

**CONTRACT FOR SPECIAL SERVICES BY  
INDEPENDENT CONTRACTOR**

THIS CONTRACT is entered into this \_\_\_\_ day of May, 2012, by and between the COUNTY OF SAN LUIS OBISPO (hereinafter referred to as "County") and Jodi McGraw, d.b.a. Jodi McGraw Consulting, an independent contractor (hereinafter referred to as "Consultant").

**WITNESSETH**

**WHEREAS**, the County of San Luis Obispo has a need for special services in developing an Administrative Draft Habitat Conservation Plan (HCP) for the community of Los Osos. The Consultant will be responsible for developing an Administrative Draft HCP that meets all of the requirements set forth in the California Endangered Species Act (CESA), California Fish and Game Code Section 2050 et seq, Section 10(a)(2)(A) of the federal Endangered Species Act (ESA), the California Coastal Act, and all other applicable federal, state, and local policies, regulations and programs; and

**WHEREAS**, Consultant is specially trained, experienced, expert and competent to perform such special services;

**NOW THEREFORE**, the parties mutually agree as follows:

**I. PREPARING THE LOS OSOS HABITAT CONSERVATION PLAN (LOHCP)**

**A. DUTIES OF THE CONSULTANT.**

1. The Consultant shall submit the following documents in multiple copies in phases as described below: (1) Revise the Project Description, Covered Activities, and Species, (2) Incorporate Comments on the Draft HCP from California Coastal Commission and US Fish and Wildlife Service, (3) Revise the HCP Conservation Strategy and Associated Mitigation Process, (4) Revise the Plan Implementation, Cost Estimates, and Funding Sections, (5) Aid preparation of a Cultural Resources Report, (6) Complete the Draft Implementing Agreement, (7) Finalize Administrative Draft HCP and Draft Implementing Agreement (8) Project Meetings and Administration. Consultant agrees to prepare the documents in compliance with the scope of work as described in **Exhibit 1 (attached)**.

a. Revise the Project Description, Covered Activities, and Species. Consultant will conduct necessary planning work and prepare the first three chapters of the administrative draft LOHCP. Consultant will provide Chapter 1 (Introduction and Background) to County staff for review and will revise the chapter based on their feedback. The Consultant will finalize Chapter 2 by identifying, describing, and mapping, where feasible, the activities that will be covered by incidental take permit issued as a result of the LOHCP; and preparing revised text, maps, and tables illustrating the land use, existing protected lands, as well as covered activities. The Consultant will provide the revised draft to the County for review and comment. Consultant will update the revised draft of Chapter 2 to prepare

the final draft for inclusion in the administrative draft LOHCP. The Consultant will update Chapter 3 of the LOHCP (Environmental Setting and Biological Resources) to reflect subsequent planning for the take assessment and conservation strategy (Chapters 4 and 5). Consultant will then finalize Chapter 3 based on feedback from the County.

b. Incorporate Comments on the Draft HCP from California Coastal Commission and US Fish and Wildlife Service. Consultant will review comments on the 2005 Draft Los Osos HCP, which were provided by the Coastal Commission and US Fish and Wildlife Service, and prepare a brief memo outlining how each one is being addressed, or otherwise will be responded to, with the 2012 administrative draft LOHCP. As Consultant previously conducted a review of the main comments as a part of prior work to revise the HCP with the County, work on this task will focus on revisiting the comments with the County to verify the appropriate steps to address them through development of the plan chapters.

c. Revise the HCP Conservation Strategy and Associated Mitigation Process. The Consultant shall complete calculations of the acres of each vegetation type that will be impacted by the covered activities (Chapter 3), and shall develop the LOHCP Potential Biological Impacts/Take Assessment (Chapter 4) and Conservation Strategy (Chapter 5).

d. Revise the Plan Implementation, Cost Estimates, and Funding Sections. The Consultant shall develop the Plan Implementation (Chapter 6) and Funding (Chapter 7). The Consultant will design key aspects of implementation and prepare Chapter 6, and will collaborate with the Economic and Planning Systems (EPS) to determine the cost of implementing the plan and how the plan will be funded, followed by work to prepare Chapter 7 of the Administrative Draft LOHCP.

e. Aid Preparation of a Cultural Resources Report. The Consultant will assist the County, its EIR/EIS consultant for the LOHCP, and the US Fish and Wildlife Service with their work to prepare the cultural resources report. The Consultant will provide relevant information and maps illustrating the spatial distribution of the covered activities and anticipated impacts on vegetation and other land use conditions.

f. Complete the Draft Implementing Agreement (IA). The Consultant will assist the County, including County Counsel, in developing a draft implementing agreement (IA): a legal document that will describe the financial obligations and roles and responsibilities of the various entities that will be involved in implementing the HCP. The IA will be based upon the USFWS IA template and the 2005 Admin Draft LOHCP IA. The Consultant will provide necessary information about the plan's implementation contained in the plan.

g. Finalize an Administrative Draft HCP and Draft Implementing Agreement. The Consultant will prepare the remaining content for the HCP, will prepare and finalize the Alternatives to Take (Chapter 8), will prepare a list of the references for the Administrative Draft LOHCP, will advise the draft appendices A, B, and C, and will assemble the final content of the administrative draft LOHCP into electronic files for the County to distribute to the agencies.

h. Project Meetings and Administration. In order to manage the project and ensure it is completed on time and with the allocated funding, the Consultant will attend meetings with County staff, and agency staff. In administering the project, the Consultant will prepare monthly invoices and progress reports, contract with outside experts, maintain regular communications with the County project lead, and circulate to County staff weekly e-mail updates.

#### **B. DUTIES OF THE COUNTY.**

1. The County will make any documents, relevant to the proposed project, in the possession of County, available to the Consultant.

2. It is understood that repeated revisions to the HCP are costly for the Consultant and the County. Therefore the County shall make every effort to reduce the number of iterations of the HCP to a minimum by diligently reviewing each submittal by the Consultant.

3. County will advise the Consultant whether to continue with the HCP or stop work when situations are identified, such as environmental, economic, technical, legal or other factors, which could inhibit or prohibit the project.

4. Other agencies may make comments to the Administrative Draft HCP. The County will make any of these comments that raise environmental points available to the Consultant.

5. The County will provide for payment to the Consultant as provided by the terms of this Contract. The County will expeditiously review all work submitted by the Consultant in order to assure prompt payment of invoices. At the request of the Consultant, the County will explain in writing any delay, not the result of the Consultant that would prevent payment of the invoice within 60 days of receipt by the County.

