auditor/Controller

Dated: 3-5-2021

Approved as to Liability Provisions:

Risk Management


Dated:

Approved as to Form:

  
Deputy County Counsel

Dated: March 4, 2021

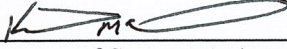
CONTRACTOR

By:   
Signature of Chair, President, or  
Vice-President

Mara McMillen, President

Printed Name and Title

Dated: 03-MAR-2021

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

Kurt McManigal, VP, Treasurer

Printed Name and Title

Dated: 03-MAR-2021

\*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.

**AMENDMENT No. 5 TO AGREEMENT BY AND BETWEEN  
MONTEREY COUNTY WATER RESOURCES AGENCY &  
McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 5** is made to the PROFESSIONAL SERVICES AGREEMENT (“Agreement”) for the provision of preliminary engineering and design services for the Interlake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter “CONTRACTOR”, and the Monterey County Water Resources, a California flood control and water resources agency, hereinafter referred to as “Agency”, dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and extend the term of this Agreement to December 31, 2022 and replace Exhibit B-2 with Exhibit B-2A; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 5 will remain the same as before this Amendment No. 5.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the Agreement in the following manner:

Section 3.1 of the Agreement is amended to read as follows:

The term of this Agreement shall begin on March 16, 2017 by CONTRACTOR and Agency, and will terminate on December 31, 2022, unless earlier terminated as provided herein.

Section 4.7 of this Agreement is amended as follows:

Exhibit B-2A PAYMENT FOR SERVICES will supersede EXHIBIT B-2 - PAYMENT FOR SERVICES – (As modified and amended by Amendment No. 5 to the Agreement). A copy of Exhibit B-2A is attached to this Amendment No. 5.


Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 5 and shall continue in full force and effect as set forth in the Agreement.

A copy of this AMENDMENT No. 5, shall be attached to the original Agreement dated March 16, 2017.

*This space left blank intentionally*

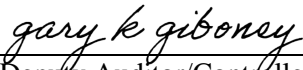
**IN WITNESS WHEREOF**, the parties have executed this AMENDMENT No. 5 on the day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

By:   
\_\_\_\_\_  
General Manager

Dated: E-signed 7/9/2021  
\_\_\_\_\_

*Approved as to Fiscal Provisions:*

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

Dated: 7-9-2021  
\_\_\_\_\_

*Approved as to Liability Provisions:*

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


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

*Approved as to Form:*

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

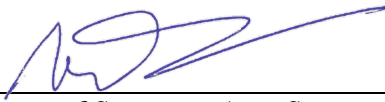
Dated: July 9, 2021  
\_\_\_\_\_

CONTRACTOR

By:   
\_\_\_\_\_  
Signature of Chair, President, or  
Vice-President

Marcus Emmons, Director of Operations, VP  
\_\_\_\_\_  
Printed Name and Title

Dated: July 9, 2021  
\_\_\_\_\_

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

Vincent Autier, Corporate Secretary  
\_\_\_\_\_  
Printed Name and Title

Dated: July 9, 2021  
\_\_\_\_\_

\*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:

**EXHIBIT B-2A - PAYMENT FOR SERVICES – (As modified and amended by Amendment No. 5 to the Agreement)**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>\$57,470</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 structs.	\$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>\$0</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>2d Preliminary Engineering - Design Criteria 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>\$32,170</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>\$21,131</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>\$60,747</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>Task 8: Additional Geotechnical Field Exploration and Testing</b>		<b>\$266,200</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>\$152,000</b>



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

Task	Description	Total Amount
<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
1.1	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
<b>REMAINING BUDGET (11/18/2020)<sup>1</sup></b>		<b>\$127,819</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$127,819</b>
<b>Task 1: Evaluate Spillway Alternatives<sup>1</sup></b>		<b>\$346,520</b>
		<b>\$218,701</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
2.7	Draft Hydraulic Design Technical Memorandum	\$17,788
2.8	Review	\$3,824
2.9	Final Hydraulic Design Technical Memorandum	\$7,934
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$144,804</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$144,804</b>
<b>Task 2: Spillway Hydraulic Design<sup>1</sup></b>		<b>\$362,970</b>
		<b>\$218,166</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
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$0</b>
<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
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$69,361</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$69,361</b>

<b>Task 4: Preliminary Design (30%)<sup>1</sup></b>	<b>\$175,744</b> <b>\$106,383</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 (Engr's Rept)	\$18,736
5.6 Draft Bid / Contract Documents	\$38,764
5.8A Final Electrical Design (McMillen Jacobs Associates)	\$95,000
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$0</b>
<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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$39,142</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$39,142</b>
<b>Task 6: DSOD Review &amp; Approval<sup>1</sup></b>	<b>\$58,264</b> <b>\$19,122</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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$51,264</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$51,264</b>
<b>Task 8: EIS Permitting Support<sup>1</sup></b>	<b>\$51,264</b> <b>\$0</b>
<b>10 Project Management</b>	
10.1 Project setup, 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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$43,725</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$15,839</b>
<b>Task 10: Project Management<sup>2</sup></b>	<b>\$146,900</b> <b>\$131,061</b>
<b>Task 11: San Antonio Dam Subsurface Investigation</b>	<b>\$420,242</b>
12.1 Geotechnical Investigation	\$262,165
12.2 Core Sampling and Investigation of Hardened Concrete	\$186,064
<b>Task 12: San Antonio Spillway Investigation</b>	<b>\$448,229</b>
<b>REMAINING BUDGET ALL TASKS</b>	<b>\$476,115</b>

**TOTAL ALL TASKS****\$1,766,692**

1. BUDGET REMAINING TO BE TRANSFERRED TO THE TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION PROJECT. PROJECT TASK SCOPE AND BUDGET WILL BE REMOVED FROM THE CONTRACT.
2. TASK SCOPE WILL REMAIN THE SAME TO SUPPORT PROJECT MANAGEMENT ACTIVITIES FOR THE SAN ANTONIO SPILLWAY FINAL DESIGN PROJECT. BUDGET REMAINING AFTER THE BUDGET TRANSFER TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION WILL BE \$27,886.

## **AMENDMENT No. 6 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & McMILLEN JACOBS ASSOCIATES**

**THIS AMENDMENT No. 6** is made to the PROFESSIONAL SERVICES AGREEMENT (“Agreement”) for the provision of preliminary engineering and design services for the Interlake Tunnel and San Antonio Spillway Modification by and between **McMillen Jacobs Associates**, hereinafter “CONTRACTOR”, and the Monterey County Water Resources, a California flood control and water resources agency, hereinafter referred to as “Agency”, dated March 16, 2017.

**WHEREAS**, the Agency and CONTRACTOR wish to modify and extend the term of this Agreement to June 30, 2024; and

**WHEREAS**, the overall budget for the Agreement after this Amendment No. 6 will remain the same as before this Amendment No. 6.

**NOW THEREFORE**, the Agency and CONTRACTOR hereby agree to amend the Agreement in the following manner:

Section 3.1 of the Agreement is amended to read as follows:

The term of this Agreement shall begin on **March 16, 2017** by CONTRACTOR and Agency, and will terminate on **June 30, 2024** unless earlier terminated as provided herein.

Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 6 and shall continue in full force and effect as set forth in the Agreement.

A copy of this AMENDMENT No. 6, shall be attached to the original Agreement dated March 16, 2017.

*This space left blank intentionally*

**IN WITNESS WHEREOF**, the parties have executed this AMENDMENT No. 6 on the day and year written below.

MONTEREY COUNTY  
WATER RESOURCES AGENCY

By: \_\_\_\_\_  
General Manager

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

*Approved as to Fiscal Provisions:*

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

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

*Approved as to Liability Provisions:*

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


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

*Approved as to Form:*

\_\_\_\_\_  
Assistant County Counsel

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

CONTRACTOR

By:  \_\_\_\_\_  
Signature of Chair, President, or  
Vice-President

\_\_\_\_\_  
Marcus Emmons, Director of Operations, VP  
Printed Name and Title

Dated: 11/17/2022

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

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

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

\*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:

**EXHIBIT B-2A - PAYMENT FOR SERVICES – (As modified and amended by Amendment No. 5 to the Agreement)**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>\$57,470</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 structs.	\$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>\$0</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

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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>2d Preliminary Engineering - Design Criteria Memorandum</b>		
2d.1	Draft Design Criteria Memorandum	\$24,615
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<b>Task 2d: Preliminary Engineering - Design Criteria Memorandum</b>		<b>\$32,170</b>
<b>2e Preliminary Engineering - Report (30% Design Level)</b>		
2e.1	Draft Preliminary Engineering Report	\$66,188
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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
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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
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<b>Task 4: Engineer's Report</b>		<b>\$195,679</b>
<b>5 Bidding Phase Services</b>		
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<b>Task 5: Bidding Phase Services</b>		<b>\$21,131</b>
<b>6 EIS Support</b>		
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<b>Task 6: EIS Support</b>		<b>\$60,747</b>
<b>7 General Engineering Support</b>		
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<b>Task 7: General Engineering Support</b>		<b>\$188,744</b>
<b>Task 8: Additional Geotechnical Field Exploration and Testing</b>		<b>\$266,200</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>\$152,000</b>



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

Task	Description	Total Amount
<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
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1.1	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
<b>REMAINING BUDGET (11/18/2020)<sup>1</sup></b>		<b>\$127,819</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$127,819</b>
<b>Task 1: Evaluate Spillway Alternatives<sup>1</sup></b>		<b>\$346,520</b>
		<b>\$218,701</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
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2.8	Review	\$3,824
2.9	Final Hydraulic Design Technical Memorandum	\$7,934
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$144,804</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$144,804</b>
<b>Task 2: Spillway Hydraulic Design<sup>1</sup></b>		<b>\$362,970</b>
		<b>\$218,166</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
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$0</b>
<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
<b>REMAINING BUDGET (11/18/2020)</b>		<b>\$69,361</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>		<b>\$69,361</b>

<b>Task 4: Preliminary Design (30%)<sup>1</sup></b>	<b>\$175,744</b> <b>\$106,383</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 (Engr's Rept)	\$18,736
5.6 Draft Bid / Contract Documents	\$38,764
5.8A Final Electrical Design (McMillen Jacobs Associates)	\$95,000
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$0</b>
<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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$39,142</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$39,142</b>
<b>Task 6: DSOD Review &amp; Approval<sup>1</sup></b>	<b>\$58,264</b> <b>\$19,122</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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$51,264</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$51,264</b>
<b>Task 8: EIS Permitting Support<sup>1</sup></b>	<b>\$51,264</b> <b>\$0</b>
<b>10 Project Management</b>	
10.1 Project setup, 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
<b>REMAINING BUDGET (11/18/2020)</b>	<b>\$43,725</b>
<b>BUDGET TRANSFERRED TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION</b>	<b>\$15,839</b>
<b>Task 10: Project Management<sup>2</sup></b>	<b>\$146,900</b> <b>\$131,061</b>
<b>Task 11: San Antonio Dam Subsurface Investigation</b>	<b>\$420,242</b>
12.1 Geotechnical Investigation	\$262,165
12.2 Core Sampling and Investigation of Hardened Concrete	\$186,064
<b>Task 12: San Antonio Spillway Investigation</b>	<b>\$448,229</b>
<b>REMAINING BUDGET ALL TASKS</b>	<b>\$476,115</b>

<b>TOTAL ALL TASKS</b>	<b>\$1,766,692</b>
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1. BUDGET REMAINING TO BE TRANSFERRED TO THE TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION PROJECT. PROJECT TASK SCOPE AND BUDGET WILL BE REMOVED FROM THE CONTRACT.
2. TASK SCOPE WILL REMAIN THE SAME TO SUPPORT PROJECT MANAGEMENT ACTIVITIES FOR THE SAN ANTONIO SPILLWAY FINAL DESIGN PROJECT. BUDGET REMAINING AFTER THE BUDGET TRANSFER TO TASK 12: SAN ANTONIO SPILLWAY INVESTIGATION WILL BE \$27,886.

