

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER *MIG*

DATE: NOVEMBER 8, 2019



REVIEW AND DISCUSS UPCOMING ELECTION OF 2020 BOARD OFFICERS

ITEM

Review and discuss upcoming election of 2020 Board Officers. [RECOMMEND DISCUSS
UPCOMING BOARD OFFICER ELECTIONS AND DIRECT STAFF]

BACKGROUND

In accordance with the most recently adopted District resolution, Resolution No. 2019-1501, Adopting Amended Board By-laws and Policies, Exhibit "A" Nipomo Community Services District Board of Directors Board By-laws and Policies ("By-laws"), section 1.4 states "The President and Vice President of the Board shall be elected annually at the last meeting of each calendar year." The last meeting in calendar year 2019 will be held on December 11th.

The By-laws governing the election process go on to state in section 1.5 "The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election."

The By-laws do not address a nomination process, the number of terms a director can serve as a Board Officer, or any methodology, formal or informal, to ensure all Board Members have an opportunity to fulfil the role of a Board Officer. The lack of precision on these matters may be by design or they may be a result of the cooperative nature the current and past Boards have extended to one another and have therefore found these details unnecessary.

It has been suggested, at a minimum, that Board Members make it known their desire or willingness to serve as a Board Officer prior to the last meeting of the calendar year. This would allow (1) Board Members time to consider candidates prior to casting their vote should a vote be necessary, and (2) determine if there is interest or a lack of interest by any Board Member to serve in this capacity.

FINANCIAL IMPACT

Staff time spent on preparing staff report in support of the Board's discussion is included in the current year budget.

STRATEGIC PLAN

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

6.A. activities for Completion

A.1 Periodically review, update and reaffirm District policies and procedures.

RECOMMENDATION

Staff recommends your Honorable Board discuss and direct staff.

ATTACHMENTS

- A. NCSD Board of Director, Board By-laws and Policies Exhibit "A" Pg. 1

NOVEMBER 13, 2019

ITEM E-2

ATTACHMENT A

NIPOMO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTOR
BOARD BY-LAWS AND POLICIES
EXHIBIT "A"

1. OFFICERS OF THE BOARD OF DIRECTORS

- 1.1 The officers of the Board of Directors are President and Vice President.
- 1.2 The President of the Board of Directors shall serve as chairperson at all Board meetings. He/She shall have the same rights as the other Directors of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.
- 1.3 In the absence of the President, the Vice President of the Board of Directors shall serve as chairperson over all meetings of the Board. If the President and Vice President of the Board are both absent, the remaining Directors present shall select one of themselves to act as chairperson of the meeting.
- 1.4 The President and Vice President of the Board shall be elected annually at the last meeting of each calendar year.
- 1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.

2. MEETINGS

- 2.1 Subject to holiday and scheduling conflicts, regular meetings of the Board of Directors shall commence at 9:00 a.m. on the second and fourth Wednesday of each calendar month in the Board Room at the District Office located at 148 South Wilson, Nipomo, CA. The Board of Directors reserves the right to cancel and/or designate other dates, places, and times for Director Meetings due to scheduling conflicts and holidays.
- 2.2 Special Meetings.

Special meetings may be called by the President or three (3) Directors with a minimum of twenty-four (24) hours public notice. Special meeting agenda shall be prepared and distributed pursuant to the procedures of the Brown Act by the General Manager or the Assistant General Manager in consultation with the President or, in his or her absence, the Vice President or those Directors calling the meeting.
- 2.3 Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.
- 2.4 No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:
 - (a) Directors may briefly respond to statements or questions from the public;

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER *MIG*

DATE: NOVEMBER 8, 2019



ADOPT RESOLUTION DESIGNATING THE NIPOMO COMMUNITY SERVICES DISTRICT'S GENERAL MANAGER AS THE AUTHORIZED REPRESENTATIVE TO FILE APPLICATION AND EXECUTE AGREEMENTS FOR THE 2019 PROPOSITION 1 INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION GRANT PROGRAM

ITEM

Adopt a resolution designating the Nipomo Community Services District's General Manager as the authorized representative to file application and execute agreements for the 2019 Proposition 1 Integrated Regional Water Management Implementation Grant Program in an amount not to exceed \$15,000. [RECOMMEND ADOPT RESOLUTION]

BACKGROUND

At your Board's October 23, 2019 Board Meeting, staff presented the attached resolution [Attachment A] for your Board's review and adoption. At that meeting, your Board expressed concern that there was insufficient information provided by the San Luis Obispo County Flood Control and Water Conservation District ("County") regarding the cost of the grant application process and how costs were to be shared by the parties.

In particular, your Board wanted the following questions answered: (1) why isn't the County folding the grant application costs into the grant, and (2) how are the grant application costs proportionally spread across the grant recipients.

The County provided the following answers:

- (1) Grant application costs, whether internal organizational or consultant costs, are not allowed by DWR to be included in grant funding requests.
- (2) WSC (Water Specialties Consultants) was hired by the County as the grant application coordinating consultant. There are two cost components related to WSC's cost:
 1. The first is the overall cost determined by the County to be common to all grant applicants – items that are not specific to a single grant applicant. There is a certain amount of WSC's time spent interacting and coordinating with the County preparing general provisions of the DWR application. This cost to each grant applicant is based on the percentage of the amount a grant applicant is asking for. As identified in the proposed reimbursement agreement, NCSD's award amount is 26% of the grant, so NCSD will pay 20% of the overall common costs to prepare the application.
 2. Then there is the time spent specifically for each grant applicant's application. WSC is keeping track of the time it spends with each grant applicant and those hours will be billed to the County. In turn, the County will bill each grant applicant that amount

and, adding the overall common application costs, the cost share each grant applicant is responsible for is developed. There is the "not-to-exceed" amount of \$15,000 that is stated in the resolution, action 3, so that is our maximum cost exposure.

The County is the interfacing agency between the Department of Water Resources ("DWR") and grant applicants seeking Proposition 1 grant funding. The Nipomo Community Services District ("District") is seeking grant funding for its Nipomo Supplemental Water Project Final Phase. The County is required to secure certain commitments from agencies who are part of the County's grant application to DWR. The reimbursement agreement before your Board for consideration is a required document. Failure to sign the reimbursement agreement would disqualify the District from receiving grant funds.

Water Specialties Consultants ("WSC") was selected through a County Request for Proposal process to assist the County in preparing the final application to DWR. The cost for WSC's assistance is to be paid for by grant recipients, not from grant funds for reasons previously explained. The resolution before your Board of Directors commits the District to paying for its share of WSC's application preparation costs not-to-exceed \$15,000.

FISCAL IMPACT

The District has yet to be awarded any grant funding from the Proposition 1 Grant. Therefore, the maximum \$15,000 funding obligation in the reimbursement agreement between the District and the County will come from the Water Operating Fund.

STRATEGIC PLAN

Goal 1. WATER SUPPLIES. Actively plan to provide reliable water supply of sufficient quality and quantity to serve both current customers and those in the long-term future.

- A.5 Expedite funding and implementation of final phases of the Supplemental Water Supply Projects (up to 3,000 acre-feet).

Goal 4. FINANCE. Maintain conservative, long-term financial management to minimize rate impacts on customers while meeting program financial needs.

- B.4 Monitor opportunities for grant funding. Staff is pursuing Proposition 1 grant funding and looking for other ways to pay for infrastructure improvements.

RECOMMENDATION

Staff recommends your Honorable Board adopt the resolution designating the General Manager as the authorized representative to file application and execute agreements for the 2019 Proposition 1 IRWM Grant Program.

ATTACHMENT

- A. 2019-XXXX Resolution Designating Representative for Proposition 1 IRWM Grant Program
- B. Reimbursement Agreement – Clean Version
- C. Exhibit A to Reimbursement Agreement – Consultant Agreement
- D. Reimbursement Agreement – Redline Version

NOVEMBER 13, 2019

ITEM E-3

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2019-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES
DESIGNATING THE DISTRICT'S GENERAL MANAGER AS THE AUTHORIZED REPRESENTATIVE
TO FILE APPLICATION AND EXECUTE AGREEMENTS FOR THE
2019 PROPOSITION 1 INTEGRATED REGIONAL WATER MANAGEMENT
IMPLEMENTATION GRANT PROGRAM**

The following Resolution is hereby offered and read:

WHEREAS, the State of California has established an Integrated Regional Water Management (IRWM) grant program pursuant the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (also known as Proposition 1); and

WHEREAS, the Nipomo Community Services District ("District") approved a Memorandum of Understanding, incorporated herein as Attachment No. 1, which established the District as a member of the Regional Water Management Group for the San Luis Obispo County Region, and which also designates the San Luis Obispo County Flood Control and Water Conservation District (the "Flood Control District") as the lead agency to submit Integrated Regional Water Management grants; and

WHEREAS, the District General Manager, or Designee, is especially suited to ensure the grant application materials submitted by and on behalf of the District are prepared in a complete, efficient and adequate manner; and

WHEREAS, the District General Manager, has the authority to ensure that projects are carried out in full compliance with the applicable permits and agreements; and

WHEREAS, the District General Manager, submitted the Nipomo Supplemental Water Project Final Phase project for inclusion in the San Luis Obispo County Region's 2019 Proposition 1 Round 1 IRWM grant program application; and

WHEREAS, Nipomo Supplemental Water Project Final Phase was endorsed by the Regional Water Management Group and the San Luis Obispo County Water Resources Advisory Committee; and

WHEREAS, Attachment No. 2 includes a list of all the local projects endorsed to be in the Region's application to the California Department of Water Resources; and

WHEREAS, in anticipation of the final application submittal, Flood Control District staff has requested that local agencies adopt a resolution verifying support for the project, authorization to proceed with the IRWM grant application, and authorization to enter into reimbursement agreement to fund a share of the Flood Control District's costs; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Directors of the Nipomo Community Services District, State of California, that:

1. The District's Board of Directors supports the Nipomo Supplemental Water Project Final Phase project as described in Attachment No. 2, and that the application be made to the California Department of Water Resources to obtain a 2019 Proposition 1 Round 1 Integrated Regional Water Management Implementation

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2019-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES
DESIGNATING THE DISTRICT'S GENERAL MANAGER AS THE AUTHORIZED REPRESENTATIVE
TO FILE APPLICATION AND EXECUTE AGREEMENTS FOR THE
2019 PROPOSITION 1 INTEGRATED REGIONAL WATER MANAGEMENT
IMPLEMENTATION GRANT PROGRAM**

Grant pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 in coordination with the Flood Control District and the Regional Water Management Group.