#### **C. PAYMENT.**

1. HCP and Implementing Agreement (IA). The Contract for the preparation of the HCP and IA is a lump sum Contract. It is not a time and materials Contract. The County will pay the Consultant a maximum amount of one hundred eighty nine thousand eight hundred fourteen dollars (\$189,814) for a County-approved, Administrative Draft HCP and Draft IA. The County will pay Consultant in staged payments throughout the performance of the Contract. The sums due under the

timing of these staged payments are tied to products delivered by the Consultant to the County, and approval of such products by the County.

2. Time of payment. At the request of the County, the Consultant shall submit itemized statements for work performed on each phase or from the execution of the Contract to the date of the request. The County has the right to access and copy the records to verify all work performed on the Contract to date. The County's right to inspect and copy records is in addition to the legal rights and liabilities of the parties pursuant to an audit described in paragraph II.M of the Primary Contract.

a. Consultant will be paid the maximum amount of ten thousand four hundred dollars (\$10,400), within sixty (60) days after the County receives a correct invoice, and receives and approves electronic copies of Revised Project Description, Covered Activities, and Species (Chapters 1-3). If the Contract is terminated before the Consultant expends ten thousand four hundred dollars (\$10,400) the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

b. Consultant will be paid the maximum amount of two thousand four hundred dollars (\$2,400), within sixty (60) days after the County receives a correct invoice, and receives and approves electronic copies of a memo outlining how each comment on the Draft HCP from the California Coastal Commission and US Fish and Wildlife Service is being addressed or responded to. If the Contract is terminated before the Consultant expends two thousand four hundred dollars (\$2,400), the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

c. Consultant will be paid the maximum amount of forty two thousand dollars (\$42,000) within sixty (60) days after the County receives a correct invoice, and receives and approves an electronic copy of the Revised HCP Conservation Strategy and Associated Mitigation Process (Chapters 4 and 5). If the Contract is terminated before the Consultant expends forty two thousand dollars (\$42,000) the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

d. Consultant will be paid the maximum amount of seventy one thousand four hundred dollars (\$71,400), within sixty (60) days after the County receives a correct invoice, and receives and approves an electronic copy of the Revised Plan Implementation, Cost Estimates, and Funding Sections (Chapters 6 and 7). If the Contract is terminated before the Consultant expends seventy one thousand four hundred dollars (\$71,400) , the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

e. Consultant will be paid the maximum amount of two thousand four hundred dollars (\$2,400), within sixty (60) days after the County receives a correct invoice, and receives and approves an electronic memo to the County and CEQA/NEPA consultant regarding the Cultural Resources

**Report.** If the Contract is terminated before the Consultant expends two thousand four hundred dollars (\$2,400), the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

f. Consultant will be paid the maximum amount of two thousand four hundred dollars (\$2,400) within sixty (60) days after the County receives a correct invoice, and receives and approves an electronic memo to County Counsel regarding the Draft Implementing Agreement (IA). If the Contract is terminated before the Consultant expends two thousand four hundred (\$2,400), the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

g. Consultant will be paid the maximum amount of twenty one thousand two hundred dollars (\$21,200) within sixty (60) days after the County receives a correct invoice, and receives and approves draft and final copies on a CD-Rom or DVD-Rom of the Administrative Draft HCP and Draft Implementing Agreement. If the Contract is terminated before the Consultant expends twenty one thousand two hundred dollars (\$21,200), the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

h. Consultant will be paid the maximum amount of thirty seven thousand six hundred fourteen dollars (\$37,614) within sixty (60) days after the County receives a correct invoice, and receives and approves meeting agendas and summaries for Project Meetings and Administration. If the Contract is terminated before the Consultant expends thirty seven thousand six hundred fourteen dollars (\$37,614), the County is entitled to a refund of the difference between the itemized billing amount for the work to termination date based on the rates and schedules in Exhibit 1.

3. **Early Termination Payment.** If the Contract is terminated prior to the completion of the Administrative Draft HCP for a reason other than breach by the Consultant, the County will pay Consultant for work performed on the Contract from execution to termination, but not to exceed the maximum amount listed below for each approved phase plus an additional amount for work performed and expenses incurred on the phase in progress. Subconsultants shall be apportioned to the phase(s) according to the actual billing to the Consultant from the Subconsultant. Payment for attendance at meetings and hearings, travel and per diem shall be allocated to the phase in which the travel occurred. If any phase is not completed and the Contract is terminated due to breach by the Consultant, the amount due Consultant shall be the maximum amount of the HCP less the amount required to hire and compensate a replacement Consultant to complete the HCP.

4. **Cost Containment.** In no event is the Consultant authorized to incur additional costs beyond the maximum amounts in this Contract without prior written agreement signed by the County. **Before** incurring additional costs or providing additional services, Consultant must inform Coordinator, **in**

writing, of the estimated additional costs. Without prior written approval signed by the County, the County shall not be liable for any amount over the amounts specified herein.

5. Early Payment. For good cause, and in the sole discretion of the County, the County may make such early payments during any phase without terminating this Contract. The Consultant shall preserve the work performed to date and minimize the need to repeat work on the current phase. Before receiving an early payment, the Consultant shall submit an itemized statement showing time and materials spent from execution to date, specifically identifying the work done on the phase in progress and the estimated amounts remaining to complete the phase in progress. In no event shall Consultant be entitled early payment for a future phase. The Board of Supervisors delegates the authority to make early payments to the Environmental Coordinator provided the Environmental Coordinator retains sufficient funds to complete the phase in progress including costs to re-start a delayed phase. The County shall incur no liability for declining to make an early payment.

## **II. GENERAL CONDITIONS**

### **A. INDEPENDENT CONTRACTOR.**

Consultant shall be deemed to be an independent contractor of County. Nothing in this Contract shall be construed as creating an employer-employee relationship, partnership or a joint venture relationship. Nothing in this Contract authorizes, or permits, the County to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject of this contract; provided always, however, that the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services.

### **B. NO ELIGIBILITY FOR FRINGE BENEFITS.**

Consultant understands and agrees that its personnel are not, and will not be, eligible for membership in or any benefits from any County group plan for hospital, surgical, or medical insurance, or for membership in any County 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 County employee.

### **C. INDEMNIFICATION.**

(1) Consultant shall defend, indemnify and save harmless the County of San Luis Obispo, its officers, agents and employees, from any and all claims, demands, damages, costs, expenses, judgments or liability arising out of this Contract or attempted performance of the provisions hereof, including but not limited to those predicated upon theories of violation of statute, ordinance, or regulation, professional malpractice, negligence, or recklessness including negligent or reckless operation of motor vehicles or other equipment, furnishing of defective or dangerous products or completed operations, premises liability arising from trespass or inverse condemnation, violation of civil rights and also including any adverse determination made by the Internal Revenue Service or the State

Franchise Tax Board with respect to Consultant's "independent contractor" status that would establish a liability for failure to make social security and income tax withholding payments, failure to comply with workers' compensation laws, or any act or omission to act, whether or not it be willful, intentional or actively or passively negligent on the part of Consultant or his agents, employees or other independent Consultants directly responsible to Consultant; providing further that the foregoing shall apply to any wrongful acts or any active or passively negligent acts or omissions to act, committed jointly or concurrently by Consultant or Consultant's agents, employees or other independent contractors and the County, its agents, employees or independent contractors. Nothing contained in the foregoing indemnity provision shall be construed to require indemnification for claims, demand, damages, costs, expenses or judgments resulting solely from the conduct of the County.