## **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.

- 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 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](mailto: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.5.0.10 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:**

Event	Due Date
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:**

Event	Due Date
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

<b>EXHIBIT B - PAYMENT FOR SERVICES</b>
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Project: **Interlake Tunnel Final Design**

<b>Task</b>	<b>Description</b>	<b>Total Amount</b>
<b>1</b>	<b>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</b>	<b>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</b>	<b>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</b>	<b>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>		
2d	Memorandum	
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</b>	<b>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</b>	<b>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>\$362,870</b>
<b>3</b>	<b>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</b>	<b>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	\$4,864
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

David P. Chardavoyne  
General Manager

By: Morton D. McMillen  
Signature of Chair, President, or  
Vice-President

Dated: 28 March 2017

MORTON D. McMILLAN/Executive V.P.  
Printed Name and Title

Approved as to Fiscal Provisions:

[Signature]  
Auditor/Controller

Dated: 3/13/17

Dated: 3/21/17

By: Mara McMillen  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

[Signature] 3/27/17  
Administrative Analyst

Mara McMillen, CFO/President  
Printed Name and Title

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

Dated: 3/13/17

Approved as to Form:

[Signature]  
Deputy County Counsel

Dated: 3-16-17

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.



***Before the Board of Directors of the Monterey County Water Resources Agency***

***County of Monterey, State of California***

BOARD ORDER No. \_\_\_\_\_

**APPROVE THE GENERAL MANAGER’S EXECUTION OF )  
AMENDMENT NO.6 TO THE PROFESSIONAL SERVICES )  
AGREEMENT WITH MCMILLEN JACOBS ASSOCIATES )  
FOR A TERM EXTENSION FROM DECEMBER 31, 2022 )  
TO JUNE 30, 2024 FOR THE CONTINUED DESIGN OF  
THE INTERLAKE TUNNEL DESIGN AND SPILLWAY  
MODIFICATION PROJECT )**

Upon motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, and carried by those members present, the Board of Directors hereby:

Approve Amendment No.6 to the Professional Services Agreement with McMillen Jacobs Associates for a term extension from December 31, 2022, to June 30, 2024 for the continued design of the Interlake Tunnel and Spillway Modification Project.

PASSED AND ADOPTED on this **19<sup>th</sup>** day of **December 2022**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
BY: John Baillie, Chair  
Board of Directors

\_\_\_\_\_  
ATTEST: Brent Buche  
General Manager



# County of Monterey

## Item No.7

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-194

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

- (a) Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and
- (b) Provide direction to staff as appropriate.

#### RECOMMENDATION:

It is recommended that the Board of Directors of the Monterey County Water Resources Agency:

- (a) Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and
- (b) Provide direction to staff as appropriate.

#### SUMMARY/DISCUSSION:

Staff is not looking for the Board of Directors ("BOD") make a recommendation on this item at present, rather, staff is seeking a public discussion on the draft proposed ordinance (Attachment 1). Eventually this item would require a formal recommendation from the BOD to the Board of Supervisors of the Monterey County Water Resources Agency ("BOS"), followed by two readings of the proposed ordinance before the BOS.

Monterey County Water Resources Agency ("MCWRA") Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. Ordinance No. 03790 prohibits and otherwise restricts pumping from groundwater wells in Zone 2B, and it provides for the classification of various wells, for the maintenance and limited operation of standby wells, and for the destruction of abandoned wells, contaminated wells, wells that allow cross-contamination of aquifers, and other wells.

Ordinance No. 03790 establishes a procedure for the destruction of wells and, with regard to destruction of certain wells, Sections 1.03.04 and 1.03.05 state that MCWRA shall bear the costs of destroying certain wells within Zone 2B. Per Ordinance No. 03790, the schedule for destruction of wells may be extended by the MCWRA General Manager based on availability of funds in MCWRA's budget.



In October 2017, MCWRA issued the report “Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley Groundwater Basin” (“Recommendations Report”) which, among things, suggested initiating and diligently proceeding with destruction of wells in Zone 2B to eliminate anthropogenic conduits facilitating the movement of impaired groundwater between aquifers. MCWRA did not have available funding to begin well destruction work at the time the Recommendations Report was released.

In June 2020, MCWRA entered into grant agreement D1912532 (“Grant”) with the State Water Resources Control Board (“SWRCB”) to partially fund the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project (“Project”), the purpose of which is to destroy a minimum of 100 wells to prevent conduits that allow vertical migration of seawater- and nitrate-contaminated groundwater into aquifers of the Salinas Valley Groundwater Basin.

The Grant provides 54% of the funding for well destructions in the Project area, which includes the entirety of Zone 2B, thereby offsetting direct costs to MCWRA for the destruction of certain wells required pursuant to Ordinance No. 03790 during the Grant term. The remaining 46% of the Project costs totaling \$4,197,795 will be satisfied through MCWRA in-kind services and contributions from the Cannabis Assignment Fund, Castroville Community Services District, and Monterey One Water. All work under the Grant must be completed by February 28, 2023.

After the Project’s Work Completion Date on February 28, 2023, some wells will remain in Zone 2B for reasons including, but not limited to: ineligibility for destruction as part of the Project; well owner appeal of MCWRA’s decision to destroy the well; owner was non-responsive during MCWRA’s fifteen (15) months of outreach efforts; well owner has declined to sign the well permit application form that is necessary for MCWRA to initiate destruction of a well; or the well is exempt from destruction pursuant to Section 1.03.02 of Ordinance No. 03790.

MCWRA has requested an extension of time on the Grant but that has not yet been approved by the SWRCB.

MCWRA does not have a budgeted funding source for destruction of wells once the Project concludes and, pursuant to a 2003 Settlement Agreement between MCWRA and a group of Salinas Valley landowners, MCWRA is unable to increase assessments in Zones 2Y and 2Z to finance implementation of Ordinance No. 03790, which includes well destruction efforts.

This amendment divests MCWRA of the responsibility for implementing and bearing the costs of destruction of wells in Zone 2B following the Work Completion Date of the Grant. Property owners and growers in Zone 2B who are electing to maintain and operate wells in conformance with Ordinance No. 03790, or who have chosen not to have their well destroyed as part of the Project through a direct statement or non-responsiveness, will assume full responsibility for destruction of their wells including bearing the cost of destruction.

The proposed ordinance was discussed at the November 2, 2022 Basin Management Advisory Committee meeting. The committee moved to continue the item to its December 7, 2022 meeting.

OTHER AGENCY INVOLVEMENT:

The County Counsel's office has reviewed the proposed ordinance. The Monterey County Water Recycling Projects Water Quality and Operations Committee received an update on an ordinance amending Ordinance No. 03790 at the October 20, 2022 meeting and provided feedback to staff.

FINANCING:

Once the term of the Grant is over, MCWRA does not have funding budgeted for well destruction. Based on the status of wells in the Project area and an estimate using current Project costs, MCWRA could incur a minimum of \$5,600,000 in future well destruction costs if Ordinance No. 03790 is not amended.

Prepared by: Amy Woodrow, Senior Water Resources Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments:

1. Proposed Ordinance No. \_\_\_\_\_ (tracked changes)



# County of Monterey

## Item No.7

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-194

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Version: 1

Matter Type: WR General Agenda

- (a) Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and
- (b) Provide direction to staff as appropriate.

#### RECOMMENDATION:

It is recommended that the Board of Directors of the Monterey County Water Resources Agency:

- (a) Discuss a proposed draft ordinance that would amend Ordinance No. 03790 to remove the Monterey County Water Resources Agency as the entity responsible for bearing the cost of destruction of certain wells in the Castroville Seawater Intrusion Project service area (Zone 2B), and
- (b) Provide direction to staff as appropriate.

#### SUMMARY/DISCUSSION:

Staff is not looking for the Board of Directors ("BOD") make a recommendation on this item at present, rather, staff is seeking a public discussion on the draft proposed ordinance (Attachment 1). Eventually this item would require a formal recommendation from the BOD to the Board of Supervisors of the Monterey County Water Resources Agency ("BOS"), followed by two readings of the proposed ordinance before the BOS.

Monterey County Water Resources Agency ("MCWRA") Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. Ordinance No. 03790 prohibits and otherwise restricts pumping from groundwater wells in Zone 2B, and it provides for the classification of various wells, for the maintenance and limited operation of standby wells, and for the destruction of abandoned wells, contaminated wells, wells that allow cross-contamination of aquifers, and other wells.

Ordinance No. 03790 establishes a procedure for the destruction of wells and, with regard to destruction of certain wells, Sections 1.03.04 and 1.03.05 state that MCWRA shall bear the costs of destroying certain wells within Zone 2B. Per Ordinance No. 03790, the schedule for destruction of wells may be extended by the MCWRA General Manager based on availability of funds in MCWRA's budget.

In October 2017, MCWRA issued the report “Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley Groundwater Basin” (“Recommendations Report”) which, among things, suggested initiating and diligently proceeding with destruction of wells in Zone 2B to eliminate anthropogenic conduits facilitating the movement of impaired groundwater between aquifers. MCWRA did not have available funding to begin well destruction work at the time the Recommendations Report was released.

In June 2020, MCWRA entered into grant agreement D1912532 (“Grant”) with the State Water Resources Control Board (“SWRCB”) to partially fund the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project (“Project”), the purpose of which is to destroy a minimum of 100 wells to prevent conduits that allow vertical migration of seawater- and nitrate-contaminated groundwater into aquifers of the Salinas Valley Groundwater Basin.