2. The General Manager, or Designee, of the Nipomo Community Services District is hereby authorized and directed to prepare the necessary data, conduct investigations, file such application required for grant funding, and to execute a grant agreement (which must first be approved as to form by Nipomo Community Services District's Legal Counsel) with the San Luis Obispo County Flood Control and Water Conservation District.
3. The General Manager, or Designee, of the Nipomo Community Services District is hereby authorized to enter into a reimbursement agreement to pay for District's share of the Flood Control District costs not to exceed \$15,000.

Upon a motion by Director _____, seconded by Director _____, on the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

the foregoing resolution is hereby passed and adopted on this _____ day of October, 2019.

ED EBY
President of the Board

ATTEST:

APPROVED AS TO FORM:

MARIO IGLESIAS
Secretary to the Board

WHITNEY G. MCDONALD
District Legal Counsel

NOVEMBER 13, 2019

ITEM E-3

ATTACHMENT B

**Reimbursement Agreement
Proposition 1 Integrated Regional Water Management
Round 1 Implementation Grant**

This Reimbursement Agreement ("Agreement") is made on this ____ day of _____, 2019 by and between the San Luis Obispo County Flood Control and Water Conservation District ("District"), the City of San Luis Obispo ("City"), the Nipomo Community Services District ("NCSD"), the Los Osos Community Services District ("LOCSD"), the Oceano Community Services District ("OCSD") and the San Simeon Community Services District ("SSCSD"), collectively referred to herein as the "Parties" (all Parties other than the District shall also be individually referred to herein as "Agency" and collectively as the "Agencies").

RECITALS

WHEREAS, the State of California has established an Integrated Regional Water Management ("IRWM") Grant Program pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Water Code Section 79700 *et seq.*) (also known as "Proposition 1"); and

WHEREAS, a Memorandum of Understanding ("MOU") between the District and various other parties, including the Agencies, designates the District as the lead agency to submit IRWM grant applications and to execute and administer IRWM grant agreements with the State; and

WHEREAS, the Agencies have an interest in developing a regional application to submit to the California Department of Water Resources under the IRWM Proposition 1 Round 1 Implementation Grant Program ("Grant Application"); and

WHEREAS, the District entered into an Agreement for Professional Engineering Services with Water Systems Consulting, Inc. ("Consultant") on or about September 16, 2019, attached hereto as Exhibit "A" and incorporated herein, pursuant to which Consultant is to develop the Grant Application ("Consultant Agreement"); and

WHEREAS, the Consultant Agreement identifies the development of local project specific submittals (i.e. submittals for each Agency sponsored project) as a separate task and further requires the Consultant to detail the work performed on each task and each project on each invoice; and

WHEREAS, on or about Nov. 19, 2019, the District Board of Supervisors authorized and directed the Director of Public Works to execute a reimbursement agreement(s) with the Agencies on behalf of the District to recover certain costs incurred by the District in connection with the Consultant Agreement.

NOW, THEREFORE, it is hereby mutually agreed by the Agencies and District as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.

2. Consistent with the MOU and Consultant Agreement, each Agency agrees that it is appropriate for the San Luis Obispo County Public Works Department ("Department"), as *ex officio* staff to the District, to manage the Consultant's development of the Grant Application. Each Agency further agrees to provide the Department and the Consultant with all information, materials and coordination that they reasonably determine necessary to develop the Grant Application.
3. Each Agency shall pay to the District a sum equal to the costs that the Consultant identifies on its invoices as attributable to inclusion of the Agency's particular project in the Grant Application within thirty (30) days of written notification to the Agency by the District that the District has received the final Grant Application from the Consultant.
4. Each Agency shall also pay to the District a sum equal its proportionate share of the total costs that the Consultant identifies on its invoices as not attributable to any particular Agency project, including, without limitation, costs attributable to development of the overall proposal and program description and project management and meetings, within thirty (30) days of written notification to the Agency by the District that the District has received the final Grant Application from the Consultant. For purposes of this section, each Agency's proportionate share (equal to each Agency's grant funding request divided by the total request of the Agencies) shall be as follows:
 - City: 42%
 - NCSO: 26%
 - LOCSD: 7%
 - OCSO: 9%
 - SSCSD: 16%
5. Notwithstanding Paragraphs 3 and 4 above, no Agency's payment obligation pursuant to this Agreement shall exceed fifteen thousand dollars (\$15,000).
6. Nothing herein shall be interpreted to create a contractual relationship between the Consultant and any Agency, nor to obligate or subject any Agency to any of the terms of the Consultant Agreement.
7. This Agreement shall not be changed or modified except upon written consent of all of the Parties.
8. This Agreement is intended by the Parties as a final expression of their understanding with respect to the matters contained herein and is a complete and exclusive statement of the terms and conditions thereof.
9. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument.

Signature pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple originals of this Agreement.

IN WITNESS WHEREOF, the Agencies have executed this Agreement with the approval of their respective governing bodies, and District has executed this Agreement in accordance with the authorization of the Board of Supervisors.

<p>City of San Luis Obispo</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>Nipomo Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p>Los Osos Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>Oceano Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p>San Simeon Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>	
<p>SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>APPROVED AS TO FORM AND LEGAL EFFECT: RITA L. NEAL County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____, 20__</p>

EXHIBIT A
CONSULTANT AGREEMENT

NOVEMBER 13, 2019

ITEM E-3

ATTACHMENT C

**CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES
GRANT APPLICATION DEVELOPMENT – PROPOSITION 1
INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION ROUND 1**

This Contract is entered into this 16 day of September, 2019 by and between the San Luis Obispo County Flood Control and Water Conservation District, a political subdivision of the State of California, herein called "DISTRICT," and Water Systems Consulting, Inc., an independent contractor whose address is 805 Aerovista Place, Suite 201, San Luis Obispo, CA 93401, herein called "CONSULTANT" or "WSC."

The DISTRICT department responsible for administering this Contract is the Department of Public Works ("Public Works"), and all written communications hereunder with the DISTRICT shall be addressed to the Director of Public Works unless otherwise specified herein.

WHEREAS, the DISTRICT has need for special services and advice with respect to the work described herein for the Grant Application Development – Proposition 1 Integrated Regional Water Management Implementation Round 1 Project (hereafter, the "Project"); and

WHEREAS, the CONSULTANT warrants that it is specially trained, experienced expert, and competent to perform such special services;

NOW, THEREFORE, the parties agree with the above recitals, and hereby further agree as follows:

ARTICLE 1. SCOPE OF WORK

The CONSULTANT shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the CONSULTANT's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. CONSULTANT warrants and represents that said Work encompasses all services, equipment, and materials necessary for the CONSULTANT's completion of a final application for a Proposition 1 Integrated Regional Water Management Implementation Round 1 grant based on the Final 2019 Integrated Regional Water Management Grant Program Guidelines and Final Round 1 – Implementation Proposal Solicitation Package. All Work shall be performed to the highest professional standard.

ARTICLE 2. TIME FOR COMPLETION OF WORK

No Work shall be commenced prior to the CONSULTANT's receipt of the DISTRICT's Notice to Proceed. All Work shall be completed at least one business day prior the deadline to submit the grant application described above to the California Department of Water Resources ("DWR"), as established by DWR (anticipated to be on or around December 6, 2019), provided, however, that extensions of time may be granted in writing by the DISTRICT's Director of Public Works, which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the DISTRICT's Director of Public Works to be good and sufficient cause for such extensions.

ARTICLE 3. PAYMENT FOR SERVICES

A. COMPENSATION

1. DISTRICT shall pay to CONSULTANT as compensation in full for all Work required by this Contract a sum not to exceed the total Contract amount of \$50,680.

2. Payments will be made to CONSULTANT based on compensable services provided and allowable costs incurred at the rates set forth in the CONSULTANT'S Cost Proposal attached hereto as Exhibit B. All payments to CONSULTANT shall be based on actual services performed and costs incurred at the rates set forth in Exhibit B.
3. The DISTRICT reserves the right to delete Work from CONSULTANT's Scope of Work, but such deletion must be in writing from the DISTRICT's Director of Public Works and expressly state that certain Work is being deleted. CONSULTANT shall be entitled to no compensation for any Work that is deleted.