#### **D. INSURANCE.**

Consultant, at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and the related warranty period (if applicable) and shall provide products/completed operations coverage for two (2) years following completion of Consultant's work under this Agreement and acceptance by the County. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the County, its officers, employees, volunteers and agents. For purposes of the insurance policies required hereunder, the term "County" shall include officers, employees, volunteers and agents of the County of San Luis Obispo, California, individually or collectively.

1. Minimum Scope And Limits of Required Insurance Policies. The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County:

a. **COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ("CGL")** Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG 0001) with policy limits not less than the following:

\$1,000,000 each occurrence (combined single limit);

\$1,000,000 for personal injury liability;

\$1,000,000 aggregate for products-completed operations; and,

\$1,000,000 general aggregate.

The general aggregate limits shall apply separately to Consultant's work under this Agreement.

b. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("WC/EL").** This policy shall include at least the following coverages and policy limits:

1. **Workers' Compensation insurance as required by the laws of the State of California; and**

2. **Employer's Liability Insurance Coverage B with coverage amount not less than one million (\$1,000,000) dollars each accident/Bodily Injury (herein "BI"); one million (\$1,000,000) dollars policy limit BI by disease; and, one million (\$1,000,000) dollars each employee BI by disease.**

c. **PROFESSIONAL LIABILITY INSURANCE POLICY ("PL"). This policy shall cover damages, liabilities, and costs incurred as a result of Consultant's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One Million Dollars (\$1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for two (2) years thereafter with respect to incidents which occur during the performance of this Agreement). Consultant shall notify the County if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.**

2. **DEDUCTIBLES AND SELF-INSURANCE RETENTIONS. Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by Consultant and approved by the County before work is begun pursuant to this Agreement. At the option of the County, Consultant shall either reduce or eliminate such deductibles or self-insured retentions as respect the County, its officers, employees, volunteers and agents, or shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.**

3. **ENDORSEMENTS. All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in parentheses below:**

a. **A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAL);**

b. **The County of San Luis Obispo, its officers, employees, volunteers and agents are hereby added as additional insureds with respect to all liabilities arising out of Consultant's performance of work under this Agreement (CGL & BAL);**

c. **If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL).**

d. **This policy shall be considered primary insurance with respect to any other valid and collectible insurance County may possess, including any self-insured retention County may have, and any other insurance County does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL & PL);**

e. **No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) days prior to the effective date of such reduction or cancellation to County at the address set forth below (CGL, BAL, WC/EL & PL);**

f. Consultant and its insurers shall agree to waive all rights of subrogation against the County, its officers, employees, volunteers and agents for any loss arising under this Agreement (CGL); and

g. Deductibles and self-insured retentions must be declared (All Policies).

4. **ABSENCE OF INSURANCE COVERAGE.** County may direct Consultant to immediately cease all activities with respect to this Agreement if it determines that Consultant fails to carry, in full force and effect, all insurance policies with coverages at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of work and change of insurance shall be considered Consultant's delay and expense. At the County's discretion, under conditions of lapse, the County may purchase appropriate insurance and charge all costs related to such policy to Consultant.

5. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION.** Prior to commencement of work under this Agreement, and annually thereafter for the term of this Agreement, Consultant, or each of Consultant's insurance brokers or companies, shall provide County a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence of the stipulated coverages. All of the insurance companies providing insurance for Consultant shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to:

Trevor Keith, Project Manager  
Department of Planning and Building, Environmental Division  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408

#### **E. WARRANTY OF CONSULTANT.**

Consultant, its officers and employees, and subcontractors will comply with all applicable federal or state laws while performing this Contract. Consultant warrants that it, and each of the personnel employed or otherwise retained by Consultant, will at all times be properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to. Consultant warrants that the persons performing the services for this Contract are specially trained, experienced, expert and competent to perform such special services of preparing the required HCP. Consultant warrants that the Consultant, its subcontractors and real person working on this Contract have no conflict of interest with this project and will produce an independent, objective and unbiased work product.

#### **F. NON-ASSIGNMENT OF CONTRACT.**

Inasmuch as this Contract is intended to secure the specialized services of the Consultant, Consultant shall not delegate its obligations under this Contract and shall not assign or otherwise transfer its rights under this Contract or any interest therein without the prior written consent of County. Any such assignment, transfer, delegation, or subletting without the County's prior written consent shall be null and void.

**G. NONDISCRIMINATION.**

Consultant will not discriminate, in any manner forbidden by law, against any person employed to perform services under this Contract.

**H. TERMINATION OF CONTRACT FOR CAUSE.**

1. If any of the following occur, County shall have the right to terminate this Contract effective immediately upon giving written notice to the Consultant:

a. Consultant fails to perform its duties to the satisfaction of the County;

b. Consultant fails to fulfill in a timely and professional manner its obligations under this Contract; or

c. Consultant, or its agents or employees, fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the County; provided however, that in all instances the Coordinator has contacted the Consultant, stating specific reasons for the dissatisfaction of the Coordinator with the performance of the Consultant, and the Consultant has had a reasonable time to respond to the Coordinator's concerns and, if any defect in performance of the Consultant exists, a reasonable time to cure such defect and has unreasonably failed to cure such identified defect.

2. The Consultant may terminate this Contract for cause if the following conditions occur:

a. If a representative of the Environmental Division has unreasonably failed to perform the Coordinator's duties under this Contract in a timely and professional manner, causing unreasonable delay within the control of the Coordinator; and

b. The Consultant has contacted the Environmental Coordinator, (the Division Head of the Environmental Division) personally, stating specific reasons for the dissatisfaction of the Consultant with the performance of the representative of the Environmental Division; and

c. The Environmental Coordinator has had a reasonable time to respond to the Consultant's concerns and if any defect in performance of the Coordinator exists, a reasonable time to cure such defect and has unreasonably failed to cure such identified defect; and

d. The Consultant has given written notice of the Consultant's outstanding complaints pertaining to specific defects of the Coordinator's performance under this Contract to the Environmental Coordinator; and

e. The Consultant has given written notice of the Consultant's outstanding complaints pertaining to specific defects of the Coordinator's performance under this Contract to the Board of Supervisors of the County of San Luis Obispo, and if after a reasonable time, the Board of Supervisors fails to cure the outstanding defect, then the Consultant may terminate this Contract for cause.