The Grant provides 54% of the funding for well destructions in the Project area, which includes the entirety of Zone 2B, thereby offsetting direct costs to MCWRA for the destruction of certain wells required pursuant to Ordinance No. 03790 during the Grant term. The remaining 46% of the Project costs totaling \$4,197,795 will be satisfied through MCWRA in-kind services and contributions from the Cannabis Assignment Fund, Castroville Community Services District, and Monterey One Water. All work under the Grant must be completed by February 28, 2023.

After the Project’s Work Completion Date on February 28, 2023, some wells will remain in Zone 2B for reasons including, but not limited to: ineligibility for destruction as part of the Project; well owner appeal of MCWRA’s decision to destroy the well; owner was non-responsive during MCWRA’s fifteen (15) months of outreach efforts; well owner has declined to sign the well permit application form that is necessary for MCWRA to initiate destruction of a well; or the well is exempt from destruction pursuant to Section 1.03.02 of Ordinance No. 03790.

MCWRA has requested an extension of time on the Grant but that has not yet been approved by the SWRCB.

MCWRA does not have a budgeted funding source for destruction of wells once the Project concludes and, pursuant to a 2003 Settlement Agreement between MCWRA and a group of Salinas Valley landowners, MCWRA is unable to increase assessments in Zones 2Y and 2Z to finance implementation of Ordinance No. 03790, which includes well destruction efforts.

This amendment divests MCWRA of the responsibility for implementing and bearing the costs of destruction of wells in Zone 2B following the Work Completion Date of the Grant. Property owners and growers in Zone 2B who are electing to maintain and operate wells in conformance with Ordinance No. 03790, or who have chosen not to have their well destroyed as part of the Project through a direct statement or non-responsiveness, will assume full responsibility for destruction of their wells including bearing the cost of destruction.

The proposed ordinance was discussed at the November 2, 2022 Basin Management Advisory Committee meeting. The committee moved to continue the item to its December 7, 2022 meeting.

OTHER AGENCY INVOLVEMENT:

The County Counsel's office has reviewed the proposed ordinance. The Monterey County Water Recycling Projects Water Quality and Operations Committee received an update on an ordinance amending Ordinance No. 03790 at the October 20, 2022 meeting and provided feedback to staff.

FINANCING:

Once the term of the Grant is over, MCWRA does not have funding budgeted for well destruction. Based on the status of wells in the Project area and an estimate using current Project costs, MCWRA could incur a minimum of \$5,600,000 in future well destruction costs if Ordinance No. 03790 is not amended.

Prepared by: Amy Woodrow, Senior Water Resources Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments:

1. Proposed Ordinance No. \_\_\_\_\_ (tracked changes)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MONTEREY COUNTY WATER RESOURCES AGENCY  
AMENDING ORDINANCE NO. 03790 CONCERNING THE DESTRUCTION OF  
GROUNDWATER WELLS IN MCWRA'S ZONE 2B**

**County Counsel Summary**

*MCWRA's Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. This ordinance amends Ordinance No. 03790 to divest the Monterey County Water Resources Agency of the responsibility for implementing and bearing the cost of destruction of wells in Zone 2B following completion of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley Project and instead require that destruction of wells be the responsibility of the property owner or well owner.*

The Board of Supervisors of the Monterey County Water Resources Agency hereby ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. The Legislature created the Monterey County Water Resources Agency ("MCWRA") through the Monterey County Water Resources Agency Act ("Agency Act") to address the problem of seawater intrusion, provide flood protection, protect and augment ground and surface water supplies and water quality within the Salinas Valley.

B. MCWRA's Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. The Ordinance prohibits and otherwise restricts pumping from groundwater wells in Zone 2B, and it provides for the classification of the various wells, for the maintenance and limited operation of standby wells, and for the destruction of abandoned wells, contaminated wells, wells that allow cross-contamination of aquifers in intruded areas, and other wells.

C. Ordinance No. 03790 establishes a procedure for the destruction of wells, a variance procedure, an appeals procedure, and penalties for violations of the Ordinance. With regard to destruction of wells, Sections 1.03.04 and 1.03.05 state that MCWRA shall bear the costs of destroying certain wells within Zone 2B.

D. In October 2017, MCWRA issued a report with recommendations to slow or halt further seawater intrusion in the Salinas Valley Groundwater Basin (MCWRA, *Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley*

*Groundwater Basin*, Special Reports Series 17-01, October 2017; hereafter “Recommendations Report”). The Recommendations Report suggested initiating and diligently proceeding with destruction of wells in Zone 2B.

E. On May 19, 2020, the MCWRA Board of Supervisors approved entering into a funding agreement with the State Water Resources Control Board (“SWRCB”) to receive and implement a Proposition 1 grant for the destruction of wells in the Salinas Valley Groundwater Basin.

F. In June 2020, MCWRA entered into grant agreement D1912532 with the SWRCB to partially fund the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project (“Project”), the purpose of which was to destroy abandoned wells to prevent conduits that allow vertical migration of seawater and nitrate contaminated groundwater into the aquifers of the Salinas Valley Groundwater Basin.

G. Grant agreement D1912532 with the SWRCB provides 54% of the funding for well destructions completed in the Project area, which includes the entirety of MCWRA Zone 2B, thereby offsetting direct costs to MCWRA for the destruction of wells required pursuant to Sections 1.03.04 and 1.03.05 of Ordinance No. 03790.

H. MCWRA has conducted fifteen months of outreach during the Project, including verbal presentations to stakeholder groups and written notifications, pursuant to Section 1.03.06 of Ordinance No. 03790, to well owners and well operators for specific wells that were identified for destruction.

I. After the Project’s Work Completion Date on February 28, 2023, some wells will remain in Zone 2B for reasons including, but not limited to: ineligibility for destruction as part of the Project; well owner appeal of MCWRA’s decision to destroy the well; owner was non-responsive to MCWRA’s outreach efforts; well owner has declined to sign the well permit application form that is necessary for MCWRA to initiate destruction of a well; or well is exempt from destruction pursuant to Section 1.03.02 of Ordinance No. 03790.

J. MCWRA does not have a funding source for destruction of wells once the Project concludes. Therefore, property owners and growers in Zone 2B who are electing to maintain and operate wells in conformance with Ordinance No. 03790, or who have chosen not to have their wells destroyed as part of the Project through a direct statement or non-responsiveness, will assume full responsibility for destruction of their wells, including bearing the cost of destruction.

SECTION 2. Section 1.03.04 of Ordinance No. 03790 is hereby amended to read as follows:

Each well meeting any of the criteria set forth below, other than wells which are required to be destroyed pursuant to Section 1.03.03, shall be destroyed by ~~MCWRA~~the property owner or well owner within two years after ~~start-up of the Castroville Seawater Intrusion Project~~the Work Completion Date of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley Project on February 28, 2023 or as otherwise amended. ~~All costs for destruction~~

~~of such wells shall be borne by the MCWRA. The General Manager may extend the time for destruction of such wells when funds are not available or budgeted for such purpose. The criteria for such wells are as follows:~~

A. Any well that is found by the General Manager to be perforated in both the 180-foot aquifer and any underlying aquifer; ~~or -~~

B. Any well that is found by the General Manager to have perforations in two aquifers, improper seals, or other improper construction or condition of the well, such that the well provides an actual or potential conduit for water in a seawater intruded area of an aquifer to enter a non-intruded area of a separate aquifer.

SECTION 3. Section 1.03.05 of Ordinance No. 03790 is hereby amended to read as follows:

Each well that is not exempt from destruction, and that is not required to be destroyed pursuant to section 1.03.03 or 1.03.04, shall be destroyed ~~pursuant to this section in conformity with a schedule adopted by the MCWRA Board of Directors. Said schedule shall provide that the destruction of such wells shall not begin (a) until the Castroville Seawater Intrusion Project has established a satisfactory record of water deliveries, as determined by the Board of Directors, or (b) until at least one years after the start up of the Castroville Seawater Intrusion Project, whichever occurs later within two years following after the Work Completion Date completion of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project on February 28, 2023 or as otherwise amended.~~

~~Said schedule may provide for destruction to be completed within three years after project start-up. The Board of Directors may delegate authority to the General Manager to amend the schedule from time to time. Said wells shall be destroyed by the MCWRA property owner or well owner in accordance with the methods prescribed or referenced in Monterey County Code Chapter 15.08. The MCWRA shall bear the cost of such destruction.~~

SECTION 4. Section 1.03.06 of Ordinance No. 03790 is hereby repealed in its entirety.  
~~Procedure for Destruction of Wells~~

~~At least 90 days before the MCWRA destroys any particular well, the General Manager shall give written notice to the owner of the well that the well will be destroyed. Notice shall be deemed sufficient if sent by registered or certified U.S. mail, return receipt requested, to the name and address shown as that of the owner of the real property on which the well is located, in the latest available official records of the Monterey County Assessor. The notice shall identify the well in question and the property on which it is located and shall advise the owner of the proposed action to be taken, the proposed timing of the action, and his or her right of appeal as provided herein. The notice shall further state that if the property on which the well is located is leased, the owner must provide a copy of the notice to the tenant, and tenant on the property will also have a right of appeal.~~

SECTION 5. SEVERABILITY.



If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE.

This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Chair Supervisor Mary L. Adams  
Monterey County Board of Supervisors

A T T E S T:  
Valerie Ralph  
Clerk of the Board of Supervisors

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelly L. Donlon  
Assistant County Counsel



# County of Monterey

## Item No.8

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-195

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Consider authorizing the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

#### RECOMMENDATION:

It is recommended that the Board of Directors of the Monterey County Water Resources Agency:

Authorize the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

#### DISCUSSION:

On October 17, 2022, the Board of Directors ("Board") considered an appeal that was filed on January 20, 2021 from General Farm Investment and Yuki Farms Limited Partnership III LP ET AL ("Appellant") challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 ("Well") from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project ("Project"). The Board voted to continue the appeal hearing while staff negotiated an agreement with the Appellant for monitoring and management of the Well.

On October 26, 2022, staff provided the Appellant with a draft agreement that detailed methods and equipment for monitoring groundwater levels and groundwater quality at the Well; indicators that, if present, would signal the need for destruction of the well; and procedures for destruction of the Well if it is determined that destruction is necessary.

On November 21, 2022, the Board approved a continuance to December 19, 2022 on Yuki Farms Limited Partnership III LP ET AL's appeal hearing challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Project.

Staff and the Appellant have reached an agreement that resolves the January 20, 2021 appeal; provides a procedure for evaluation and ongoing monitoring of the Well; and includes conditions for either destruction of the Well or retention of the Well in a “standby” capacity, whichever is deemed acceptable following review of data collected by evaluation and monitoring of the Well (Attachment 1). The Agency retains its right to fully enforce Ordinance No. 03790.

OTHER AGENCY INVOLVEMENT:

The County Counsel’s office has reviewed the agreement.