B. REPORTS

The CONSULTANT shall submit to the DISTRICT, on a monthly basis, a detailed statement of all services performed, and all Work accomplished under this Contract since the CONSULTANT's last monthly statement, including the number of hours of Work performed and the personnel involved. For the purpose of timely processing of invoices, the CONSULTANT's invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future Work shall be noted in the monthly reports. The CONSULTANT shall also promptly notify the DISTRICT of any perceived need for a change in the scope of Work, and an explanation as to why the CONSULTANT did not include said Work in the attached Scope of Work.

C. INVOICES

Billing invoices shall be based upon the CONSULTANT's Cost Proposal, attached hereto as Exhibit B. Invoices shall detail the Work performed on each task and each project as applicable. Invoices shall follow a format based upon the Cost Proposal and shall reference this Contract number and Project. Final invoice must contain the final cost and all credits due the DISTRICT including any equipment purchased under the provisions of Article 22 Equipment Purchase of this Contract.

D. CONSULTANT'S ASSIGNED PERSONNEL

All Work performed under this Contract shall be performed by the CONSULTANT's personnel identified in the organizational chart, attached hereto as Exhibit C. Any changes to the any personnel designated on this organizational chart must be approved in writing by the DISTRICT's Project Manager.

ARTICLE 4. ACCOUNTING RECORDS

- A. The CONSULTANT shall maintain accounting records in accordance with generally accepted accounting principles. The CONSULTANT shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The CONSULTANT shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal, and payroll journal.
- B. The CONSULTANT shall record costs in a cost accounting system which clearly identifies the source of all costs. Contract costs shall not be co-mingled with other project costs, but shall be directly traceable to contract billings to the DISTRICT. The use of worksheets to produce billings shall be kept to a minimum. If worksheets are used to produce billings, all entries should be documented and clearly traceable to the CONSULTANT's cost accounting records.

- C. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. The CONSULTANT shall safeguard the accounting records and supporting documentation.
- D. The CONSULTANT shall make accounting records and supporting documentation available on demand to the DISTRICT and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the DISTRICT. The DISTRICT may require having the CONSULTANT's accounting records audited, at the CONSULTANT's expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) calendar days after completion of the audit.

ARTICLE 5. NON-ASSIGNMENT OF CONTRACT

Inasmuch as this Contract is intended to secure the specialized services of the CONSULTANT, the CONSULTANT may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the DISTRICT and any such assignment, transfer, delegation, or sublease without the DISTRICT's prior written consent shall be considered null and void.

ARTICLE 6. INSURANCE

CONSULTANT shall procure and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMITS OF REQUIRED INSURANCE POLICIES

Coverage shall be at least as broad as:

1. COMMERCIAL GENERAL LIABILITY (CGL)

Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. AUTOMOBILE LIABILITY

ISO Form Number CA 0001 covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. WORKERS' COMPENSATION

Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If CONSULTANT will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the DISTRICT as the Alternate Employer, and the endorsement form shall be modified to provide that DISTRICT will receive not less than thirty (30) calendar days advance written notice of cancellation of this

coverage provision. If applicable to CONSULTANT's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

4. PROFESSIONAL LIABILITY/ERRORS AND OMISSIONS

Insurance covering CONSULTANT's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, CONSULTANT understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination or cancellation.

If the CONSULTANT maintains higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to coverage for the higher limits maintained by the CONSULTANT.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. ADDITIONAL INSURED STATUS

The DISTRICT, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CONSULTANT; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. PRIMARY COVERAGE

For any claims related to this Contract, the CONSULTANT's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

3. NOTICE OF CANCELLATION

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) calendar days' prior written notice (ten (10) calendar days for non-payment) has been given to the DISTRICT.

4. FAILURE TO MAINTAIN INSURANCE

CONSULTANT's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of this Contract, upon which the DISTRICT immediately may withhold payments due to CONSULTANT, and/or suspend or terminate this Contract. The DISTRICT, at its sole discretion, may obtain damages from CONSULTANT resulting from said breach.

5. WAIVER OF SUBROGATION

CONSULTANT hereby grants to DISTRICT a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the DISTRICT by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation endorsement from the insurer.

6. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. The DISTRICT may require the CONSULTANT to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

7. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the DISTRICT.

8. CLAIMS MADE POLICIES

If any of the required policies provide coverage on a claims-made basis:

- a. The Retroactive Date must be shown and must be before the date of the Contract or the beginning of Contract Work.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract Work
- c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.

9. SEPARATION OF INSUREDS

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

10. VERIFICATION OF COVERAGE

CONSULTANT shall furnish the DISTRICT with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the DISTRICT before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Certificates and copies of any required endorsements shall be sent to:

County of San Luis Obispo
Department of Public Works
Brendan Clark, Contract Administrator
County Government Center, Room 206
San Luis Obispo, CA 93408

11. SUBCONSULTANTS

CONSULTANT shall require and verify that all subconsultants maintain insurance meeting all the requirements stated herein.

12. SPECIAL RISKS OR CIRCUMSTANCES

DISTRICT reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 7. INDEMNIFICATION

The CONSULTANT shall defend, indemnify and hold harmless the DISTRICT, its officers, agents, and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities, or other losses (hereafter, collectively "claims") that may be asserted by any person or entity, and that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT. The parties agree that, in addition to the CONSULTANT's general and professional duties of care, the CONSULTANT has a duty of care to act in accordance with the terms of this Contract. In addition to whatever other acts or omissions of CONSULTANT that constitute negligence, recklessness, or willful misconduct under applicable law, the parties acknowledge that any act or omission of the CONSULTANT that causes any damages or monetary losses, and constitutes a breach of any duty under, or pursuant to, this Contract, shall at a minimum constitute negligence (and may constitute recklessness or willful conduct if so warranted by the facts).

The preceding paragraph applies to any and all such claims, regardless of the nature of the claim or theory of recovery. For purposes of the paragraphs found in this Article of the Contract, "CONSULTANT" shall include the CONSULTANT, and/or its agents, employees, subconsultants, or other independent contractors hired by, or working under, the CONSULTANT.

It is the intent of the parties to provide the DISTRICT the fullest indemnification, defense, and "hold harmless" rights allowed under the law. No provisions of this Contract shall be construed in a manner that would constitute a waiver or modification of Civil Code section 2782.8. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Contract and the remaining language shall be given full force and effect. Nothing contained in this Contract shall be construed to require the CONSULTANT to indemnify the DISTRICT against any responsibility or liability in contravention of Civil Code 2782.8.

Pursuant to subdivision (a) of Civil Code section 2782.8, in no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the CONSULTANT shall meet and confer with other parties regarding unpaid defense costs.

ARTICLE 8. CONSULTANT'S RESPONSIBILITY FOR ITS WORK

- A. The CONSULTANT has been hired by the DISTRICT because of the CONSULTANT's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The CONSULTANT shall be solely responsible for such Work. The DISTRICT's review, approval, and/or adoption of any designs, plans, specifications, or any other Work shall be in reliance on the CONSULTANT's specialized expertise and shall not relieve the CONSULTANT of its sole responsibility for the Work. The DISTRICT is under no duty or obligation to review or verify the appropriateness, quality, or accuracy of any designs, plans, specifications, or any other Work, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by the CONSULTANT in performing any Work under this Contract.
- B. All information which the CONSULTANT receives from the DISTRICT should be independently verified by the CONSULTANT. The CONSULTANT should not rely upon such information unless it has independently verified its accuracy. The only exception to the foregoing arises when the DISTRICT has expressly stated in writing that certain information may be relied upon by the CONSULTANT without the CONSULTANT's independent verification. In such event, the CONSULTANT is still obliged to promptly notify the DISTRICT whenever the CONSULTANT becomes aware of any information that is inconsistent with any information which the DISTRICT has stated may be relied upon by the CONSULTANT.
- C. Pursuant to the provisions of this Article, the CONSULTANT is responsible for all Work under this Contract, including the Work performed by any subconsultants or any other independent contractors which CONSULTANT hires or contracts with regarding the Work.
- D. The CONSULTANT accepts the relationship of trust and confidence established with DISTRICT by this Contract, and covenants with the DISTRICT to furnish the CONSULTANT's reasonable skill and judgment in furthering the interests of the DISTRICT. The CONSULTANT shall use its best efforts to perform in an expeditious and economical manner consistent with the interests of the DISTRICT.
- E. If CONSULTANT ever has reason to believe that any of its general or professional duties of care conflict with any requirements of this Contract, the CONSULTANT shall promptly so notify the DISTRICT in writing.

ARTICLE 9. INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS

The parties expressly agree that the indemnification and insurance clauses in this Contract are an integral part of the performance exchanged in this Contract. The compensation stated in this Contract includes compensation for the risks transferred to the CONSULTANT by the indemnification and insurance clauses.

ARTICLE 10. CONSULTANT'S ENDORSEMENT ON REPORTS, ETC

The CONSULTANT shall endorse all reports, maps, plans, documents, materials, and other data in accordance with applicable provisions of the laws of the State of California.

ARTICLE 11. DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP

All documents, information, and materials of any and every type prepared by the CONSULTANT (or any subconsultant) pursuant to this Contract shall be the property of the DISTRICT. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates,

summaries, and such other information and materials as may have been accumulated by the CONSULTANT (or any subconsultant) in performing Work under this Contract, whether completed or in process. The CONSULTANT shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of services described under this Contract.