The Board of Supervisors has a right to cure such defect in performance within a reasonable time by causing performance or by giving written notice to Consultant of an intention to perform within a reasonable time thereafter. If the Board of Supervisors fails to cure the defect within a reasonable time,

the Consultant may give written notice of termination for cause delivered to the Board of Supervisors with an information copy to the Coordinator.

**I. TERMINATION OF CONTRACT FOR CONVENIENCE.**

The County may terminate this Contract at any time by giving the Consultant written notice of such termination. Immediately upon receipt of notice of termination, Consultant shall discontinue work on the project and incur no further obligations or expenses. Consultant shall be paid the percentage of the total cost of the HCP that corresponds to the percentage of the HCP document(s) that are satisfactorily completed prior to the Consultant's receipt of said termination.

**J. ENTIRE AGREEMENT AND MODIFICATIONS.**

(1) This Contract supersedes all previous contracts and constitutes the entire understanding of the parties hereto. Consultant shall be entitled to no other benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both parties before the change or amendment occurs. Consultant specifically acknowledges that in entering into and executing this Contract, Consultant relies solely upon the provisions contained in this Contract and no others.

(2) Delegation of County Signatory Authority for Minor Modifications. The Board of Supervisors delegates to the Environmental Coordinator the authority to sign amendments to this Contract that make reasonable modifications to the time performance or that increase the scope of work and provide additional compensation, provided that all amendments do not total more than ten percent (10%) of the total lump sum amount stated in paragraph I.C.1 above. Any amendment beyond that cumulative amount or an amendment pertaining to any performance other than increasing the scope of work, including but not limited to insurance, indemnity, property and other provisions in this Contract must be in writing and signed by the Board of Supervisors. These additional funds are intended to provide for flexibility needed to respond to changes generated in writing by the County; not by the Consultant. The Coordinator will notify Applicant of the Contract modification. Any modification to the Contract within the scope of this paragraph need only be signed by the Consultant and the Coordinator; after approval as to form and legal effect by a Deputy County Counsel.

**K. APPLICABLE LAW AND VENUE.**

This Contract has been executed and delivered in the State of California and covers services to be performed in California. The parties agree that the validity, enforceability, and interpretation of the Contract or any of its provisions 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 the County of San Luis Obispo, State of California, and such County shall be the venue for any action or proceeding that may be brought, or arise out of, this Contract.

**L. SEPARABILITY.**

The invalidity of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract.

**M. RECORDS.**

Pursuant to California Government Code § 10532, every County contract involving the expenditure of more than ten thousand dollars (\$10,000.00) in public funds is subject to examination and audit of the Auditor General for a period of three years after final payment under the Contract. Consultant shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Contract. The foregoing constitute "records" for the purposes of this paragraph. Consultant shall maintain and preserve, until three years after termination of this Contract, and permit the State of California or any of its duly authorized representatives, including the Comptroller General of the United States, to have access to and to examine and audit any pertinent books, documents, papers, and records of Consultant related to this Contract. Consultant and County shall ensure the confidentiality of any records that are required by law to be so maintained.

**N. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS.**

Pursuant to Government Code section 7550, if the total cost of this Contract is over five thousand dollars (\$5,000.00), 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 document or written report. The Contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

When multiple documents or written reports are the subject or product of contracts, the disclosure section may also contain a statement indicating that the total Contract amount represents compensation for multiple documents or written reports.

**O. 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 following address as appropriate:

**1. To the Environmental Coordinator;**

Environmental Division  
Co. Planning & Bldg. Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408

**2. To the Board of Supervisors;**

Board of Supervisors  
County Government Center  
1055 Monterey Street D430  
San Luis Obispo, California 93408

**3. To the Consultant;**

Jodi McGraw  
Jodi McGraw Consulting (JMc)  
PO Box 221  
Freedom, CA 95019

**P. COPYRIGHT.**

Any reports, maps, documents or other materials produced in whole or part by the Consultant or any subconsultant or person responsible to the Consultant under this Contract shall be the property of the County and none shall be subject to an application for copyright by or on behalf of Consultant, subconsultant or person responsible to Consultant during the performance of this Contract.

**Q. CONFIDENTIALITY.**

No reports, maps, information, documents, or any other materials given to or prepared by Consultant under this Contract which County requests in writing to be kept confidential, shall be made available to any individual or organization by Consultant without the prior written approval of County. However, Consultant shall be free to disclose such data as is publicly available.

**R. EQUIPMENT AND SUPPLIES.**

Consultant will provide all necessary equipment and supplies in order to carry out the terms of this Contract.

**S. ACCESS TO RECORDS AND FINANCIAL DATA.**

All recorded data, preserved in any form, but not limited to materials generated for this project or existing information compiled for this project and any financial documents pertaining to this project are the property of the County. At the request of the Board of Supervisors, the Coordinator, the County Planning Director, the County Counsel, the County Administrator or the County Auditor, the County's agents or employees have a right to access these records wherever located during reasonable hours for up to three years after project approval. After three years, if the Consultant wants to dispose of the background records the Consultant shall give the County the option of taking possession of the records. The County's right to access includes the right to make copies of such information.

**T. PRIORITY OF INCONSISTENT CONTRACT TERMS AND CONDITIONS.**

To the extent that any terms or conditions set forth in Exhibit 1, or past business practices between Consultant and County or Coordinator differ from the terms and conditions of this Contract, the terms and conditions expressed in the typed body of this Contract, without reference to Exhibit 1, are controlling.

IN WITNESS THEREOF, County and Consultant have executed this Contract on the day and year first hereinabove set forth.

**CONSULTANT:**

Jodi McGraw, d.b.a Jodi McGraw Consulting

By: Jodi M. McGraw

Title: Principal and Ecologist

Date: May 1, 2012

**COUNTY OF SAN LUIS OBISPO**

By: \_\_\_\_\_  
Chairman of the Board of Supervisors

**ATTEST:**

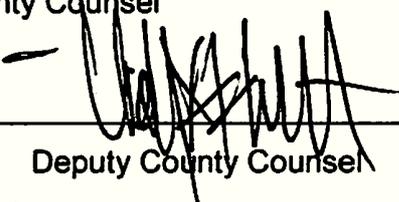
\_\_\_\_\_  
Clerk of the Board of Supervisors

\_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGAL EFFECT:**

**WARREN R. JENSEN**

County Counsel

By:  \_\_\_\_\_  
Deputy County Counsel

Dated: 5.10.2012

## **EXHIBIT 1**

### **TASK 1. REVISE THE PROJECT DESCRIPTION, COVERED ACTIVITIES, AND SPECIES**

Consultant will conduct necessary planning work and prepare the first three chapters of the administrative draft LOHCP.