FINANCING:

Monitoring of the Well as described in the Agreement will be part of the Agency’s ongoing groundwater level and water quality monitoring programs, included in the FY23 budget under Fund 116.

Prepared by: Amy Woodrow, Senior Water Resources Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments

1. Well Management and Monitoring Agreement
2. Board Order



# County of Monterey

## Item No.8

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-195

December 19, 2022

Introduced: 12/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Consider authorizing the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

#### RECOMMENDATION:

It is recommended that the Board of Directors of the Monterey County Water Resources Agency:

Authorize the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

#### DISCUSSION:

On October 17, 2022, the Board of Directors ("Board") considered an appeal that was filed on January 20, 2021 from General Farm Investment and Yuki Farms Limited Partnership III LP ET AL ("Appellant") challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 ("Well") from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project ("Project"). The Board voted to continue the appeal hearing while staff negotiated an agreement with the Appellant for monitoring and management of the Well.

On October 26, 2022, staff provided the Appellant with a draft agreement that detailed methods and equipment for monitoring groundwater levels and groundwater quality at the Well; indicators that, if present, would signal the need for destruction of the well; and procedures for destruction of the Well if it is determined that destruction is necessary.

On November 21, 2022, the Board approved a continuance to December 19, 2022 on Yuki Farms Limited Partnership III LP ET AL's appeal hearing challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Project.

Staff and the Appellant have reached an agreement that resolves the January 20, 2021 appeal; provides a procedure for evaluation and ongoing monitoring of the Well; and includes conditions for either destruction of the Well or retention of the Well in a “standby” capacity, whichever is deemed acceptable following review of data collected by evaluation and monitoring of the Well (Attachment 1). The Agency retains its right to fully enforce Ordinance No. 03790.

OTHER AGENCY INVOLVEMENT:

The County Counsel’s office has reviewed the agreement.

FINANCING:

Monitoring of the Well as described in the Agreement will be part of the Agency’s ongoing groundwater level and water quality monitoring programs, included in the FY23 budget under Fund 116.

Prepared by: Amy Woodrow, Senior Water Resources Hydrologist, (831) 755-4860

Approved by: Brent Buche, General Manager, (831) 755-4860

Attachments

1. Well Management and Monitoring Agreement
2. Board Order

**WELL MANAGEMENT AND MONITORING AGREEMENT  
BETWEEN  
MONTEREY COUNTY WATER RESOURCES AGENCY  
AND  
YUKI FARMS LIMITED PARTNERSHIP III AND THE THOMAS M. BUNN FAMILY  
LLC**

This Well Management and Monitoring Agreement (“Agreement”) is effective as of the last signature date below and is by and between the Monterey County Water Resources Agency, hereinafter called “MCWRA,” and Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC, collectively hereinafter called “Owner.” MCWRA and Owner are each a “Party” and collectively the “Parties” to this Agreement.

**WHEREAS**, the Legislature created the MCWRA through the Monterey County Water Resources Agency Act (“Agency Act”), California Water Code App. § 52-1, *et seq*, to address the problem of seawater intrusion, provide flood protection, protect, and augment surface and groundwater supplies and water quality within the Salinas Valley;

**WHEREAS**, on November 8, 1994, the MCWRA Board of Supervisors (“Board”) adopted Ordinance No. 03790 which provides for management of all groundwater wells within the Castroville Seawater Intrusion Project area, known as Zone 2B. Ordinance No. 03790 is attached to this Agreement for reference;

**WHEREAS**, Section 1.03.01 of Ordinance No. 03790 states in relevant part that: “Except as otherwise provided herein, all wells which are located in Zone 2B shall be destroyed in conformity with the provisions of this ordinance;”

**WHEREAS**, Section 1.03.02 of Ordinance No. 03790 states that “standby wells,” as well as other specified wells, that do not fit within the description in Section 1.03.04.B are exempt from destruction;

**WHEREAS**, Section 1.03.04 states: “Each well meeting any of the criteria set forth below, other than wells which are required to be destroyed pursuant to Section 1.03.03, shall be destroyed by the MCWRA within two years after start-up of the Castroville Seawater Intrusion Project. All costs for destruction of such wells shall be borne by the MCWRA. The General Manager may extend the time for destruction of such wells when funds are not available or budgeted for such purpose. The criteria for such wells are as follows:

- A. Any well that is found by the General Manager to be perforated in both the 180-foot aquifer and any underlying aquifer.
- B. Any well that is found by the General Manager to have perforations in two aquifers, improper seals, or other improper construction or condition of the well, such that the well provides an actual or potential conduit for water in a seawater intruded area of an aquifer to enter a non-intruded area of a separate aquifer.”

**WHEREAS**, on May 19, 2020, the Board approved entering into a funding agreement with the State Water Resources Control Board to receive and implement a Proposition 1 grant for the

“purpose of destroying a minimum of one hundred (100) abandoned and dormant wells to prevent conduits that are allowing vertical migration of seawater- and nitrate-contaminated groundwater to drinking water supply wells in the Salinas Valley Groundwater Basin” (“Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley Project” or “Project”);

**WHEREAS**, prior to receipt of grant funding for the Project in 2020, MCWRA was unable to initiate the well destruction tasks prescribed by Ordinance No. 03790 due to a lack of resources;

**WHEREAS**, on January 6, 2021, MCWRA initiated the well reclassification procedure described in Section 1.02.08 of Ordinance No. 03790 to reclassify well 14S/02E-15P01 (“Well”) from a “standby” classification to an “abandoned” classification by providing written notice to the Owner. In the written notice, MCWRA asserted that there were changed water quality conditions that suggested the well might be an actual or potential conduit for movement of impaired groundwater from the 180-Foot Aquifer into the 400-Foot Aquifer, and that the Well is not exempt from destruction under Ordinance No. 03790 (“Reclassification Determination”). MCWRA intended for the well to be destroyed as a part of the Project;

**WHEREAS**, Owner disagrees with the Reclassification Determination and the assertions therein, and on January 20, 2021, the Owner submitted an appeal to MCWRA’s Reclassification Determination (“Appeal”);

**WHEREAS**, on February 6, 2021, MCWRA acknowledged receipt of the Appeal from the Owner and requested a meeting to discuss available data about the Well pursuant to the procedures of MCWRA Ordinance No. 03910;

**WHEREAS**, the Parties met on six occasions (February 10, 2021; April 12, 2021; April 22, 2021; November 22, 2021; May 5, 2022; and August 18, 2022) to discuss historical and anticipated future usage of the Well and water quality concerns with the Well, including MCWRA’s concerns about the Well’s potential impact on the aquifers of the 180/400 Foot Aquifer Subbasin;

**WHEREAS**, the Parties were unable to come to an agreement regarding the proper classification of the Well under Ordinance No. 03790. MCWRA asserts that the data presently available indicates that the Well meets the criteria for destruction under Section 1.03.04.B, whereas the Owner asserts that the data presently available indicates the Well is properly classified as a “standby well”;

**WHEREAS**, on October 17, 2022, the MCWRA Board of Directors held a hearing on the Appeal. At the hearing, the Board of Directors voted to continue the Appeal hearing and directed the Parties to pursue an agreement to resolve their disagreement regarding the classification of the Well under Ordinance No. 03790; and

**WHEREAS**, the Parties desire to enter into this Agreement to resolve their disagreement regarding the classification of the Well under Ordinance No. 03790.

**NOW THEREFORE**, in consideration of the foregoing recitals, and for other good and valuable consideration, it is agreed by and between the Parties hereto as follows:

I. RESOLUTION OF THE APPEAL.

Subject to the terms of this Agreement, MCWRA's Reclassification Determination and Owner's Appeal of the Reclassification Determination shall both be deemed withdrawn.

II. EVALUATION OF CLASSIFICATION OF THE WELL UNDER ORDINANCE NO. 03790.

The Parties agree that the classification of the Well under Ordinance No. 03790 shall be determined pursuant to the following process:

- A. Within sixty (60) calendar days following the effective date of the Agreement or as soon thereafter as reasonably possible, Owner, through its consultants and agents, shall at its expense undertake the following testing on the Well: (1) Well Video Survey; (2) Casing Integrity Survey with Temperature and E.C. Log; (3) Cement Bond Log; and, (4) Static or Dynamic Spinner Log, which will include a fluid resistivity log (collectively, the "Well Testing"). MCWRA shall grant all approvals necessary, if any, to permit the Owner, its consultants, and its agents to undertake the Well Testing.
- B. Results of the Well Testing shall be provided to the Parties and Pacific Surveys, LLC, a third party, neutral geophysical well logging company ("Pacific Surveys"), or another neutral third party geophysical well logging company mutually agreed to by the Parties, within ten (10) business days following completion of the Well Testing. Within thirty (30) calendar days of receiving the results of the Well Testing, Pacific Surveys shall review the results of the Well Testing and determine whether the Well meets the criteria set forth in Section 1.03.04.B of Ordinance No. 03790; specifically, whether the Well has "perforations in two aquifers, improper seals, or other improper construction or condition of the well, such that the well provides an actual or potential conduit for water in a seawater intruded area of an aquifer to enter a non-intruded area of a separate aquifer." If Pacific Surveys determines that the Well meets the criteria set forth in Section 1.03.04.B of Ordinance No. 03790, Pacific Surveys or another professional that is qualified to design a well repair shall also determine whether the Well may be repaired in a manner such that it will not meet the criteria set forth in Section 1.03.04.B of Ordinance No. 03790. Pacific Surveys' analyses and conclusions and any analyses or conclusions pertaining to the well repair shall be detailed in a written memorandum delivered to both of the Parties at the expense of the Owner ("Memo").
- C. Upon receipt of the Memo, each Party shall have ten (10) business days to review the Memo and determine whether they concur with the analyses and conclusions therein. Both Parties retain the right, in their sole discretion, to dispute the Memo's analyses and conclusions. MCWRA's General Manager retains his/her right under Ordinance No. 03790 to reclassify the Well and require its destruction pursuant to



the terms of Ordinance No. 03790 and the terms of this Agreement. The Owner retains its right to appeal any MCWRA General Manager decision as delineated in Ordinance No. 03910, and any decision in such appeal shall be subject to judicial review in accordance with all applicable law.

### III. WELL DESTRUCTION.

- A. If it is determined, through the procedure delineated in Section II, that the Well meets the criteria set forth in Section 1.03.04.B of Ordinance No. 03790, the Owner shall submit an application to destroy the Well to the Monterey County Health Department pursuant to Chapter 15.08 of the Monterey County Code (“MCC”) as soon as reasonably possible. If the well destruction application is approved by the Monterey County Health Department before the Work Completion Date of the Project, as that term is defined in the funding agreement for the Project, MCWRA shall bear the costs for the destruction of the Well. If no such grant funding is available, the Owner shall bear the costs for the destruction of the Well.
- B. All well destruction procedures shall be consistent with MCC Chapter 15.08, and Department of Water Resources Bulletins 74-81, 74-90, and any revisions thereto.