ARTICLE 12. TERMINATION OF CONTRACT WITHOUT CAUSE

The DISTRICT may terminate this Contract at any time by giving the CONSULTANT thirty (30) calendar days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, the CONSULTANT shall be entitled to no further compensation or payment of any type from the DISTRICT.

ARTICLE 13. TERMINATION OF CONTRACT FOR CAUSE

If the CONSULTANT fails to perform the CONSULTANT's duties to the satisfaction of the DISTRICT; or if the CONSULTANT fails to fulfill in a timely and professional manner the CONSULTANT's obligations under this Contract; or if the CONSULTANT violates any of the terms or provisions of this Contract; or if the CONSULTANT, or the CONSULTANT's agents or employees fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the DISTRICT, then the DISTRICT shall have the right to terminate this Contract effective immediately upon the DISTRICT giving written notice thereof to the CONSULTANT. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The CONSULTANT shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the DISTRICT's termination of the Contract for cause is defective for any reason, including but not limited to the DISTRICT's reliance on erroneous facts concerning the CONSULTANT's performance, or any defect in notice thereof, this Contract shall automatically terminate without cause thirty (30) calendar days following the DISTRICT's written notice of termination for cause to the CONSULTANT, and the DISTRICT's maximum liability shall not exceed the amount payable to the CONSULTANT under Article 12 above.

ARTICLE 14. COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the Work of this Contract. This includes compliance with prevailing wage rates and their payment in accordance with the California Labor Code. The CONSULTANT acknowledges that labor performed on site to support any Work required under this Contract is a public work within the meaning of Labor Code Section 1720. The CONSULTANT will comply, or cause its subconsultant(s) to comply, with the provisions of Labor Code Section 1774.

ARTICLE 15. COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or

resulting from the award or making this Contract. For breach or violation of this warranty, the DISTRICT shall have the right to annul this Contract without liability or, in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 16. DISPUTES & CLAIMS

A. EXCLUSIVE REMEDY

Any demand or assertion by CONSULTANT seeking any additional compensation and/or time extension, or other relief, for any reason whatsoever (hereafter collectively "Claim"), must be in strict compliance with the requirements of this Article. For purposes of this Article, any and all Work relating to any such demand or assertion shall be referred to as "Disputed Work", regardless of whether the basis of the demand or assertion arises from an interpretation of the Contract, an action or inaction of CONSULTANT or DISTRICT, or any other event, issue, or circumstance. If the Disputed Work relates to any Work performed by any subconsultants hired by CONSULTANT in compliance with the provisions of this Contract, any such Claims must also be processed by CONSULTANT in accordance with the provisions of this Article.

The administration of a Claim as provided in this Article, including CONSULTANT's performance of its duties and obligations specified in this Article is CONSULTANT's sole and exclusive remedy for disputes of all types pertaining to the payment of money, extension of time, the adjustment or interpretation of this Contract or other contractual or tort relief arising from this Contract. Compliance with the procedures described in this Article is a condition precedent to the right to file a Government Code Claim, commence litigation, or commence any other legal action. CONSULTANT waives the right to pursue or submit any Claims not processed in accordance with Article.

B. MANDATORY PROCEDURE AND CONDITION PRECEDENT

The requirements set forth in this Article are mandatory, and CONSULTANT shall strictly comply with these requirements. Strict compliance with these requirements is a condition precedent to CONSULTANT's ability to exercise any rights or remedies that may otherwise be available to CONSULTANT under this Contract or any applicable Laws or Regulations relating to the Claim. No action or inaction by CONSULTANT and/or DISTRICT to try to resolve any Claim(s) through agreement, amendment, mediation, settlement, or any other means shall excuse CONSULTANT from strictly complying with the requirements of this Article. CONSULTANT shall bear all costs incurred in complying with the provisions of this Article.

C. NOTICE OF POTENTIAL CLAIM

The CONSULTANT shall not be entitled to any additional compensation and/or time under this Contract for any act, or failure to act, by the DISTRICT, or for the happening of any event, thing, occurrence, or other cause, unless the CONSULTANT has provided the DISTRICT's Director of Public Works with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the CONSULTANT believes additional compensation and/or time will or may be due, the nature of the cost involved, and, insofar as possible, the full amount of additional compensation and/or time extension sought in relation to the potential claim. The said notice as above required must have been given to the DISTRICT prior to the time that the CONSULTANT shall have performed any Disputed Work. It is the intention of this paragraph that differences between the parties relating to this

Contract be brought to the attention of the DISTRICT at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The CONSULTANT hereby agrees that it shall have no right to additional compensation and/or time regarding any Claim for which no written Notice of Potential Claim as herein required was filed with the DISTRICT's Director of Public Works.

D. NOTICE OF FINAL CLAIM

As soon as reasonably practical upon completion of the Disputed Work, and no later than thirty (30) calendar days after completion of the Disputed Work, CONSULTANT shall provide to DISTRICT a Notice of Final Claim containing a full and final documentation of the Claim that provides the following information:

1. A detailed factual narration of events fully describing the nature and circumstances that caused the dispute, including, but not limited to, necessary dates, locations, and items of Work affected by the dispute.
2. The specific provisions of this Contract that support the Claim and a statement of the reasons these provisions support and provide a basis for entitlement of the Claim.
3. When additional monetary compensation is requested, the exact amount requested, including an itemized breakdown of individual costs. These costs shall be segregated into the following cost categories:
 - a. Labor – A listing of individuals, classifications, hours and dates worked, hourly labor rates, and other pertinent information related to the requested reimbursement of labor costs.
 - b. Materials/Equipment – Invoices, purchase orders, location of materials/ equipment used to perform the Disputed Work, dates they were used, and other pertinent information related to the requested reimbursement of material/ equipment costs. (Any applicable equipment rates shall be at the applicable State rental rate as listed in the Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates," in effect when the Disputed Work was performed.)
 - c. Other categories as specified by DISTRICT.

E. CONSULTANT'S CONTINUING OBLIGATIONS

Neither the filing of a Notice of Potential Claim or of a Notice of Final Claim, nor the pendency of a dispute or claim, nor its consideration by the DISTRICT, shall excuse the CONSULTANT from full and timely performance in accordance with the terms of this Contract. CONSULTANT shall promptly respond to any requests for further information or documentation regarding CONSULTANT's potential or final Claim. If CONSULTANT fails to provide an adequate written response to DISTRICT within fifteen (15) calendar days of DISTRICT's written request for such further documentation or information, CONSULTANT shall be deemed to have waived its Claim. If the further documentation or information requested by DISTRICT, in the opinion of the DISTRICT, reasonably take the CONSULTANT more than fifteen (15) calendar days to comply with, the written request shall provide the CONSULTANT a specific response deadline that is commensurate to a reasonable response time.

F. RESPONSE TO NOTICE OF FINAL CLAIM

The DISTRICT shall respond in writing to the Notice of Final Claim within sixty (60) calendar days of receipt thereof, or may request, in writing, within forty-five (45) calendar days of said receipt, any additional information or documentation relating to the Claim or any defenses to the Claim the DISTRICT may have against the CONSULTANT. CONSULTANT shall comply with the request within the reasonable time deadline provided by DISTRICT in the request. If any additional information is thereafter requested by DISTRICT, it shall likewise be provided by CONSULTANT within the reasonable time deadline provided by DISTRICT in such follow-up request. The written response to the Notice of Final Claim shall be submitted to the CONSULTANT within thirty (30) calendar days after receipt of such further information and documentation, or within a period of time no greater than that taken by the CONSULTANT in producing the additional information or documentation, whichever is greater. CONSULTANT may request an informal conference to meet and confer for settlement of the issues in dispute, but CONSULTANT shall have no right to demand such a conference. Neither the requesting of any such conference by CONSULTANT or DISTRICT, nor the holding of such conference shall affect the date of the final decision on the Claim. No written communications of DISTRICT sent to CONSULTANT after any such conference will change the date of the final decision on the Claim unless the writing expressly states that the date of the final decision is being changed to a new specific date.

A Claim may be granted in whole or in part only by a written response that contains the signature of the DISTRICT's Director of Public Works or his authorized representative. In the event a valid written decision is not provided to CONSULTANT within the time prescribed in this Article, the Claim shall be deemed denied on the last day a written response was due. The date upon which the Claim is approved or denied pursuant to the provisions of this Article, shall constitute the date of the final decision on the Claim under the provisions of this Article. The date of the final decision on a Claim can only be changed by a subsequent writing signed by DISTRICT that expressly states that the date of the final decision on the Claim has been changed to a new specific date.

G. GOVERNMENT CODE CLAIM REQUIREMENTS

For all Claims not resolved as a result of these Article 16 procedures, CONSULTANT must submit each Claim in a Government Code Section 910 form of claim for final investigation and consideration of its settlement prior to initiation of any litigation on any such Claim, as required by Government Code Section 945.4. Pursuant to Government Code Section 930.2, the one-year period in Government Code Section 911.2 is hereby reduced to 150 calendar days. This time deadline is measured from the accrual date of each separate cause of action. The time deadline for filing a Government Code claim shall not be tolled by any action or inaction by CONSULTANT or DISTRICT, including but not limited to any action or inaction to try to resolve the Claim through negotiation, mediation, settlement, agreement (including Change Order), or by any other means, other than by a separate written tolling agreement expressly approved as to form (on the face of the agreement) by the County Counsel's Office.