**1.1 Chapter 1: Introduction and Background.** Consultant will prepare a draft of Chapter 1 of the LOHCP (Introduction and Background) and provide it to County staff for review. Based on their feedback, Consultant will then revise the chapter. Based on review of the chapter, it is assumed that it is substantively complete, and remaining work will focus on updating the plan overview based on any changes to the plan, and refining the language related to the regulatory setting, in order to clearly state how the HCP complies with the relevant regulations.

**1.2 Chapter 2: Land Use and Covered Activities.** The Consultant will finalize Chapter 2 by completing 2 main steps:

1. Identifying, describing, and mapping, where feasible, the activities that will be covered by incidental take permit issued as a result of the LOHCP; and
2. Preparing revised text, maps, and tables illustrating the land use, existing protected lands, as well as covered activities.

**1.2.1 Finalizing the Covered Activities** Preparation of Chapter 2, and subsequent planning for the LOHCP, require finalization of the covered activities. As part of this task, Consultant will populate a database (e.g. MS Excel workbook) to catalogue the relevant aspects of the activities that will cause take that is to be covered by the permit(s) issued by the state and federal agencies pursuant Section 2081 of the California Fish and Game Code, and Section 10(a)1(a) of the federal Endangered Species Act. To complete the workbook and prepare associated GIS data for development of maps and conducting analyses of the impacts of the covered activities, four main planning steps will be necessary.

1. Obtain information about covered activities of other entities
2. Compile necessary information about County projects (DPW and General Services)
3. Estimate Residential and Commercial Development on Private lands
4. Compile GIS and excel database of covered activities

**1.2.2 Prepare Chapter 2**

**1.2.2.1 Revise Chapter 2.** Once the covered activities have been determined (Task 1.2.1), Consultant will revise Chapter 2 through the following.

1. Reorganize/revise content based on outline in needs assessment, as adjusted per changes necessary based on additional planning;
2. Prepare revised maps; and
3. Prepare revised tables.

The revised draft will be provided to the County for review and comment.

**1.2.2.2 Finalize Draft of Chapter 2.** The revised draft of Chapter 2 will be updated per feedback from the County, to prepare the final draft of Chapter 2 for inclusion in the administrative draft LOHCP.

### **1.3 Finalize Chapter 3: Environmental Setting and Biological Resources**

Consultant will update Chapter 3 of the LOHCP (Environmental Setting and Biological Resources) to reflect subsequent planning for the take assessment and conservation strategy (Chapters 4 and 5). Consultant will then revise based on feedback from the County.

***Deliverables:*** Electronic copies of Chapters 1-3

#### **Points of Agreement**

- County staff will assist with the planning tasks to prepare Chapter 2 (Task 1.2.1). Specifically, they will lead work to catalogue information about the covered activities, by meeting with other entities, conducting outreach to other County departments, and determining private development.
- Consultant will synthesize information obtained by the County in the database and draft the chapter text, maps, and tables, which will be provided for review by the County.
- Chapters 1 and 3 are substantively complete and no additional extensive changes are anticipated.
- The maximum time allocated for Consultant to work on Task 1 is 148 hours. Additional time required to prepare Chapters 1-3 can be completed by Consultant on a time and materials basis of \$100 per hour pending authorization by the County.

## **TASK 2. INCORPORATE COMMENTS ON THE DRAFT HCP FROM CALIFORNIA COASTAL COMMISSION AND US FISH AND WILDLIFE SERVICE**

The Consultant will review comments on the 2005 Draft Los Osos HCP, which were provided by the Coastal Commission and US Fish and Wildlife Service, and prepare a brief memo outlining how each one is being addressed, or otherwise will be responded to, with the 2012 administrative draft LOHCP. The Consultant previously conducted a review of the main comments as part of prior work to revise the HCP with the County. Therefore, work on this task will focus on revisiting the comments with the County to verify the appropriate steps to address them through development of the plan chapters as described elsewhere in this scope of work.

**Deliverables:** Electronic copy of memo outlining how the LOHCP will address agency comments (.docx)

### **Points of Agreement**

- The maximum time allocated for Consultant to work on Task 2 is 24 hours. Additional work required can be conducted by Consultant on a time and materials basis of \$100 per hour, pending authorization by the County.

## **TASK 3. REVISE THE HCP CONSERVATION STRATEGY AND ASSOCIATED MITIGATION PROCESS**

This task will focus on developing the LOHCP Potential Biological Impacts/Take Assessment (Chapter 4) and Conservation Strategy (Chapter 5).

**3.1 Chapter 4: Potential Biological Impacts/Take Assessment.** Consultant will prepare Chapter 4 of the LOHCP, which describes the biological impacts of the covered activities, by conducting analyses to quantify impacts to vegetation and describe impacts to the four covered species, and then preparing an internal draft of the chapter. This task will be conducted following finalization of the covered activities (Task 1.2.1), as this information will be used to assess the impacts of the covered activities. Because it is helpful to have the methods used to calculate impacts be the same as those used to substantiate the effectiveness of the conservation strategy and calculate mitigation requirements, tasks to prepare Chapter 4 will be developed in conjunction with those to develop Chapter 5 (Task 3.2).

### **3.1.1 Assess Impacts to Covered Species**

The amount and location of vegetation loss will be used, among other factors, to assess the impacts of the covered activities on the four covered species. Precise elements of the assessment will vary for the

covered species, but will include both quantitative and qualitative components as outlined below.

#### **3.1.1.1 Calculate the acres of vegetation impacted by each covered activity and overall**

This task will estimate the acres of each vegetation type (Chapter 3) that will be impacted by the covered activities using the databases compiled in Task 1.2.1. The approach used to calculate impacts will vary depending on the best available data indicating the location of the activity, and will include five main approaches (Table 1). The impacts will be consistent with the anticipated permit requests (Table 2).

#### **3.1.1.2 Morro Shoulderband Snail**

The take assessment for Morro shoulderband snail will include the following:

1. Quantitative assessment of habitat loss, based on the cross walk between vegetation types and the species habitat (developed with input from the US Fish and Wildlife Service in spring 2011);
2. Quantitative assessment of impacts to critical habitat, as mapped in GIS;
3. Qualitative assessment of the impacts of loss of habitat including impacts to habitat connectivity, impacts of conservation strategy activities, and indirect effects e.g. habitat degradation due to increased recreation).