### IV. STANDBY WELL.

- A. If it is determined, through the procedure delineated in Section II, that the Well does not meet the criteria for destruction specified in Section 1.03.04.B of Ordinance No. 03790, MCWRA shall retain the current classification of the Well as a standby well until such a time as the Well is reclassified pursuant to Ordinance No. 03790, which shall not be sooner than three years after the execution of this Agreement.
- B. If it is determined, through the procedure delineated in Section II, that the Well meets the criteria set forth in Section 1.03.04.B of Ordinance No. 03790, but that the Well may be repaired in a manner such that it will not meet the criteria set forth in Section 1.03.04.B of Ordinance No. 03790, the Owner shall submit an application to repair the Well, if necessary, to the Monterey County Health Department pursuant to MCC Chapter 15.08 as soon as reasonably possible. Once the application to repair is approved by the Monterey County Health Department, Owner shall complete the repair as soon as reasonably possible at the Owner’s expense. Once the repair is complete, MCWRA shall retain the current classification of the Well as a standby well until such a time as the Well is reclassified pursuant to Ordinance No. 03790, which shall not be sooner than three years after the execution of this Agreement.
- C. If the Well retains its classification as a standby well pursuant to this Section, MCWRA shall grant all approvals necessary, if any, to permit the Owner, its consultants, and its agents to operate the Well as a standby well in accordance with Ordinance No. 03790.

- D. Operation of the Well as a standby well shall be in accordance with the terms of Ordinance No. 03790.

V. ONGOING MONITORING OF THE WELL.

If the Well retains its classification as a standby well pursuant to Section IV herein, the Parties agree that the Well shall be monitored in accordance with the following terms:

- A. Groundwater level and conductivity in the Well shall be monitored using an In-Situ Aqua TROLL 200 Data Logger with 200 foot vented twist-lock cable, cable hanger kit and desiccant, installed in the Well sounding access tube (“Transducer”). The Owner shall bear the costs of purchase, installation, and maintenance of the Transducer. MCWRA shall record the data from the Transducer on a basis consistent with the recording of data for other wells in MCWRA groundwater level monitoring programs.
- B. The Well shall be sampled for water quality on a triannual basis. Collection of all groundwater samples from the Well shall be consistent with the sampling methods, analytical methods, and quality control measures in MCWRA’s 2007 Quality Assurance Project Plan. All groundwater samples collected from the Well shall be analyzed by the Monterey County Health Department Consolidated Chemistry Lab (ELAP #1395) for an Ag Waiver Panel consisting of the following analytes: calcium, cation-anion balance, chloride, conductivity, magnesium, nitrate, pH, potassium, sodium, sulfate, total alkalinity, and total dissolved solids.
- C. MCWRA shall provide the personnel and equipment, and bear the costs thereof, to collect the groundwater level, conductivity, and water quality data detailed in this Section.
- D. The Owner shall arrange for management and/or disposal of water extracted from the Well during the sample collection process and shall bear any associated costs.
- E. All data collected by MCWRA pursuant to this Section shall be provided to the Owner.
- F. If there is an abrupt increase in chloride concentration or similar analyte that is observed in four samples taken over the course of the regular water quality sampling described in Subsection V.B above, the Parties will discuss in good faith to determine whether a new video survey of the Well is warranted to determine if the structural integrity of the Well has been compromised in a manner that the Well could meet the criteria set forth in Section 1.03.04.B of Ordinance No. 03790. The Parties will have ten (10) business days after the results of the fourth such sample are reported to the Owner to undertake this good faith discussion. If agreed to by the Parties, the Owner, through its consultants and agents, shall at its expense undertake the video survey. If the video survey indicates that the structural integrity of the Well has been compromised in a manner that the Well could meet the criteria set forth in Section 1.03.04.B of Ordinance No. 03790, the Parties will discuss in good faith the proper classification of the Well under Ordinance No. 03790. If no

agreement is reached regarding the proper classification of the Well, MCWRA may pursue reclassification of the Well under Ordinance No. 03790, while Owner retains all of its rights under Ordinance No. 03790 to appeal such reclassification decision and seek judicial review in accordance with all applicable law.

VI. TERM OF AGREEMENT.

This Agreement shall be effective as of the last signature date below and shall remain effective for three years.

VII. BINDING ON SUCCESSORS; AGREEMENT RUNS WITH THE LAND.

The terms of this Agreement are and shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of Owner and its respective successors and assignees.

VIII. ATTORNEY FEES AND LIENS.

Parties shall each bear their own costs and attorney fees. If it becomes necessary to engage in legal proceedings to enforce or interpret any of the provisions of this Agreement, the prevailing party will be entitled to recover his or her reasonable attorney fees incurred in connection with such proceedings.

IX. SEVERABILITY.

Should any provision of this Agreement be held invalid or illegal, such illegality will not invalidate the remainder of this Agreement. Instead, the Agreement shall be construed as if it did not contain the illegal part, and the rights and obligations of the Party shall be construed and enforced accordingly.

X. GOVERNING LAWS.

This Agreement is entered into in the County of Monterey, State of California, and shall be construed and enforced in accordance with the laws of the State of California. The Parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.

XI. COMPLIANCE WITH APPLICABLE LAW.

The Parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

XII. CONSTRUCTION OF AGREEMENT.

The Parties agree that each Party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at

through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.

XIII. REPRESENTATION.

Owner has had the opportunity to be represented by independent legal counsel of its own choice, and this Agreement was prepared with the joint input of all Parties and shall not be construed in favor of or against any party to the Agreement. Owner further acknowledges that this Agreement was executed freely and voluntarily and with the opportunity for Owner to receive the advice of independent legal counsel.

XIV. FURTHER ASSURANCES.

MCWRA and Owner each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to fulfill the terms of this Agreement.

XV. COUNTERPARTS.

The Parties agree that this Agreement may be executed in counterparts. Each of the undersigned, whether signing separately or on the same document with other Party, agrees to each part of the above Agreement.

XVI. ENTIRE AGREEMENT.

As of the effective date of this Agreement, this document, including all exhibits hereto, constitutes the entire agreement between the Parties, and supersedes any and all prior written or oral negotiations and representations between the Parties concerning all matters relating to the subject of this Agreement.

**IN WITNESS WHEREOF**, Parties intend to be legally bound and have caused this Agreement to be executed as of the last date of signature.

**MONTEREY COUNTY WATER RESOURCES AGENCY**

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

Name: Brent Buche

Title: General Manager

Date: \_\_\_\_\_

**YUKI FAMILY LIMITED PARTNERSHIP III**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**THE THOMAS M. BUNN FAMILY LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



***Before the Board of Directors of the Monterey County Water Resources Agency  
County of Monterey, State of California***

BOARD ORDER No. \_\_\_\_\_

**AUTHORIZE THE GENERAL MANAGER TO SIGN THE WELL )  
MANAGEMENT AND MONITORING AGREEMENT WITH YUKI )  
FARMS WITH YUKI FARMS LIMITED PARTNERSHIP III AND )  
THE THOMAS M. BUNN FAMILY LLC RESOLVING YUKI )  
FARMS LIMITED PARTNERSHIP III'S JANUARY 20, 2021 APPEAL )  
CHALLENGING THE MONTEREY COUNTY WATER RESOURCES )  
AGENCY'S DECISION TO RECLASSIFY WELL 14S/02E-15P01 )  
FROM STANDBY TO ABANDONED FOR EVENTUAL )  
DESTRUCTION AS PART OF THE PROTECTION OF DOMESTIC )  
DRINKING WATER SUPPLIES FOR THE LOWER SALINAS )  
VALLEY PROJECT )**

Upon motion of Director , seconded by Director , and carried by those members present, the Board of Directors hereby:

1. Authorizes the General Manager to sign the Well Management and Monitoring Agreement with Yuki Farms Limited Partnership III and The Thomas M. Bunn Family LLC resolving Yuki Farms Limited Partnership III's January 20, 2021 appeal challenging the Monterey County Water Resources Agency's decision to reclassify well 14S/02E-15P01 from standby to abandoned for eventual destruction as part of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project.

PASSED AND ADOPTED on this **19<sup>th</sup>** day of **December 2022**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

RECUSE:

---

BY: John Baillie, Chair  
Board of Directors

---

ATTEST: Brent Buche  
General Manager



# County of Monterey

## Item No.9

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: WRAG 22-188**

**December 19, 2022**

**Introduced:** 12/7/2022

**Current Status:** Draft

**Version:** 1

**Matter Type:** WR General Agenda

December, January and February 2023 Calendars

# December 2022

December 2022						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

January 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Nov 27	28	29	30	Dec 1 1:30pm Reservoir Operations Advisory Committee (Saffron Room) - 930-Board of Directors	2 8:30am Finance Committee (1441 Schilling Pl., Salinas) 10:00am Personnel & Admin. Committee	3
4	5	6 1:30pm Board of Supervisors-Regional Water Forum	7 8:30am BMAC Committee - Cancelled 10:00am Planning Committee - Cancelled	8	9 1:00pm Financial Planning Workshop (Laguna Seca Recreation Area (1025 Monterey Salinas Hwy,	10
11	12	13	14	15 10:30am Joint Board Leadership Advisory Committee Postponed (Via Zoom <a href="https://monterey.zoom.us/j/930boardofdirectors">https://monterey.zoom.us/j/930boardofdirectors</a> )	16	17
18	19 Board of Directors Meeting - 930-Board of Directors	20	21	22	23	24
25	26	27	28	29 1:30pm Cancelled - Reservoir Operations Advisory Committee (Saffron Room) -	30	31



# January 2023

January 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2023						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 1, 23	2	3	4 8:30am Cancelled -BMAC Committee 10:00am Cancelled -Planning Committee	5	6 8:30am Cancelled - Personnel & Admin. 10:00am Cancelled -Finance Committee	7
8	9	10	11	12	13	14
15	16 Board of Directors Meeting - 930-Board of Directors	17	18	19 10:30am Joint Board Leadership Advisory Committee (Via Zoom) - MC Water	20	21
22	23	24	25	26 1:30pm Reservoir Operations Advisory Committee (Saffron Room) - 930-Board of Directors	27	28
29	30	31	Feb 1	2	3	4

# February 2023

February 2023

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2023

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 29	30	31	Feb 1 8:30am BMAC Committee 10:00am Planning Committee	2	3 8:30am Personnel & Admin. Committee 10:00am Finance Committee (1441 Schilling Pl., Salinas)	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20 Board of Directors Meeting - 930-Board of Directors	21	22	23 1:30pm Reservoir Operations Advisory Committee (Saffron Room) - 930-Board of Directors	24	25
26	27	28	Mar 1	2	3	4



# County of Monterey

## Item No.10

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: WRAG 22-189

December 19, 2022

Introduced: 12/7/2022

Current Status: Draft

Version: 1

Matter Type: WR General Agenda

- COVID-19 Update
- Personnel Update
- Prop. 1 Grant Update
- Pajaro Update
- Strategic Planning Update
- Other



# County of Monterey

## Item No.11

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: WRAG 22-190**

**December 19, 2022**

**Introduced:** 12/7/2022

**Current Status:** Draft

**Version:** 1

**Matter Type:** WR General Agenda

#### Information Items:

1. Reservoir Release and Storage Update
2. Well Permit Applications Update

## Reservoir Storage & Release Update

### SUMMARY/DISCUSSION:

The Board of Directors receives monthly updates on the status of Agency reservoirs.