ARTICLE 17. CONSULTANT IS AN INDEPENDENT CONTRACTOR

CONSULTANT shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the DISTRICT to exercise discretion or control over the professional manner in which the CONSULTANT performs the services which

are the subject matter of this Contract; provided always however that the services to be provided by the CONSULTANT shall be provided in a manner consistent with all applicable standards and regulations governing such services.

The CONSULTANT understands and agrees that the CONSULTANT's personnel are not and will not be eligible for membership in or any benefits from any DISTRICT group plan for hospital, surgical or medical insurance or for membership in any DISTRICT retirement program or for paid vacation, paid sick leave, or other leave, with or without pay or for any other benefit which accrues to a DISTRICT employee.

ARTICLE 18. ENTIRE CONTRACT AND MODIFICATION

This Contract supersedes all previous contracts and constitutes the entire understanding of the parties hereto. The CONSULTANT shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both CONSULTANT and the DISTRICT Purchasing Agent. In addition, no changes, amendments, or alterations that increase the CONSULTANT's compensation such that the total compensation due under this Contract equals or exceeds \$200,000 shall be effective unless in writing and approved by the DISTRICT's Board of Supervisors. The CONSULTANT specifically acknowledges that in entering into and executing this Contract, the CONSULTANT relies solely upon the provisions contained in this Contract and no others. To the extent there is any inconsistency between the text in the body of this Contract and anything in any of the Exhibits attached hereto, the text in the body of this Contract shall prevail.

ARTICLE 19. ENFORCEABILITY

If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 20. WARRANTY OF CONSULTANT

The CONSULTANT warrants that the CONSULTANT and each of the personnel employed or otherwise retained by the CONSULTANT for Work under this Contract are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 21. SUBCONTRACTING

- A. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Contract shall be performed by any other person or entity without written authorization by DISTRICT's Contract Administrator; provided, however, that those individuals or entities expressly identified in the approved Scope of Work and Cost Proposal (Exhibits A and B) are authorized to perform the specific work identified therein.
- B. CONSULTANT agrees to be fully responsible for all work contemplated by this Agreement regardless of whether it is performed by the Consultant or another individual or entity authorized (in writing) by the DISTRICT to perform the work as a subconsultant of the Consultant (or as a subconsultant of a subconsultant). CONSULTANT agrees to be fully responsible for the acts and omissions of its subconsultant(s) and of any persons or entities employed or hired by any of them as it is for the acts and omissions of the CONSULTANT's

employees. Nothing in this Contract shall create any contractual relation between DISTRICT and any subconsultant(s), and no contract between the CONSULTANT and any subconsultant(s) shall relieve CONSULTANT of its responsibilities and obligations hereunder.

- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by DISTRICT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from DISTRICT's obligation to make payments to the CONSULTANT.
- D. Any subcontract in excess of \$25,000 entered into as a result of this Contract shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by DISTRICT's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE 22. EQUIPMENT PURCHASE.

- A. Prior authorization in writing, by the DISTRICT's Contract Administrator, shall be required before the CONSULTANT enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for supplies, equipment, or consultant services. The CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by DISTRICT's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Contract is subject to the following: "The CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the DISTRICT shall receive a proper refund or credit at the conclusion of this Contract, or if this Contract is terminated, the CONSULTANT may either keep the equipment and credit the DISTRICT in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established DISTRICT procedures; and credit the DISTRICT in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the DISTRICT and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the DISTRICT."
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE 23. APPLICABLE LAW AND VENUE

This Contract has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with, or by reason of this Contract.

ARTICLE 24. NOTICES

Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the DISTRICT at:

County of San Luis Obispo
Department of Public Works
Brendan Clark, Contract Administrator
County Government Center, Room 206
San Luis Obispo, CA 93408

And to the CONSULTANT:

Water Systems Consulting, Inc.
Spencer Waterman, Project Manager
805 Aerovista Place, Suite 201
San Luis Obispo, CA 93401

ARTICLE 25. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS

Pursuant to Government Code section 7550, if the total cost of this Contract is over \$5,000, the CONSULTANT shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The Contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

ARTICLE 26. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the DISTRICT's operations, which are designated confidential by the DISTRICT and made available to the CONSULTANT in order to carry out this Contract, shall be protected by the CONSULTANT from unauthorized use and disclosure, and shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the DISTRICT.
- B. Permission to disclose information on one occasion, or public hearing held by the DISTRICT relating to this Contract, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. All information related to the construction estimate is confidential, and shall not be disclosed by the CONSULTANT to any entity other than the DISTRICT.

ARTICLE 27. RESTRICTIVE COVENANT

The CONSULTANT agrees that it will not, during the continuance of this Contract, perform or otherwise exercise the services described in Exhibit A for or on behalf of any other member of a Central Coast Funding Area Regional Water Management Group (RWMG) unless and until agreed to in writing by the Director of Public Works.

ARTICLE 28. QUALITY CONTROL AND QUALITY ASSURANCE

The CONSULTANT shall provide a description of its Quality Control procedure. The process shall be implemented for all facets of Work and a QC-QA statement and signature shall be placed on all submittals to the DISTRICT.

ARTICLE 29. CLAIMS ANALYSIS AND EVALUATION

To the extent any claims are made between the DISTRICT and the construction contractor (or any other third party), any analysis or evaluation of any claims by Consultant shall be deemed confidential work related to potential litigation relating to said claims. Any analysis or evaluation of any claims by Consultant shall be deemed done at the request of the DISTRICT's attorneys as part of the DISTRICT's preparation for the potential litigation of said claims. Consultant acknowledges that the delivery of any such analysis or evaluation to any DISTRICT staff or representative shall be deemed a delivery to the DISTRICT's attorneys, and shall be considered part of the work product directed by the DISTRICT's attorneys to be used in conjunction with the preparation for the potential litigation of said claims. Due to the special relationship between the DISTRICT and the Consultant, the Consultant may be included in communications with DISTRICT staff and/or the DISTRICT's attorneys regarding claims, and the Consultant agrees to keep all such communications privileged and confidential to the full extent allowed under applicable law.

ARTICLE 30. UNRESOLVED CLAIMS RELATING TO PROJECT

This Article only applies to services provided by Consultant after the Project is completed, and the DISTRICT has requested additional support services from Consultant regarding any claims made between the DISTRICT and the construction contractor (or any third party) regarding the Project.

- A. If claims are made between the DISTRICT and the construction contractor or any other third party that relates in any way to the Project, and additional information or assistance from the Consultant's personnel is requested by the DISTRICT regarding any such claims, the Consultant agrees to cooperate with and provide timely response to any reasonable requests for information submitted to the Consultant by the DISTRICT relating to such claims. To the extent the information requested by the DISTRICT only seeks documents or other factual information relating to Work performed by the Consultant, the Consultant will only be compensated for any clerical costs associated with providing the DISTRICT the requested documents or factual information.
- B. The Consultant's personnel that the DISTRICT considers essential to best assisting the DISTRICT regarding a claim will be made available for consultation with the DISTRICT upon reasonable notice from the DISTRICT. In the event the expert opinions of the Consultant's personnel is sought by the DISTRICT through such consultation or through testimony, and only in such event, such consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Contract. In the event the testimonies of any of the Consultant's personnel are sought by another party, the Consultant reserves the right to charge other party a different rate for deposition or trial testimony.
- C. Other than requests for documents or other factual information relating to Work performed by the Consultant, any additional services requested by the DISTRICT under this Article will be performed pursuant to a written Contract amendment, if necessary, extending the termination date of this Contract in order to finally resolve the claims. Except as otherwise set forth above, the Consultant's hourly rates shall be the same as set forth in exhibit to this Contract.

- D. Any subcontract entered into by the Consultant relating to this Contract, shall bind the Sub-consultant to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the Sub-consultant in place of the word "Consultant" where it appears in this Article.

ARTICLE 31. CONFLICT OF INTEREST

- A. The CONSULTANT shall disclose any financial, business, or other relationship with the DISTRICT that may be affected by the outcome of this Contract, or any ensuing DISTRICT construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Contract, or any ensuing DISTRICT construction project, which will follow.
- B. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Contract.
- C. Any subcontract entered into by the CONSULTANT relating to this Contract, shall bind the subconsultant to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subconsultant in place of the word "CONSULTANT" where it appears in this Article.
- D. The CONSULTANT hereby certifies that neither the CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Contract. An affiliated firm is one, which is subject to the control of one or more of the same persons through joint-ownership, or otherwise.
- E. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Contract.

ARTICLE 32. EQUAL EMPLOYMENT OPPORTUNITY


During the performance of this Contract, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, and hereby promises to comply with the provision on contractor agreements contained in Presidential Executive Order Number 11246 as amended by Executive Order (1) 75 and as approved by Department of Labor Relations (41 CFR Part 61).

ARTICLE 33. STATE PREVAILING WAGE RATES

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into by CONSULTANT relating to this Contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall incorporate the provisions of this Article in a manner that binds the subconsultant to all of the provisions of the Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

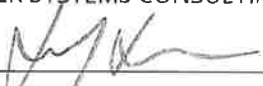
IN WITNESS THEREOF, the parties hereto have executed this Contract, and this Contract shall become effective on the date shown signed by the San Luis Obispo County Flood Control and Water Conservation District.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT


By: 
Will Clemens *Milky Taylor*
Director of Central Services *Purchasing Agent*
Date: 9/12/2019

CONSULTANT

WATER SYSTEMS CONSULTING, INC.