#### **3.1.1.3 Morro Manzanita**

The take assessment for Morro manzanita will include:

1. Quantitative assessment of habitat loss, based on the cross walk between vegetation types and the species habitat; and
2. Qualitative assessment of the impacts of loss of habitat including impacts from habitat fragmentation, impacts of conservation strategy activities, and indirect effects.

#### **3.1.1.4 Morro Bay kangaroo rat**

As a fully protected species, take of Morro Bay kangaroo rat individuals will be completely avoided through implementation of the avoidance measures in the HCP, including pre-project surveys in suitable habitat. Therefore, the impact assessment for this species will examine the effects of the covered activities on suitable but unoccupied habitat. It will also assess indirect effects of the covered activities.

#### **3.1.1.5 Indian Knob Mountain Balm**

The impact assessment for Indian Knob mountain balm impacts will describe how impacts to individuals will be avoided during implementation of the covered activities, though impacts to suitable but

unoccupied habitat may occur, as might impacts to individuals during implementation of the conservation strategy.

### **3.1.2 Prepare Chapter 4**

Consultant will prepare Chapter 4 through these subtasks.

#### **3.1.2.1 Draft Chapter 4**

Consultant will draft Chapter 4 based on the take assessment (Task 3.1.1). Specific sections will include:

- Introduction
- Mechanisms of the Effects
- Anticipated Effects on Covered Animals
- Anticipated Effects on Covered Plants
- Effects on Critical Habitat
- Cumulative Effects

It will include necessary tables and maps to illustrate the take.

#### **3.1.2.2 Finalize Chapter 4**

Consultant will finalize Chapter 4 based on feedback from the County on the revised draft.

### **3.2 Chapter 5: Conservation Program**

This task will develop the HCP conservation strategy by building on existing planning documents including:

- Maps illustrating the conservation value of habitat for Morro shoulderband snail and Morro manzanita, the two most widespread species within the Plan Area;
- A parcel-specific analysis of the largest vacant parcels, which was designed to inform various aspects of the plan including the mitigation approach and reserve design; and
- Draft Protective measures for the additional listed species, for which take coverage will not be sought or permitted; and

The following tasks will be used to develop the conservation strategy in conjunction with the take assessment and then prepare Chapter 5.

#### **3.2.1 Formulate Key Elements of the Conservation Strategy**

### **3.2.1.1 Develop elements of the mitigation approach**

Consultant will work with County staff to draft the mitigation approach for commercial and residential development based on the plans (general plan/Estero Area Plan) and to ensure compatibility with an anticipated reserve system (Task 3.2.1.2). A mitigation approach will also be developed for other covered activities, such as capital projects and facilities maintenance conducted by the County as well as other entities participating in the HCP.

### **3.2.1.2 Determine the Compensatory Mitigation (i.e. reserve system design)**

Consultant will identify existing protected lands that could be managed as part of the HCP reserve system (i.e. receive funding for habitat management, restoration, and enhancement). Consultant will also work with the County to estimate habitat impacts, land costs, and potential mitigation fee structure, to evaluate the feasibility of using development fees, alone or with other funding, to protect land as mitigation (versus using fees from small lots to restore and manage existing protected land, and having large-lots set aside land that is permanently protected and managed). This task will also include:

- Determine the criteria for inclusion (permanently protected, suitable or at least restorable habitat, not mitigation for another project, etc.)
- Identify suitable land (meet the criteria, willing participating entity, etc.)

### **3.2.2 Prepare Chapter 5**

Consultant will prepare Chapter 5 through three subtasks.

#### **3.2.2.1 Draft Chapter 5**

Chapter 5 will include the following sections to describe the conservation strategy:

- Introduction
- Biological Goals and Objectives
- Avoidance and Minimization Measures
- Avoidance Measures for Other Listed Species
- Mitigation
- Reserve System (Design and Habitat Management)
- Monitoring
- Adaptive Management
- Reporting

It will include necessary tables and maps to illustrate the conservation strategy.

### **3.2.2.2 Revise Chapter 5 based on Feedback from County**

Consultant will revise the initial draft of Chapter 5 based on feedback from the County, and provide a revised draft for County review.

### **3.2.2.3 Finalize Chapter 5**

Consultant will finalize Chapter 5 based on feedback from the County on the revised draft.

### **Points of Agreement**

- County staff will assist with efforts to synthesize available information about the covered activities needed to conduct the analysis and also inform steps to develop appropriate measures for quantifying take and effectiveness of the conservation strategy.
- County staff will assist with efforts to develop the conservation strategy, including finalizing the mitigation approach and developing the compensatory mitigation component (Task 3.2.1).
- The *Adaptive Management and Monitoring Plan (AMMP)*, which was included as an appendix to the 2005 draft LOHCP, will not be revised or updated as part of this project, due to limitations in the time and budget, as well as uncertainty as to which properties will ultimately comprise the reserve system. Instead, relevant components of the AMMP framework will be integrated into Chapter 5, which will also specify that the AMMP will be revised during implementation of the HCP. This approach is consistent with recently-approved regional HCPs (e.g. Western Riverside County Multi-Species Conservation Plan (an HCP/NCCP), Coachella Valley HCP/NCCP, and East Contra Costa County HCP/NCCP).
- The maximum time allocated for Consultant to work on Task 3 is 420 hours. Additional time required to prepare Chapters 4-5 can be completed by Consultant on a time and materials basis of \$100 per hour, pending authorization by the County.

**Deliverables:** Electronic copy of Chapters 4 and 5 of the LOHCP (.docx)

## **TASK 4. REVISE THE PLAN IMPLEMENTATION, COST ESTIMATES, AND FUNDING SECTIONS**

In this task, the Consultant will develop two chapters of the LOHCP: Plan Implementation (Chapter 6) and Funding (Chapter 7).

#### **4.1 Chapter 6: Plan Implementation**

Consultant will prepare Chapter 6, which outlines how the plan will be implemented, through two main tasks.

##### **4.1.1 Design Key Aspects of Plan Implementation**

In this task, the Consultant will work with the County to devise key aspects of plan implementation, including:

1. Determining whether the County will function as the Preserve Manager, or if not, identifying another entity (or creation of a new entity) to serve that role;
2. Evaluating potential legal requirements for protection of set asides on privately-held land, be it through conservation easements, deed restrictions, or other recorded agreements;
3. Determining the Coastal Commission's role based on conservations with them and/or language from other HCPs in which they have played a role during implementation, and developing draft language to describe it;
4. Reviewing and revising, as needed, the sequence of events for issuance of certificates of inclusion by the County, based on the County's current processes and policies; and
5. Evaluating whether text describing the consequences of a series of changed and unforeseen circumstances, including newly listed species, delisting, etc., that currently pertain only to the 10(a)1(b) permit and USFWS action might similarly apply to the 2081 permit (if there indeed will be one) and/or DFG oversight or actions.