**RESERVOIR ELEVATION / STORAGE:** Early December storm activity brought the first inflow of water year 2023, approximately 8,500 acre-feet, into Nacimiento Reservoir. Inflow to San Antonio was negligible. As of December 8, 2022, San Antonio Reservoir has a water surface elevation of approximately 674.45 feet (NGVD 29), with 30,578 acre-feet of storage. Nacimiento Reservoir has a water surface elevation of approximately 719.95 feet, with 68,895 acre-feet of storage. San Antonio Reservoir is currently at 9% of storage capacity and Nacimiento Reservoir is at 18 of capacity.

**RESERVOIR RELEASES:** A lack of water in storage resulted in adoption by Board of Directors of a 2022 release schedule which limited releases for the entire year to approximately 60 cfs from Nacimiento Reservoir and 10 cfs from San Antonio Reservoir, in support of fish habitat below the dams.

The Lagoon has been closed to the ocean since February 17<sup>th</sup>.

Releases as of December 8, 2022:

- Nacimiento Reservoir: 60 cfs
- San Antonio Reservoir: 10 cfs

Total releases from both reservoirs to the Salinas River are approximately 70 cfs. The following “provisional” flows have been recorded by the USGS:

- Salinas River near Bradley: 69 cfs
- Salinas River at Soledad: 0 cfs
- Salinas River near Chualar: 0 cfs
- Salinas River near Spreckels: 0 cfs

Prepared by: Peter Kwiek, Associate Hydrologist (831) 755-4860

## Well Permit Application Activities Update

### SUMMARY/DISCUSSION:

In support of Monterey County's Well Permit Application Program the Agency acts as technical advisor to the program's lead agency, the Environmental Health Bureau (EHB). In accordance with a 1991 interdepartmental Memorandum of Agreement between the Agency and EHB, the Agency performs a comprehensive review process on well permit applications for new wells pumping five acre-feet of water or more per year, as well as for proposed well destructions and repairs.

The Agency provides review and/or advisement to EHB within five (5) business days of receiving new well permit applications. The Agency has provided EHB a review within 2.8 business days for Fiscal Year 2022/2023. The Agency also reviews final well designs and annular seal depth proposals on an on-going basis and is committed to providing a response to EHB within twenty-four (24) hours of receiving design proposals.

The Agency receives funds that cover staff time for well application review, well completion report processing, and database maintenance from fees collected by EHB. The Agency's fees are defined in Article XI of the Monterey County Fee Resolution.

The Agency conducts a well impact assessment for non-replacement domestic and high-capacity wells in fulfillment of the County's mandate to implement policies of the 2010 Monterey County General Plan. This month, none of the well impact assessments performed indicated potential for significant adverse impacts to existing domestic wells, water system wells, or in-stream flows.

Table 1 (attached) provides a summation of well permit applications received in the last month for evaluation by Agency staff, categorized by permit type, Agency management area, and aquifer unit. The Agency did not receive any permits in November 2022. Also included is a tabulation of new well applications reviewed for the fiscal year. This table is provided to the Board of Directors and Basin Management Advisory Committee on a monthly basis.

Publication of the Agency's Report, "Recommendations To Address the Expansion of Seawater Intrusion in the Salinas Valley Groundwater Basin (October, 2017) and subsequent adoption of Interim Urgency Ordinance 5302 and Ordinance 5303 by the Monterey County Board of Supervisors (May 22, 2018 and June 26, 2018, respectively) have led to increased interest in data related to wells in and extractions from the Deep Aquifers (Figure 1).

Figure 2 depicts the history of well installation in the Deep Aquifers by water use category. As illustrated in the chart, a total of fifty-seven (57) wells have been installed in the Deep Aquifers since 1974, with twenty-two (22) of those wells being constructed in the last ten years, including ten (10) within the last three years. Figure 2 includes a tabular historical summary of reported annual Deep Aquifer well extractions by water use category.

Three (3) additional permit applications have been submitted for new Deep Aquifers wells but construction has not been completed as of the date of this report. The proposed wells were applied for as replacement wells after the expiration of Ordinance No. 5302, which expired on May 21, 2020.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

None

Prepared by: Nicole Koerth, Hydrologist, (831) 755-4860

Attachments:

Table 1 - Summary of Well Permits Received

Figure 1- Map showing Deep Aquifer Wells

Figure 2 - Timeline of Well Installation in the Deep Aquifers with Summary of Deep Aquifer Groundwater Extractions

# Well Permits Received November 2022

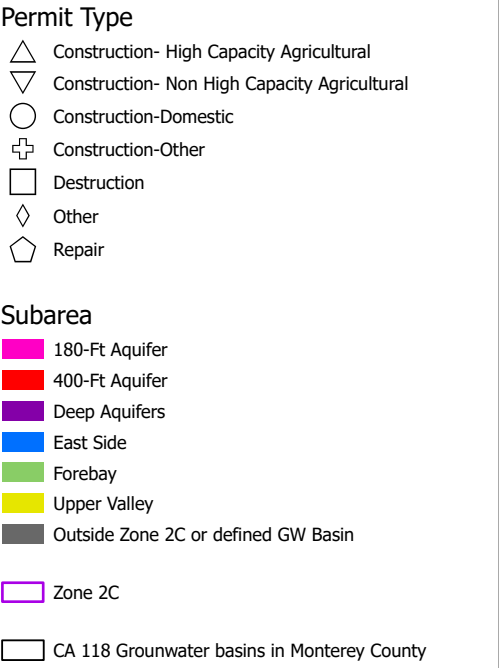


Table 1. Well Permit Applications Received by Category - November, 2022

Subarea/ Aquifer	Construction: Agricultural		Construction: Domestic	Construction: Other	Destruction	Repair	Other	Monthly Total
	High Capacity	Non High Capacity						
180-Ft Aquifer								
400-Ft Aquifer								
Deep Aquifers								
East Side								
Forebay								
Upper Valley								
Outside Zone 2C, Undefined GW Basin								
Total								0204



# Figure 1

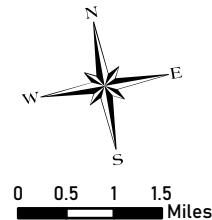
## Legend

### Deep Aquifer Wells

By Use, Labeled by Year Constructed

- Agricultural
- Municipal
- Industrial
- Domestic
- Monitoring

Area of Impact



Monterey County  
Water Resources Agency

Date: 12/6/2022

4 Monitoring Wells  
constructed in 2000

2 Monitoring Wells  
constructed in 2005

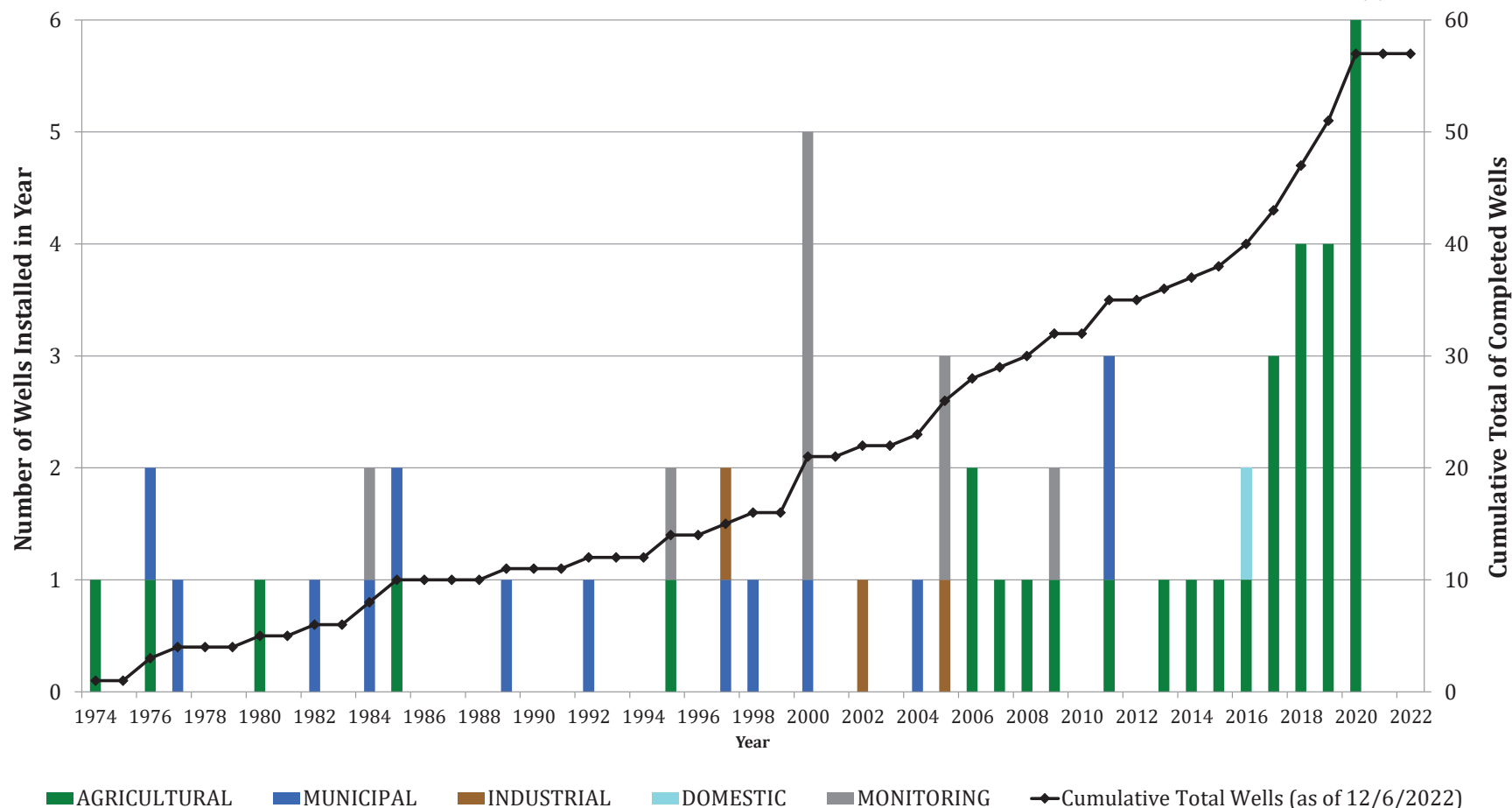
2 Municipal Wells  
constructed in 1998 and 2000