By: 
Title: PRESIDENT
Date: 9/12/2019

APPROVED AS TO FORM AND LEGAL EFFECT:
RITA L. NEAL
County Counsel

By: 
Deputy County Counsel
Date: September 5, 2019

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Scope

The following tasks represent the work that will be undertaken based on the Final 2019 IRWM Grant Program Guidelines and Final Round 1 – Implementation Grant PSP.

TASK 1.0 PROJECT MANAGEMENT & MEETINGS

1.1 Project Management

Manage Project efforts including developing an initial work plan and schedule. Provide weekly Project status updates via conference call to the District on Project progress, budget, and schedule for each task for the duration of the Project. Perform internal review activities for Project deliverables. Prepare progress reports to be submitted with each monthly invoice. The reports will include a summary of activities accomplished in the current month.

Provide coordination and management of efforts between the District and local project sponsors for the development of the grant application.

Deliverable

➤ ***WSC will provide weekly Project status updates and monthly progress reports with Project invoices.***

1.2 Meetings

Organize and attend Project meetings with District and/or local project sponsors for the duration of the Project. WSC shall hold and conduct the following meetings:

- Project kick-off meeting in-person with the District and/or local project sponsors.
- Draft Project Information Forms and Project Summary Form review meeting with the District and local project sponsors
- Draft Phase 1 – Funding Area Pre-Application Process Workshop materials review meeting with the District and/or local project sponsors
- Draft PSP Phase 2 Final Application Submittal review meeting with the District and local project sponsors
- Additional in-person or conference call meetings with the District and/or local project sponsors to provide updates and review Project development as needed. WSC will commit two hours per local project for a total of 12 hours to be used as needed.

Deliverables

➤ *WSC will provide an agenda and meeting materials at least three (3) working days prior to a meeting and will provide a meeting summary with action items within five (5) working days following the meeting.*

TASK 2.0 PHASE 1 PRE-APPLICATION PROCESS – OVERALL

Develop an overall submittal for the PSP Phase 1 – Funding Area Pre-Application Process including the preparation of the Proposal Summary Form (including Proposal Map) in coordination with the District and local project sponsors. The overall submittal shall also include the District’s project for grant administration, which requires a completed Project Information Form. WSC will rely on complete Project Information Forms (PIFs) to prepare the Proposal Summary Form. Provide draft and final submittals to allow for review by the District.

Provide an analysis to the District based on feedback, if any, is received from DWR on the pre-application materials and/or workshop presentation. The District will facilitate coordination with DWR and Funding Area representatives for the preapplication submittal, workshop, and other meetings.

Deliverables

- *Proposal Summary Form*
- *Project Information Form – Grant Administration*

TASK 3.0 PHASE 1 PRE-APPLICATION PROCESS – SPECIFIC PROJECTS (PER PROJECT BASIS)

Develop local project specific submittals for the PSP Phase 1 – Funding Area Pre-Application Process including the review and finalization of the Project Information Forms provided by local project sponsors for selected projects (assume five implementation projects) in coordination with the District and local project sponsors. Provide draft and final submittals to allow for review by the District.

WSC assumes that all local project sponsors will provide completed Draft PIFs with relevant supporting files. WSC will commit four hours for review, coordination, and revisions per local project. Additional effort would be required if materials provided by project proponents are not sufficient to meet DWR requirements.

Deliverables

- *Project Information Forms*

TASK 4.0 PHASE 1 PRE-APPLICATION PROCESS – WORKSHOP (OVERALL AND PER PROJECT BASIS)

Develop overall proposal and project specific materials (electronic and hardcopy) for the PSP Phase 1 – Funding Area Pre-Application Process Workshop for selected projects (assume five implementation projects) in coordination with the District and local project sponsors. Conduct and present on behalf of District and/or local project sponsors for the overall proposal and each individual project to multiple DWR representatives if local project sponsors cannot attend (see PSP Exhibit B). The date(s) and location(s) of the Workshop are not yet determined. *Not all individual local project sponsors are expected to utilize WSC for this task; they may opt to take on this task themselves.*

Deliverables

➤ ***Workshop presentation materials, as requested by individual local project sponsors***

TASK 5.0 PHASE 2 FINAL APPLICATION SUBMITTAL - OVERALL

Develop an overall proposal submittal for the PSP Phase 2 Final Application Submittal in coordination with the District and local project sponsors. The overall proposal submittal shall also include the District's project for grant administration. Provide draft and final submittals to allow for review by the District.

Provide the final grant application files to the District according to the PSP format and standards (see PSP Section V.B.1) including all PDF, Word, Excel, GIS data files, etc. necessary for a complete submittal. Provide an electronic version of the completed grant application checklist to facilitate online uploading. The District will submit the completed grant application (electronic and signed hardcopy documents) via DWR's electronic submittal tool Grants Review and Tracking System (GRanTS).

WSC assumes that all local project sponsors will provide completed responses and information for relevant PSP sections of V.B.1-3 with supporting files and documentation.

Deliverables

➤ ***Attachment 1. Authorization and Eligibility Requirements***

➤ ***Attachment 2. Proposal Summary***

➤ ***Attachment 10. Climate Change***

➤ ***Electronic version of the completed grant application checklist***

TASK 6.0 PHASE 2 FINAL APPLICATION SUBMITTAL – SPECIFIC PROJECTS (PER PROJECT BASIS)

Develop local project specific submittals for the PSP Phase 2 Final Application Submittal for selected local projects (assume five implementation projects) in coordination with the District and local project sponsors.

Provide draft and final submittals to allow for review by the District. Compile the files for the final grant application to the District according to the PSP format and standards (see PSP Section V.B.1) including all PDF, Word, Excel, GIS data files, etc. necessary for a complete submittal. The District will submit the completed grant application (electronic and signed hardcopy documents) via GRanTS.

WSC assumes that all local project sponsors will provide completed responses, information, supporting files, and documentation in the formats described in the relevant PSP sections of V.B.1-3 and Exhibits B-E. WSC assumes local project sponsors will use DWR's PSP templates, forms, and spreadsheets and WSC does not anticipate creating customized templates, forms, or spreadsheets. WSC will commit 12 hours for review, coordination, and revisions per local project. Additional effort would be required if materials provided by project proponents are not sufficient to meet DWR requirements.

Deliverables

- ***Attachment 3. Project Information Form(s), for each local project***
- ***Attachment 4. Work Plan, for each local project***
- ***Attachment 5. Budget, for each local project***
- ***Attachment 6. Schedule, for each local project***
- ***Attachment 7. Disadvantaged Community, for each local project as needed***
- ***Attachment 8. Economically Distressed Area, for each local project as needed***
- ***Attachment 9. Tribe, for each local project as needed***



Task No.	Task Description	WSC										ALL FIRMS	
		QA/QC	Principal in Charge	Project Manager	Presentations	Staff Engineer	Admin/Clerical	Presentations	WSC Labor Hours	WSC Labor Fee	Expenses	WSC Fee	Total Fee
		Robert Morrow	Laine Carlson	Spencer Waterman	Tiffany Meyer	Kendall Stahl	Kay Merrill	Nina Heinz					
	<i>Billing rates, \$/hr</i>	\$265	\$245	\$185	\$170	\$155	\$125	\$110					
1	Project Management & Meetings												
1.1	Project Management	3	3	16			6		28	\$ 5,240	\$ 100	\$ 5,340	\$ 5,340
1.2	Meetings			32		16			48	\$ 8,400	\$ 200	\$ 8,600	\$ 8,600
	SUBTOTAL	3	3	48	0	16	6	0	76	\$ 13,640	\$ 300	\$ 13,940	\$ 13,940
2	Phase 1 Pre-Application Process – Overall												
	SUBTOTAL	1	0	8	0	2	0	0	11	\$ 2,055	\$ -	\$ 2,055	\$ 2,055
3	Phase 1 Pre-Application Process – Specific Projects (per project basis)												
	SUBTOTAL	2	0	6	0	24	0	0	32	\$ 5,360	\$ -	\$ 5,360	\$ 5,360
4	Phase 1 Pre-Application Process – Workshop (overall and per project basis)												
	SUBTOTAL	2	2	14	8	12	0	12	50	\$ 8,150	\$ 200	\$ 8,350	\$ 8,350
5	Phase 2 Final Application Submittal - Overall												
	SUBTOTAL	1	0	6	0	16	0	0	23	\$ 3,855	\$ -	\$ 3,855	\$ 3,855
6	Phase 2 Final Application Submittal – Specific Projects (per project basis)												
	SUBTOTAL	6	2	32	2	56	0	0	98	\$ 17,020	\$ 100	\$ 17,120	\$ 17,120
	COLUMN TOTALS	15	7	114	10	126	6	12	290	\$ 50,080	\$ 600	\$ 50,680	\$ 50,680