To the extent practical, work to evaluate these or other considerations related to implementation concurrently with development of other key elements of the plan (conservation strategy and mitigation approach) may help facilitate timely revision of this section.

##### **4.1.2 Prepare Chapter 6**

Consultant will prepare Chapter 6 through three subtasks.

###### **4.1.2.1 Draft Chapter 6**

Based on the planning work (Task 3.1) and relevant information from the 2005 Admin Draft, Consultant will draft Chapter 6, which is anticipated to include the following sections:

- Overview
- Responsibility for Plan Implementation
- Preserve Implementation and Land Acquisition
- Local Regulatory Implementation
- Reviewing Applications for Take Authorization
- Schedule
- Implementing Agreement (IA)
- Changed Circumstances
- Unforeseen Circumstances
- Plan Amendments
- Suspension or Revocation of Permits
- Other Measures as Required by the Director

#### **4.1.2.2 Revise Chapter 6 based on Feedback from County**

Consultant will revise the initial draft of Chapter 6 based on feedback from the County, and provide a revised draft for County review.

#### **4.1.3 Finalize Chapter 6**

Consultant will finalize Chapter 6 based on feedback from the County on the revised draft.

### **4.2 Funding**

In this task, consultant will collaborate with the Economic and Planning Systems (EPS) to determine the costs of implementing the plan and how the plan will be funded, and then prepare Chapter 7 (Funding) of the Administrative Draft LOHCP.

#### **4.2.1 Develop Key Components of the Funding Plan**

In this task, Consultant will identify initial, important aspects of the funding approach, which will be factored into development of other aspects of the plan, including the mitigation approach and thus take assessment. The funding details will then be developed based on the conservation strategy (Chapter 5), with adjustments between the two likely necessary to ensure feasibility of the plan.

Specific questions that will be addressed during this initial task include:

1. Will the plan require funds to acquire new land in fee title, or will it just accept easements on lands that are partially developed as part of the covered activities, and manage and restore those as well as existing protected lands?

2. Will large landowners that set aside habitat as part of their development also be responsible for funding land management and monitoring (as is the case in many individual HCPs), or would the mitigation fees from the small lot developments fund reserve system-wide management and monitoring?

3. What are the approximate per acre costs for management and monitoring? Restoration? Should these be estimated using a PAR?

4. How will fees collected be used to pay up-front costs while at the same time establishing an endowment necessary to manage and monitor the HCP lands in perpetuity?

5. In addition to the habitat conservation plan (i.e. mitigation) fee, what other sources of funding might be available?

#### **4.2.2 Conduct Financial Analyses**

Consultant will assist EPS with analyses to estimate the costs for plan implementation, including habitat protection, initial financial requirements, habitat management, monitoring, and reporting. Analyses will also be conducted to estimate funding available, including through the habitat conservation fees (i.e. mitigation fees), and other potential funding sources (e.g. Section 6 HCP acquisition funds). This task will include work to compile the data necessary to calculate the costs and funds available, as well as work to develop a series of simple scenarios.

#### **4.2.3 Prepare Chapter 7: Funding**

Consultant will work with EPS to prepare Chapter 7 through three subtasks.

##### **4.2.3.1 Draft Chapter 7**

Chapter 7 will be drafted based the results of planning to identify key aspects of the funding plan (Task 4.2.1) analyses of costs and funding to implement the HCP (Task 3.2.2). Chapter content will be determined following these analyses, but will likely include the following:

- Costs of HCP Implementation
  - Introduction

- Estimated Costs of Plan Implementation
  - Habitat Acquisition
  - Initial Financial Requirements
  - Habitat Management, Biological Monitoring, and Program Administration
  - Total Funding Required for Acquisition, Restoration and Management
- Funding Sources
  - Habitat Conservation Fee Calculation
  - Phasing of Mitigation with Respect to Development
  - Other Potential Funding Sources
- Funding Mechanism and Management

#### **4.2.3.2 Revise Chapter 7 based on Feedback from County**

Consultant will revise the initial draft of Chapter 7 based on feedback from the County, and provide a revised draft for County review.

#### **4.2.3.3 Finalize Chapter 7**

Consultant will finalize Chapter 7 based on feedback from the County on the revised draft.

***Deliverables:*** Electronic copy chapters 6 and 7 of the LOHCP

#### **Points of Agreement**

- County staff will assist efforts to identify key aspects of the implementation of the LOHCP (Task 4.1.1); Consultant will prepare the Plan Implementation chapter based on decisions made with the County.
- Consultant will contract with EPS or another County-approved financial consultant to assist County staff with efforts to identify key aspects of the funding plan (Task 4.2.1), help synthesize the data necessary to inform analyses of costs of potential funding (Task 4.2.2); and conduct the analyses; EPS will prepare the Funding chapter based on input from Consultant and the County.
- The maximum time allocated for Consultant to work on Task 3 is 392 hours. Additional time required to prepare Chapters 4-5 can be completed by Consultant on a time and materials basis of \$100 per hour following authorization by the County.
- The maximum fee allocated to retain a financial consultant for additional analyses is \$37,000. Services exceeding this fee can be provided on a time and materials basis, pending authorization by the County.

## **TASK 5. AID PREPARATION OF THE CULTURAL RESOURCES REPORT.**

Consultant will assist the County, its EIR/EIS consultant for the LOHCP, and the US Fish and Wildlife Service with their work to prepare the cultural resources report. Consultant's work will include providing relevant information and maps illustrating the spatial distribution of the covered activities and anticipated impacts to vegetation and other land use conditions.

**Deliverables:** Electronic copy of a cultural resources report (\*.docx and/or \*.pdf) if one is indeed produced. Confidential records may need to be excluded, as required to comply with the State Historic Preservation Act.

### **Points of Agreement**

- Consultant will work with the Service to identify the precise scope of this task. It is assumed that cultural resources experts within the Service will take the lead in preparing the report, and that the Consultant will provide limited technical input about the plan area (e.g. land use).
- As needed, Consultant will retain the services of a cultural resources expert to assess the cultural resources in the LOHCP area and aid development of the report. The assessment will rely on research of existing records and will not involve site investigations.
- The maximum time allocated for Consultant to work on Task 5 is 24 hours. Additional time required by Consultant to facilitate preparation of the cultural resources report can be completed by Consultant on a time and materials basis of \$100 per hour following authorization by the County.
- No additional fee will be required to obtain assistance of a cultural resources consultant or for work provided by the EIR/EIS consultant, which will be covered under their separate contract to the County.