Figure 2

## Timeline of Well Installation in Deep Aquifers of the 180/400 Foot Aquifer Subbasin



Source: MCWRA  
Date: 12/6/2022



### Deep Aquifers Groundwater Extraction History Since 1993\*

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
2,054	1,992	2,036	2,137	2,170	1,906	2,056	2,302	2,355	2,399	2,366	2,442	2,358	2,005	1,738	2,004	2,102	1,903	1,803	2,044	1,989	3,784	3,746	3,788	4,116	4,605	4,820	4,264	4,216
1,507	2,620	2,302	1,990	2,556	1,648	96	1	0	0	0	0	0	0	58	384	696	982	927	1,397	1,097	2,031	2,010	4,194	4,834	4,749	5,331	6,996	8,820
0	0	0	0	0	0	0	3	13	17	379	305	343	336	393	371	348	333	370	380	523	620	617	569	567	291	196	84	42
3,561	4,612	4,338	4,127	4,725	3,554	2,151	2,307	2,368	2,416	2,745	2,747	2,701	2,341	2,189	2,759	3,146	3,218	3,100	3,821	3,608	6,436	6,373	8,551	9,516	9,645	10,347	11,344	13,079

\* Notes: Table includes all reported extraction data for the forty-five (45) Deep Aquifer production wells that have reported extractions since inception of the Agency's GEMS program in 1993. Data are reported in acre-feet. Colors denote water use category (Municipal, Agricultural, Industrial).



# County of Monterey

## Item No.12

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: WRAG 22-196**

**December 19, 2022**

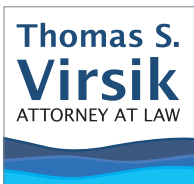
**Introduced:** 12/8/2022

**Current Status:** Draft

**Version:** 1

**Matter Type:** WR General Agenda

1. Letter dated November 17, 2022 to John Baillie, Chair, Monterey County Water Resources Agency Board of Directors, from Thomas S. Virsik Attorney at Law RE: Ordinance 3790 Amendment
2. Letter dated November 18, 2022 Brent Buche, General Manager, Monterey County Water Resources Agency, from Sharon K. Tapia, Division Manager, Division of Safety and Dams RE: San Antonio Dam Spillway Replacement



17 November 2022

Via email: [WRAPubliccomment@co.monterey.ca.us](mailto:WRAPubliccomment@co.monterey.ca.us)

John Baillie, Chair  
Monterey County Water Resources  
Board of Directors

Re November 21, 2022, Board of Directors Meeting  
Item 7 (Ordinance 3790 amendment)

Dear Chair Baillie:

The report Agenda Item 7 states that “staff is seeking a public discussion on the draft proposed ordinance,” to which invitation my clients are responding. This comment letter provides some background and “discussion” of Ordinance 3790 (“Ordinance”).

#### Background

The CSIP (authorized before Proposition 218) was and remains a grand barter. More than a generation ago the then looming threat of State Water Resources Control Board action to stop local seawater intrusion was an impetus for the water recycling project. In exchange for the reduction/elimination of pumping in parts of the Pressure area, aka what became Zone 2B, the area would use a substitute supply of recycled water. The bargain was consummated by financing and constructing the CSIP – and later follow-on projects like the SRDF – and for their part the CSIP beneficiaries were and remain obligated to reduce/eliminate their reliance on pumping.

As recited in the enclosed copy of the AGREEMENT BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY AND TANIMURA & ANTLE, INC. and CHRIS BUNN, several prominent owners/operators in the CSIP (aka within Zone 2B) sued the MCWRA on September 27, 1999 and thereafter entered into an agreement with it. Tanimura & Antle, Inc. and Chris Bunn, Trustee of the Thomas M. Bunn Living Trust Agreement dated August 22, 1984 v. Monterey County Water Resources Agency, M46013.<sup>1</sup> My clients of that era contested the validity of the enclosed T&A and Bunn agreement, which contest along with various other disputes were addressed in a later separate and more

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<sup>1</sup> The T&A and Bunn lawsuit was filed as a reverse validation action. CCP §§ 860 et seq. The relevance today is that the plaintiffs’ actions were not individual and were intended to and do bind all others similarly situated as owners/operators of CSIP lands, i.e., the CSIP growers/owners all benefited for the strategic choices of the two parties and likewise are bound to any unforeseen (or frankly, readily foreseeable) consequences.

comprehensive settlement among them and the MCWRA, reduced to (several) judgment(s).

The now legacy T&A and Bunn lawsuit and agreement reflect that CSIP reluctance to comply with Ordinance 3790 existed more than a generation ago. The plaintiffs in the subject lawsuit obtained substantial relief from timely Ordinance compliance in exchange for dismissal of their lawsuit. See Part II. All timeframes and contingencies the MCWRA promised in the agreement have long passed, and the consequences of that negotiated bargain are more manifest. The negotiated suspension of parts of Ordinance 3790 has allowed the seawater intrusion (SWI) situation to worsen, as reflected in the 2017 MCWRA report and other evidence noted in the staff report. The present need for the proposed amendment is, at least in part, a result of the legacy T&A and Bunn litigation strategy.

### SGMA Correlation

The 180/400 Basin, being approximately coterminous with the traditional Pressure area, is subject to the approved (by DWR) 180/400 GSP (“GSP”). The Salinas Valley Basin Groundwater Sustainability Agency (“GSA”) recently approved and submitted to DWR an “Update” to the GSP, essentially a restatement of the GSP (“Update”). The CSIP lies within the 180/400 Basin and is prominently referenced in the GSP and now the Update. The Update (as well as the GSP before it) explicitly reflects support for well destruction in the CSIP. Update at 9.8.3 and 10.1.3. The Update states that certain implementation activities “have a more immediate effect on groundwater conditions: well destruction that will help prevent vertical migration of seawater - and nitrate-contaminated groundwater between aquifers[.]” Update at page 10-4. Well destruction pursuant to the Proposition 1 grant is specifically identified as an implementation activity. *Id.* at 10-5 and 10-6. Enforcing well destruction by amending the Ordinance is consistent with the GSP and Update as arguably an “implementation activity” in furtherance of the GSP/Update – which is in the 180/400 Basin’s overall interests.<sup>2</sup>

### Equity

All current CSIP landowners or operators benefitted from the pause in Ordinance 3790 compliance negotiated by T&A and Bunn (see footnote 1, above)

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<sup>2</sup> GSA staff has in recent months emphasized that a “special team” (or similar terminology) at DWR follows the annual reports of at least certain basins, and at least the critically overdrafted 180/400, to verify that the basin is meeting milestones and making progress towards its stated GSP goals. Destroying wells and strengthening procedures that lead to well destruction would presumably be viewed by DWR as progress while allowing wells meeting destruction criteria to remain would presumably be seen as the opposite of progress. Any enforcement by DWR would likely affect the entire 180/400 Basin, not just the narrow CSIP interests.

John Baillie, Chair  
MCWRA Board of Directors  
17 November 2022

and should not be heard to complain otherwise. That wells with the potential to further SWI must be destroyed with all due speed appears beyond contention. The other aspect of the proposed change to the Ordinance is who pays for destruction when a well owner/operator chooses to forgo the State's offer to subsidize the cost. If for reasons of their own, a well owner wishes to reject the State opportunity and pay for the destruction themselves, there is no issue of equity. Businesspeople can choose to pay more than seemingly necessary for their own long-term strategic fiscal purposes. Allowing a well owner to choose paying for mandated destruction is, frankly, unremarkable. If anything, the Board may wish to pursue strengthening the Ordinance with penalties designed to force the destruction and stop the harm to others (be they an adjoining landowner threatened by creeping SWI or a domestic water user), perhaps akin to nuisance abatement.

Very truly yours,

*Thomas S. Virsik*  
Thomas S. Virsik

Encl.  
May 1, 2001 Agreement

cc: Donna Meyers, [meyersd@svbgsa.org](mailto:meyersd@svbgsa.org)

**AGREEMENT**  
**BETWEEN**  
**MONTEREY COUNTY WATER RESOURCES AGENCY AND**  
**TANIMURA & ANTLE, INC. and CHRIS BUNN**

This Agreement is entered into and effective this 1st day of May, 2001, between Defendant Monterey County Water Resources Agency ("Agency") and Plaintiffs Tanimura & Antle, Inc. ("TAI") and Chris Bunn, Trustee of the Thomas M. Bunn Living Trust Agreement dated August 22, 1984 ("Bunn") (collectively "Parties").

**RECITALS**

WHEREAS, the Parties disagree as to the appropriate financial responsibilities of the Agency's Zone 2B rate payers for the debt, operation and maintenance costs of Monterey County Water Recycling Project; and

WHEREAS, on September 27, 1999, TAI and Bunn filed a Complaint Challenging Validity and For Declaratory Relief, Monterey County Superior Court No. M 46013, which challenges the validity of the Agency's increases to assessments and water delivery charges in Zone 2B of the Agency; and

WHEREAS, on November 19, 1999, the Agency filed an Answer to Complaint in Case No. M 46013, denying the allegations in the Complaint; and

WHEREAS, the Parties desire to resolve their differences through processes other than litigation in Case No. M 46013.

**AGREEMENT**

The Parties agree as follows:

In consideration of the obligations of TAI and Bunn, as set forth in paragraph III of this Agreement, the Agency shall take the actions specified in paragraphs I and II of the Agreement.

**I. WATER MANAGEMENT PROGRAM**

**(A) General Provisions Regarding Proposed Water Management Program**

Within twelve (12) months following the effective date of this Agreement, the Agency shall submit to the Board of Supervisors of the Monterey County Water Resources Agency (hereinafter "Board of Supervisors"), a Water Management Program ("Program"), with a recommendation that the Board of Supervisors approve and adopt the Program as submitted. The Agency shall consider for inclusion in the Program the specific elements set forth in paragraphs I.(B) and I.(C) of this Agreement.



(B) **PRESSURE ZONE SUBAREA AND ZONE 2B COST MANAGEMENT ACTIONS**

The Agency shall consider for inclusion in the Program actions to limit or reduce the Overall Water Costs to landowners and/or water users in the area known as the Pressure Zone Subarea, in the Salinas Valley, including in particular those lands situated in both the Pressure Zone Subarea and Zone 2B of the Agency. For purposes of this provision, "Overall Water Costs" means: the combination of all assessments, water delivery charges, or other Agency levies against landowners or water users situated in the geographic Pressure Zone Subarea in Zones 2, 2A and Zone 2B of the Agency, for any existing Agency project related to water supply, water quality and/or flood control; provided that, the term "Overall Water Costs" shall not include costs or Agency levies that may arise in connection with the Salinas Valley Water Project.