Exhibit C - Organizational Chart

Staffing

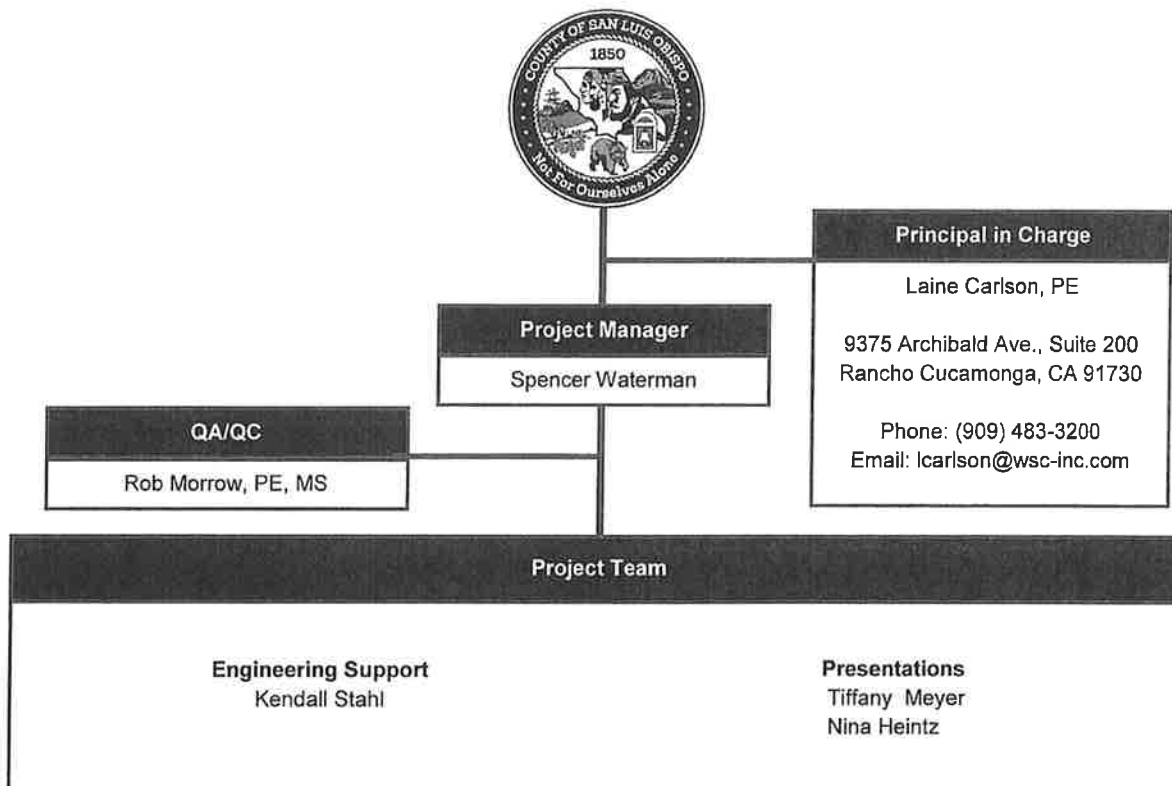
Staffing

WSC's team is functionally organized to take advantage of the strengths of our expert staff within a streamlined structure to provide the highest level of responsiveness and quality.

WSC's proposed Project Manager, Spencer Waterman, will serve as the primary point of contact to the District. Spencer will leverage a highly-qualified team and his directly relevant local experience to be a collaborative resource for the District. He is based in WSC's San Luis Obispo office and has strong working relationships with District staff, stakeholders from other local agencies, and DWR.

Spencer will be supported by WSC's Principal in Charge, Laine Carlson, who brings extensive Prop 1 IRWM experience. Laine is authorized to represent WSC in negotiations. QA/QC will be provided by senior engineer, Rob Morrow. The rest of WSC's team members bring experience and expertise in developing funding applications, the IRWM process, and developing presentations that generate support for water resources projects.

The roles and experience of each team member are explained in this section of the proposal, and consolidated resumes are included in Appendix C.



NOVEMBER 13, 2019

ITEM E-3

ATTACHMENT D

**Reimbursement Agreement
Proposition 1 Integrated Regional Water Management
Round 1 Implementation Grant**

This Reimbursement Agreement ("Agreement") is made on this ____ day of _____, 2019 by and between the San Luis Obispo County Flood Control and Water Conservation District ("District"), the City of San Luis Obispo ("City"), the Nipomo Community Services District ("NCSD"), the Los Osos Community Services District ("LOCSD"), the Oceano Community Services District ("OCSD") and the San Simeon Community Services District ("SSCSD"), collectively referred to herein as the "Parties" (all Parties other than the District shall also be individually referred to herein as "Agency" and collectively as the "Agencies").

RECITALS

WHEREAS, the State of California has established an Integrated Regional Water Management ("IRWM") Grant Program pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Water Code Section 79700 *et seq.*) (also known as "Proposition 1"); and

WHEREAS, a Memorandum of Understanding ("MOU") between the District and various other parties, including the Agencies, designates the District as the lead agency to submit IRWM grant applications and to execute and administer IRWM grant agreements with the State; and

WHEREAS, the Agencies have an interest in developing a regional application to submit to the California Department of Water Resources under the IRWM Proposition 1 Round 1 Implementation Grant Program ("Grant Application"); and

WHEREAS, the District entered into an Agreement for Professional Engineering Services with Water Systems Consulting, Inc. ("Consultant") on or about September 16, 2019, attached hereto as Exhibit "A" and incorporated herein, pursuant to which Consultant is to develop the Grant Application ("Consultant Agreement"); and

WHEREAS, the Consultant Agreement identifies the development of local project specific submittals (i.e. submittals for each Agency sponsored project) as a separate task and further requires the Consultant to detail the work performed on each task and each project on each invoice; and

WHEREAS, on or about Nov. 19, 2019, the District Board of Supervisors authorized and directed the Director of Public Works to execute a reimbursement agreement(s) with the Agencies on behalf of the District to recover certain costs incurred by the District in connection with the Consultant Agreement.

NOW, THEREFORE, it is hereby mutually agreed by the Agencies and District as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.

2. Consistent with the MOU and Consultant Agreement, each Agency agrees that it is appropriate for the San Luis Obispo County Public Works Department ("Department"), as *ex officio* staff to the District, to manage the Consultant's development of the Grant Application. Each Agency further agrees to provide the Department and the Consultant with all information, materials and coordination that they reasonably determine necessary to develop the Grant Application.
3. Each Agency shall pay to the District a sum equal to the costs that the Consultant identifies on its invoices as attributable to inclusion of the Agency's particular project in the Grant Application within thirty (30) days of written notification to the Agency by the District that the District has received the final Grant Application from the Consultant.
4. Each Agency shall also pay to the District a sum equal its proportionate share of the total costs that the Consultant identifies on its invoices as not attributable to any particular Agency project, including, without limitation, costs attributable to development of the overall proposal and program description and project management and meetings, within thirty (30) days of written notification to the Agency by the District that the District has received the final Grant Application from the Consultant. For purposes of this section, each Agency's proportionate share (equal to each Agency's grant funding request divided by the total request of the Agencies) shall be as follows:
 - City: 42%
 - NCSO: 26%
 - LOCSD: 7%
 - OCSD: 9%
 - SSCSD: 16%
5. Notwithstanding Paragraphs 3 and 4 above, no Agency's payment obligation pursuant to this Agreement shall exceed fifteen thousand dollars (\$15,000).
- ~~5.6.~~ Nothing herein shall be interpreted to create a contractual relationship between the Consultant and any Agency, nor to obligate or subject any Agency to any of the terms of the Consultant Agreement.
- ~~6.7.~~ This Agreement shall not be changed or modified except upon written consent of all of the Parties.
- ~~7.8.~~ This Agreement is intended by the Parties as a final expression of their understanding with respect to the matters contained herein and is a complete and exclusive statement of the terms and conditions thereof.
- ~~8.9.~~ This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument.

Signature pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple originals of this Agreement.

IN WITNESS WHEREOF, the Agencies have executed this Agreement with the approval of their respective governing bodies, and District has executed this Agreement in accordance with the authorization of the Board of Supervisors.

<p>City of San Luis Obispo</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>Nipomo Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p>Los Osos Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>Oceano Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p>San Simeon Community Services District</p> <p>By: _____</p> <p>Date: _____, 20__</p>	
<p>SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p>APPROVED AS TO FORM AND LEGAL EFFECT: RITA L. NEAL County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____, 20__</p>

EXHIBIT A
CONSULTANT AGREEMENT

TO: BOARD OF DIRECTORS
FROM: MARIO IGLESIAS
GENERAL MANAGER *MM*
DATE: November 8, 2019

**AGENDA ITEM
F
NOVEMBER 13, 2019**

GENERAL MANAGER'S REPORT

ITEM

Standing report to your Honorable Board -- *Period covered by this report is October 20, 2019 through November 9, 2019.*

DISTRICT BUSINESS

Administrative

The District encourages residents to provide reports of any observed water waste. The District keeps an accounting of leak adjustments as a measure of non-revenue water lost to leaks as well as tracking late fee waivers. The table below provides October and Fiscal Year-to-date data of these items.

Office Activities

	<u>Oct-19</u>	<u>July 19 - Oct 2019</u>
Reports of Water Waste	0	0
Leak Adjustments	4	9
Leak Adjustment Amount	\$1,235	\$2,087
Late Fee Waivers	8	41
Late Fee Waiver Adjustment Amount	\$401	\$1,710

Water Resources

Table 1. Total Production Acre Feet (AF)

	<u>Oct-19</u>	<u>Jul 19 - Oct 19</u>
Groundwater Production	109.5	467.3
Supplemental Water Imported	<u>84.8</u>	<u>337.7</u>
Total Production	<u>194.3</u>	<u>805.0</u>

NCSD imported almost all most 85 AF of water over the 31 day period in October averaging 619 gallons per minute for an average total of 891,360 gallons per day. For fiscal year 2019-20 the District must import at least 800 AF of supplemental water to meet is contractual obligation with the City of Santa Maria.