## **TASK 6: COMPLETE THE DRAFT IMPLEMENTING AGREEMENT**

Consultant will assist County staff, including County Counsel, with development of a draft implementing Agreement (IA): a legal document that will describe the financial obligations and roles and responsibilities of the various entities that will be involved in implementing the HCP. The IA will be based upon the USFWS IA template and the 2005 Admin Draft LOHCP IA. Consultant will aid counsel

in developing the IA by providing necessary information about the plan's implementation contained in the plan (e.g. Chapters 5-7).

**Deliverables:** Electronic copy of a draft implementing agreement, developed by County Counsel (docx.)

### **Points of Agreement**

- County Counsel will lead work to develop the implementing agreement, which is a legal document. Consultant will assist County Counsel by providing necessary information about the plan and its implementation, the most recent template for IAs provided by the Service, and example IAs from recently permitted regional HCPs that are similar in structure to the LOHCP.
- The maximum time allocated for Consultant to work on Task 6 is 24 hours. Additional time required by Consultant to facilitate preparation of the implementing agreement can be completed by Consultant on a time and materials basis of \$100 per hour following authorization by the County.

## **TASK 7. FINALIZE AN ADMINISTRATIVE DRAFT HCP, DRAFT IMPLEMENTING AGREEMENT, AND CULTURAL RESOURCES REPORT**

### **7.1 Prepare Additional HCP Content**

In this task, Consultant will prepare remaining content for the HCP.

#### **7.1.1 Chapter 8: Alternatives to Take**

Consultant will prepare Chapter 8 of the LOHCP, which will describe the alternatives to the taking proposed by the HCP. This chapter will be prepared following completion of the take assessment and conservation strategy, which will be described as part of the various alternatives to the proposed project.

##### **7.1.1.1 Identify Suite of Alternatives**

This task will identify the suite of alternatives that will be addressed in the chapter. Per the guidance in the *Endangered Species Consultation Handbook* (U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998), the section will contain the proposed project and two alternatives:

1. an alternative that would reduce take below levels anticipated for the proposed project, and

2. an alternative that would avoid take and hence not require a permit from USFWS.

The details of these alternatives will be developed through initial planning.

#### **7.1.1.2 Prepare Chapter 8**

Chapter 8 will be prepared through two subtasks.

#### **7.1.1.3 Revise Chapter 8**

Chapter 8 will be revised based on the outcome of planning on alternatives (Task 8.1) and the outline in the needs assessment, which includes the following sections:

- Introduction
- Alternative 1: No Take Alternative
- Alternative 2: Reduced Take
- Alternative 3: Proposed Action

#### **7.1.1.4 Finalize Chapter 8**

Consultant will finalize Chapter 8 based on feedback from the County on the revised draft.

#### **7.1.2 Executive Summary**

In this task, Consultant will prepare an executive summary following completion of the other components of the administrative draft LOHCP. The executive summary will clearly state the purpose of the plan, and then summarize its main components: covered activities, take assessment, conservation strategy, and key aspects of implementation including funding. It should also clearly include all of the requisite information as specified in the template:

- general location of the project area
- size of the incidental take permit area in acres including the project and any mitigation areas
- the desired term of the incidental take permit (e.g., number of years permit will be in effect)
- a brief description of the project/activity (e.g., construction of 15 houses, timber harvest on 500 acres, etc.)
- the species to be covered by the HCP
- a brief description of the measures that will be used to minimize and mitigate the impacts of the project.
- A summary of the effects on listed species (e.g. the permit area includes xx acres. Within this area, xx acres of Morro manzanita habitat will be impacted, xx acres of Morro manzanita habitat will be impacted, etc.)

### **7.1.3 Literature Cited**

Consultant will prepare a list of the references for the Administrative Draft LOHCP.

### **7.1.4 Appendices**

Consultant will revise the three draft appendices:

- Appendix A: Species Summaries—a table listing the relevant information for rare and listed species in the region, which was evaluated in selecting the covered species
- Appendix B: Covered species profiles—detailed accounts of the covered species
- Appendix C: Additional Listed species—detailed accounts of the other listed species in the region, for which take coverage is not being requested

In addition, Consultant will develop a draft application and certificate of inclusion for plan participants.

## **7.2 Prepare Administrative Draft LOHCP Document for Review**

This task includes work to assemble the final content of the administrative draft LOHCP into electronic files for the County to distribute to the agencies. It includes preparing a single editable document (i.e. \*.docx) and a portable document file (\*.pdf). Formatting will include:

- Preparation of headers and footers
- Development of a table of contents, list of tables, and list of figures
- Development of bookmarks and other features which will enable navigation through the document

A draft will be provided to the County for internal review. Comments from County staff will be integrated into revised packet submitted to the US Fish and Wildlife Service.

**Deliverables:** draft and final electronic copies of the admin draft LOHCP package, including the LOHCP, cultural resources report, and IA (\*.docx and \*.pdf.) provided on a CD-ROM or DVD Rom

### **Points of Agreement**

- The administrative draft LOHCP will have modest production value, as it is designed for agency review rather than public distribution.
- County staff will review and provide comments on the draft LOHCP packet by November 12, 2012.
- County staff comments will not require extensive revisions, as staff will have already reviewed

the majority of the content previously.

- The maximum time allocated for Consultant to work on Task 7 is 212 hours. Additional time required by Consultant to facilitate final preparation of the admin draft LOHCP packet for submission to the agencies can be completed by JMc on a time and materials basis of \$100 per hour following authorization by the County.

## **TASK 8. PROJECT MEETINGS AND ADMINISTRATION**

This task includes work that Consultant will perform to manage the project and ensure it is completed on time and with the allocated funding.

### **8.1 Attend Meetings**

Relatively frequent meetings (e.g. 7/month) between Consultant and County staff will be needed to complete planning tasks and prepare the administrative draft LOHCP. Occasional meetings with agency staff may also help resolve issues. Meetings will largely be conducted via teleconference; however, the budget assumes Consultant will make up to twelve (12) trips to San Luis Obispo, Los Osos, and/or EPS office in Berkeley, to participate in meetings, site visits, and/or working planning sessions over the course of the project.

### **8.2 Administer Project**

This task includes various work to administer the project, including preparation of monthly invoices and progress reports, contracting with outside experts (financial and/or cultural resources consultants), and various communications and coordination with County staff. To keep the project on track for completion by November 2012, Consultant will maintain regular communications with the County project lead, circulate to County staff weekly e-mail updates outlining the status of various aspects of the project, including items that require County guidance, review, or technical assistance.

***Deliverables:*** meeting agendas and summaries, as desired by the County

### **Points of Agreement**

- The maximum time allocated for Consultant to work on Task 8 is 320 hours. Additional time required by Consultant to attend meetings or administer the project can be completed by Consultant on a time and materials basis of \$100 per hour following authorization by the County.