(C) **SALINAS VALLEY WATER PROJECT DIRECTIVE**

The proposed Program shall include a Salinas Valley Water Project Directive ("SVWP Directive") which will provide clear and definitive directions to the Agency, Agency staff, and Agency consultants throughout the environmental review and approval process for the SVWP. The SVWP Directive shall include, without limitation, the following elements:

- (1) **SVWP Project Objectives.** The SVWP Directive shall contain a clear statement of SVWP primary and secondary objectives.
- (2) **SVWP Preferred Project Alternative Description.** The proposed Program shall recommend a description of a specific preferred project alternative for the SVWP ("Preferred SVWP").
  - (a) The proposed Program shall include this project description for the Preferred SVWP in any environmental review document or other regulatory approval document prepared in connection with the SVWP.
  - (b) The proposed Program shall include a clear statement that the Agency will use its Best Efforts to pursue approval and implementation of the Preferred SVWP.
    - (i) For purposes of this Agreement, "Best Efforts" means reasonable diligence and reasonable efforts under the totality of the circumstances, including cost considerations. Indifference and inaction do not constitute Best Efforts. Futile action(s) are not required.
- (3) **SVWP Project Alternatives.** The Parties recognize that existing environmental laws require the Agency to set forth alternatives to the Preferred SVWP alternative, and to describe and analyze the environmental impacts of such alternatives. The proposed Program shall recommend that before the Agency or its staff or consultants takes any action to change or modify the Preferred SVWP, as described in paragraph I.(D)(2), the



Agency, Agency staff and Agency consultants shall obtain the approval of the BMP Committee of the Agency.

- (4) **Regulatory Measures.** The proposed Program shall consider appropriate regulatory measures to ensure the successful operation of the SVWP.

## II. ENFORCEMENT OF ORDINANCE 3790

(A) The Agency recognizes that Zone 2B landowners and irrigators are concerned with the quality of supplemental water deliveries in Zone 2B and the impact of those deliveries on the long-term health and viability of some agricultural soils in Zone 2B. Without conceding the validity of such concerns, the Agency desires to work cooperatively with TAI, Bunn and other interested parties to develop mutually acceptable approaches to Zone 2B water quality issues. Such approaches may include, without limitation, the utilization of water made available through the Salinas Valley Water Project, if approved and implemented by the Agency, by Zone 2B landowners and water users.

(B) In light of potential operational changes which may accompany the implementation of the Salinas Valley Water Project as to Zone 2B, the Agency shall not enforce any provision of Ordinance 3790 relating to the destruction, construction, operation, maintenance, or ownership of wells other than abandoned, contaminated or cross-contaminating wells until the earlier of the following dates: (1) the commencement of operation of the Salinas Valley Water Project; or (2) January 1, 2009, which date will allow for approximately ten years of recycled water application on Zone 2B soils for purposes of evaluating the long-term effects of recycled water application. For purposes of this paragraph, "commencement of operation" shall occur following one full year of Salinas Valley Water Project operation in which recycled water is blended with Salinas River water in quantities to be determined by the Agency Board of Directors in its sole discretion. It is understood and agreed that during the time period referenced in this paragraph, permits for well construction may be applied for and granted pursuant to Section 1.02.07 of Ordinance 3790 by the Agency General Manager, whose review and approval of such permit applications shall be consistent with the provisions of this paragraph. It is further understood and agreed that the General Manager shall not unreasonably withhold approval of a permit for the construction of a replacement well of similar capacity and characteristics as the existing active well which is proposed to be replaced. Nothing in this agreement is intended to bar TAI or Bunn from challenging the eventual enforcement of the Ordinance 3790 provisions referenced herein or any other provision of Ordinance 3790.

(C) If any provision of this Section II shall be found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Section II shall not be affected thereby, and every other provision of this Section II shall remain in full force and effect.

## III. DISMISSAL OF LITIGATION

(A) In consideration of the obligations of the Agency, as set forth in paragraphs I. and II. of this Agreement, TAI and Bunn agree to immediately dismiss without prejudice that certain complaint captioned Tanimura & Antle, Inc. and Chris Bunn v. Monterey County Water Resources Agency, et al., Monterey County Superior Court No. M 46013, filed September 27, 1999.

(B) In the event that this Agreement or any provision hereof is found or determined to be void, unenforceable or otherwise invalid in any binding legal or administrative action or proceeding, the Parties agree that the statute of limitations applicable to the claims contained in said complaint shall be deemed waived and/or tolled from the date TAI and Bunn filed said complaint until a date 30 days after the date of any final judgment or other final binding determination declaring this Agreement or any provision hereof to be void, unenforceable or otherwise invalid and that TAI and Bunn, or either of them, shall be allowed to refile said complaint, either with or without the other as plaintiff, within said 30-day period as if said complaint had not been dismissed. Such refiling of said complaint shall relate back to the date of filing of the original complaint in said action.

#### IV. CONSTRUCTION AND MISCELLANEOUS PROVISIONS

(A) **Construction.**

(1) This Agreement is made solely for the benefit of the Parties and their respective permitted successors and assigns (if any). Except for such a permitted successor or assign, no other person or entity may have, acquire or claim any right by virtue of this Agreement.

(2) This Agreement is and will be binding upon and will inure to the benefit of the Parties and, upon dissolution, the legal successors and assigns of their assets and liabilities. No Party may assign any of its rights or delegate any of its duties under this Agreement, and any such assignment or delegation made in violation of this section shall be void and of no force or effect.

(3) Each Party and its counsel have participated fully in the drafting, review and revision of this Agreement. A rule of construction, whether statutory or otherwise, to the effect that ambiguities are to be resolved against the drafting Party will not apply in interpreting this Agreement, including any amendments or modifications.

(4) This Agreement constitutes the final, complete, and exclusive statement of the terms of the Agreement among the Parties pertaining to its subject matter and supercedes all prior and contemporaneous understandings or agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty outside those expressly set forth in this Agreement.

(B) **Modifications.** This Agreement may be supplemented, amended, or modified, including extensions or adjustments to any timeline or milestone contained in this Agreement, only by the written agreement of the Parties. No supplement, amendment, or modification, including extensions or adjustments to any timeline or milestone contained herein, will be binding unless it is in writing and signed by all Parties.

(C) **No Waiver of Rights.**


(1) Except as expressly set forth elsewhere in this Agreement, this Agreement shall not be construed as a waiver, estoppel, or other bar to any action or claim of duty, obligation, statutory or constitutional right, or any other right or remedy in law or equity, including any rights or remedies asserted or alleged in Monterey County Superior Court Case No. 46013.

(2) No waiver of a breach, failure of condition, or any right or remedy contained in or granted by the provisions of this Agreement is effective unless it is in writing and signed by the Party waiving the breach, failure, right or remedy. No waiver of a breach, failure of condition or right or remedy is or may be deemed a waiver of any other breach, failure, right or remedy, whether similar or not. In addition, no waiver will constitute a continuing waiver unless the writing so specifies.

(D) **Remedies.** The Parties recognize that the rights and obligations of the Parties under this Agreement are unique and of such nature as to be inherently difficult or impossible to value monetarily. If one Party does not perform in accordance with this Agreement, the other Party will likely suffer harm curable only by the imposition of an injunction requiring specific performance. Thus, in addition to the remedies set forth in paragraph II hereof, the Parties agree that any breach of this Agreement by either Party shall entitle the non-breaching Party to injunctive relief, including but not limited to a decree of specific performance, in addition to any other remedies at law or in equity that may be available in the circumstances. The parties further agree that any breach of this Agreement by the Agency shall entitle TAI and Bunn, or either of them, to refile their complaint as set forth in paragraph III(B) within 30 days of said breach, in which case the waiver and/or tolling of the applicable statute of limitations as set forth in said paragraph III(B) shall apply.

In Witness Whereof, the Parties have executed this Agreement as of the day and year first above written.

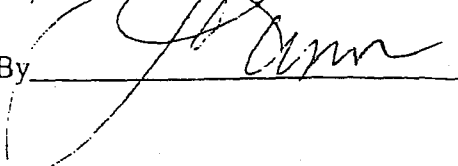
MONTEREY COUNTY WATER  
RESOURCES AGENCY

By   
Chair, Board of Supervisors

TANIMURA & ANTLE, INC.

By 

CHRIS BUNN, Trustee of the Thomas M.  
Bunn Living Trust Agreement dated August  
22, 1984

By 

**DEPARTMENT OF WATER RESOURCES**

P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791



November 18, 2022

Mr. Brent Buche, General Manager  
Monterey County Water Resources Agency  
Post Office Box 930  
Salinas, California 93902-0930

San Antonio Dam, No. 1008-2  
Monterey County

Dear Mr. Buche:

This is in response to Monterey County Water Resources Agency's (MCWRA) letter dated September 6, 2022. This letter was a follow-up to a June 7, 2022, meeting held among the Division of Safety of Dams (DSOD), MCWRA, and its design engineer McMillen-Jacobs and Associates (MJA) regarding the recent Phase 1 spillway investigation and proposed rehabilitation alternatives for the spillway of San Antonio Dam. Based on discussions during that meeting, MCWRA requested for DSOD to confirm that the existing spillway needs to be replaced with a modern-designed spillway structure.

During the meeting, MJA presented findings from the recent Phase 1 spillway investigation and three preliminary spillway rehabilitation alternatives. Each alternative consisted of a retrofit to the existing spillway chute, subdrains, and walls. DSOD independently evaluated each alternative presented and found that the incorporation of these spillway features into a final repair would not result in a reliable and robust long-term spillway system. Given the performance uncertainties associated with the existing concrete and foundation, the inability to measure the effectiveness of the subdrains, and the inability to monitor the structural integrity of the spillway structure, rehabilitation of the existing spillway is not feasible. Lastly, spillway usage may be more frequent in the future, once the proposed Interlake Tunnel Project is constructed; thus, the adequate performance and long-term reliability of the spillway are critical for public safety.

As a result, DSOD is confirming that the replacement of the existing spillway structure with one consistent with modern design standards is required, and rehabilitating the existing spillway structure is not an acceptable alternative. As an interim risk reduction measure, MCWRA needs to proceed with the proposed work to assess the condition of the existing subdrains and perform any repairs and maintenance needed until the spillway can be replaced. A repair application for the Phase 2 workplan and potential subdrain repairs needs to be submitted to DSOD along with plans, specifications, and an associated filing fee for review and approval.

Mr. Buche  
November 18, 2022  
Page 2

If you have any questions or need additional information, you may contact Design Engineer George Hu at (916) 565-7887 or Project Engineer Wallace Lam at (916) 565-7852.

Sincerely,



Sharon K. Tapia, P.E.  
Division Manager  
Division of Safety of Dams