The District's total combined production, including groundwater production wells and supplemental water imported at the Joshua Road Pump Station, registered 194.3 AF for the month and 805 AF for the Fiscal Year 2020.

Table 2 compares the District's total water production for the month of October and the fiscal year (July 2019 through October 2019) total against the same period for 2013 (pre-drought production). The Department of Water Resources ("DWR") designated 2013 as the pre-drought production year. The pre-drought production data is included in the monthly water production report and compared to current usage, all of which is submitted by water purveyors statewide to DWR. There is no mandated by DWR at this time for the District to reach a particular conservation level. For October 2019, the community's water conservation effort reached approximately 19.2% when compared to October 2013 consumption. The District's year-to-date conservation effort reached 24.1 % for the fiscal year and will continue to be monitored.

Table 2. FY 2020 Total Demand To-date Compared to 2013

	Oct-19	July – Oct 2019
Total Production (AF) for FY 2019-20	194.3	805.0
Total Production (AF) for 2013	<u>240.5</u>	<u>1,061.3</u>
Reduction (AF)	<u>46.2</u>	<u>256.3</u>
Percentage Reduction	<u>19.2%</u>	<u>24.1%</u>

NCSD GW Reduction

The District's purveyor customers, Golden State Water Company and Woodlands Mutual Water Company, each claim 16.66% (cumulatively 33.33%) of the imported water NCSD brings onto the basin through the NSWP. Of the 800 AF minimum imported water from the City of Santa Maria, 266.6 AF will be credited to these two purveyor customers. The credited amount must be added to the District's groundwater pumping total every month to reflect the groundwater pumped by these customers in-lieu of taking imported water from the District. Table 3 below demonstrates the calculus for determining the District's groundwater pumping reduction.

Table 3. NCSD GW Production (NCSD GW Well Production plus Purveyor Credit)

	Oct-19	Jul 19 - Oct 19
NCSD GW Well Production	109.5	467.3
Purveyor Customer Credit (33.3% of Import Water)	<u>28.3</u>	<u>112.5</u>
NCSD Total Calculated GW Production	137.8	579.8
Average GW Production for 2009-2013	<u>223.6</u>	<u>1,064.2</u>
NCSD Percentage of GW Reduction	38%	46%

Taking into consideration the above referenced purveyor customer credit, the District can claim a groundwater pumping reduction of 38% for the month of October compared to the 5-year average from 2009 to 2013 (NMMA-TG assigned comparator). For Fiscal Year 2020, the total groundwater pumping reduction for the District is 46%. At the current Stage IV level of NMMA's Water Shortage Condition and Response Plan, the District is short of achieving its targeted groundwater pumping reduction level of 50% for the year. However, early fiscal year months are typically higher water use months and it is not uncommon to balance out water use in second half of the fiscal year. Table 4 below projects that the District's groundwater reduction target level of 50% is still achievable.

2020 Fiscal Year Groundwater Pumping Forecast

Table 4 projects the District’s groundwater pumping reduction effectiveness for Fiscal Year 2020. The targeted groundwater pumping reduction as stated above is 50%. At current usage through in October 2019, and with the last year’s production values for the remaining 8 months inserted, the District is on-track to reach its pumping reduction goals for the fiscal year. This exercise demonstrates that there would be 1.5 acft of water in excess of the 50% target. Each year, water use trends slightly differ depending upon the weather – a major factor that drives consumer water demand. Table 4 is an estimating tool.

Table 4. Groundwater Pumping

	Year-to-Date		Target	Over/(Under)	AcFt
	Oct-19	Jul-Jun 2020			
NCS D GW Well Production	109.5	894.2			
Purveyor Customer Credit (33.3% of Import Water)	28.3	323.3			
NCS D Total Calculated GW Production	137.8	1,267.5	1,266.0	(1.53)	
Average GW Production for 2009-2013	223.6	2,533.3	2,533.3		
NCS D Percentage of GW Reduction	38%	50%	50.0%		

Table 5. FY 2019 v. FY 2020 Groundwater Pumping

	Oct-19	Jul 19-Oct 19	Oct-18	Jul 18-Oct 18
NCS D GW Well Production	109.5	467.3	94.2	453.2
Purveyor Customer Credit (33.3% of Import Water)	28.3	112.5	28.4	112.6
NCS D Total Calculated GW Production	137.8	579.8	122.6	565.8
Average GW Production for 2009-2013	223.6	1,064.2	223.6	1,064.2
NCS D Percentage of GW Reduction	38%	46%	45%	47%

Table 5 compares the previous year’s groundwater pumping with the current year’s groundwater pumping for the same period. The District’s overall water demand is up slightly for the current year. However, the community is close to achieving the same level of groundwater pumping reduction year over year. This indicator supports staff’s conclusion that, all things equal, the District will reach its groundwater pumping reduction target for the fiscal year.

Rainfall Gauge

(Reported in inches)	Nipomo East (Dana Hills Reservoirs)	Nipomo South (Southland Plant)
September 2019 Total	0	0
July-2019 through October-2019 (Seasonal Total)	0	0
July 1, 2019 to November 8, 2019 Total Rainfall to date	0	0
Average Annual Year Rainfall	18.0 ¹	14.0 ²

Note 1: SLO County Website

https://wr.slocountywater.org/site.php?site_id=3&site=935e7af7-0e94-4042-bc11-e02906d5ba44

Note 2: SLO County Website

https://wr.slocountywater.org/site.php?site_id=2&site=878bfdbf-5c40-4398-8226-418372e4039b

Safety Program

No items to report.

Other Items and News of Interest

No Items to report.

Supplemental Water Capacity Accounting

Summary Since January 25, 2008

		Number of Equivalent Meters	AFY
Supplemental Water Available for Allocation		947	500
Supplemental Water Reserved (Will Serve Letter Issued)	116	120	-63.4
Subtotal Net Supplemental Water Available for Allocation	831	827	436.6
Supplemental Water Assigned (Intent-to-Serve Issued)	51.6	54.4	-28.7
Total Remaining Supplemental Water Available for Allocation	779.4	772.6	407.9

As of October 8, 2019 (no change from September 2019)

Connection Report

Nipomo Community Services District
Water and Sewer Connections

END OF MONTH REPORT

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19
Water Connections (Total)	4434	4434	4437	4437	4437	4437	4438	4438	4440	4441
Sewer Connections (Total)	3197	3197	3199	3199	3200	3201	3206	3206	3207	3208
New Water Connections	0	0	3	0	0	0	1	0	2	1
New Sewer Connection	0	0	2	0	1	1	5	0	1	1
Galaxy & PSHH at Orchard and Division Sewer Connections billed to the County	475	475	475	475	475	475	475	475	475	475

The Connection Report is current through October 1, 2019.

Meetings (October 20, through November 9)

Meetings Attended (telephonically or in person):

- Oct 21, Blacklake Assessment Distr. Mtg.
- Oct 22, LAFCO – Dana Adobe OUA

- Oct 22, Eng/Admin Meeting
- Oct 22, Developer Meeting – The Parks
- Oct 23, Rotary
- Oct 23, Regular NCSD Board Meeting
- Oct 23, Exec. Team After-Board Meeting
- Oct 24, SLO County-wide Water Action Team
- Oct 24, Developer Meeting – Trailer Hitch
- Oct 28, Board Officer Meeting
- Oct 30, MKN Eng. – ADU Calculations
- Oct 30, NCSD General Counsel – Annexation Policy
- Oct 31, NMMA Purveyor Manager's Meeting
- Oct 31, Director Gaddis – Fac/Wtr Resource Prep.
- Nov 1, Municipal Financial Advisor – Assessment Distr.
- Nov 4, Sensus/Xylem Conference
- Nov 5, Sensus/Xylem Conference
- Nov 6, Sensus/Xylem Conference
- Nov 7, Management Team
- Nov 7, Facilities\Water Resources Comm. Mtg.
- Nov 8, Sedaru Mtg.
- Nov 8, Blacklake Ad Hoc Comm. Mtg.
- Nov 8, Developer Meeting – The Parks

Meetings Scheduled (November 10 through November 16):

Upcoming Meetings (telephonically or in person):

- Nov 12, Rat Consultant – Pass-through Rate Development
- Nov 12, Finance and Audit Comm. Mtg.
- Nov 13, Rotary
- Nov 13, Regular NCSD Board Meeting
- Nov 13, Exec. Team After-Board Meeting
- Nov 14, RWMG Meeting
- Nov 14, Eng/Admin Meeting

Upcoming Water Resource and Other Meetings

Upcoming Standing Meetings:

- NMMA-TG: November 19th (Tuesday) @ 10:00 AM, NCSD Board Room
- RWMG: November 14th @ 10:00 AM, SLO Library
- WRAC: December 4th @ 1:30 PM, SLO Library
- NMMA Purveyor Meeting: November 26th @ 10:00 AM, NCSD Conf. Rm

RECOMMENDATION

Staff seeks direction and input from your Honorable Board

ATTACHMENTS

None