AMENDMENT NO. 2 TO
AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES

This Amendment No. 2 to Agreement for Professional Engineering Services ("AMENDMENT") is entered into by and between the SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (DISTRICT) and HDR Engineering, Inc. (ENGINEER), (collectively, PARTIES).

WHEREAS, on or about May 5, 2015, the PARTIES entered into an Agreement for Professional Engineering Services ("AGREEMENT"), a copy of which is attached hereto as Attachment 1 and incorporated herein by this reference, whereby ENGINEER is to provide certain services in connection with an Intertie between County Service Area 23, Atascadero Mutual Water Company and Garden Farms Community Water District water systems ("PROJECT"); and

WHEREAS, on _____, the PARTIES entered into Amendment No. 1 to the AGREEMENT increasing the not to exceed total AGREEMENT amount by $15,400; and

WHEREAS, the DISTRICT has a need for additional services related to the PROJECT, namely additional construction related services, including meetings, inspections and addressing field related issues in order to maintain the PROJECT on-schedule; and

WHEREAS, as part of its approval of the AGREEMENT, the Board of Supervisors authorized the County Public Works Director to sign amendments to the AGREEMENT increasing the not to exceed total AGREEMENT amount by $15,400.

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

1. Paragraph (1) of Section A ("COMPENSATION") of ARTICLE 3 ("PAYMENT FOR SERVICES") of the AGREEMENT is hereby amended and restated in its entirety and shall hereafter be and read as follows:

DISTRICT shall pay to ENGINEER as compensation in full for all Work required by this Agreement a sum not to exceed the total Agreement amount of one hundred seventy eight thousand nine hundred eighty eight dollars ($178,988).

2. Exhibit A to the AGREEMENT is hereby amended to include the scope of work set forth in the attached Attachment 2 incorporated herein by this reference.

3. Exhibit B to the AGREEMENT is hereby amended to include the fee proposal set forth in the attached Attachment 3 incorporated herein by this reference. The total fee increase under this AMENDMENT is nine thousand six hundred dollars ($9,600).

4. This AMENDMENT shall be effective as of the day it is fully executed by both PARTIES.

5. Except as specifically amended herein, all of the terms, provisions, requirements and specifications contained within the AGREEMENT shall remain in full force and effect.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS THEREOF,

SAN LUIS OBISPO COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

Date: _____

By: _____
Chairperson of the Board

ATTEST

Date: _____

_____
County Clerk and Ex-Officio Clerk of the Board of Supervisors,
County of San Luis Obispo

ENGINEER

Date: March 3, 2016

By: _____ Holly Kennedy

Title: Vice President

APPROVED AS TO FORM AND LEGAL EFFECT:
RITA L. NEAL
COUNTY COUNSEL

By: _____
Deputy County Counsel

Date: FEB 29, 2016

ATTACHMENT 1
Agreement for Professional Engineering Services

Jeff Lee original

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

This Agreement is entered into 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 HDR Engineering, Inc., a corporation whose address is 2121 N. California Blvd, Suite 475, Walnut Creek, CA 94596, herein called "ENGINEER." This Agreement shall be effective as of the date it is fully executed by the parties.

The DISTRICT department responsible for administering this Agreement 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 ("Director").

WHEREAS, the DISTRICT has need for special services and advice with respect to the work described herein for the Intertie between CSA 23 (Santa Margarita)/Atascadero Mutual Water Company/Garden Farms Community Water District" (hereafter, the "Project"); and

WHEREAS, the ENGINEER represents 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 ENGINEER shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the ENGINEER's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. ENGINEER represents that said Work encompasses all services, equipment, and materials necessary for the ENGINEER's to provide construction management, engineering, inspection, surveying, and material testing services during construction of the Project. All Work shall be performed using the care and skill ordinarily

used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality.

ARTICLE 2. TIME FOR COMPLETION OF WORK. No Work shall be commenced prior to the ENGINEER's receipt of the DISTRICT's Notice to Proceed. All Work shall be completed no later than December 31, 2015, provided, however, that extensions of time may be granted in writing by the Director of Public Works of San Luis Obispo County, 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 Director of Public Works of San Luis Obispo County to be good and sufficient cause for such extensions.

ARTICLE 3. PAYMENT FOR SERVICES.

A. **COMPENSATION.**

1. DISTRICT shall pay to ENGINEER as compensation in full for all Work required by this Agreement a sum not to exceed the total Agreement amount of $153,988.00 (one hundred fifty three thousand, nine hundred eighty-eight hundred dollars).

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

B. **REPORTS.** The ENGINEER shall submit to the DISTRICT, on a monthly basis, a detailed statement of all services performed and all Work accomplished under this Agreement since the ENGINEER'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 ENGINEER'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 ENGINEER 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 ENGINEER did not include said Work in the attached Scope of Work.

C. **INVOICES.** Billing invoices shall be based upon the ENGINEER'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 Agreement number and project title. Final invoice must contain the final cost and all credits due the DISTRICT including any equipment purchased under the provisions of Article 24 Equipment Purchase of this Agreement.

D. **ENGINEER'S ASSIGNED PERSONNEL.** All Work performed under this Agreement shall be performed by the ENGINEER's personnel indentified 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 ENGINEER shall maintain accounting records in accordance with generally accepted accounting principles. The ENGINEER shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The ENGINEER 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 ENGINEER shall record costs in a cost accounting system which clearly identifies the source of all costs. Agreement 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 ENGINEER'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 ENGINEER shall safeguard the accounting records and supporting documentation.

D. The ENGINEER 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 ENGINEER's accounting records audited, at the ENGINEER'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. (INTENTIONALLY OMITTED)

ARTICLE 6. NON-ASSIGNMENT OF AGREEMENT. Inasmuch as this Agreement is intended to secure the specialized services of the ENGINEER, the ENGINEER 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 7. INSURANCE. The ENGINEER, 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 four (4) years following completion of the ENGINEER's Work under this Agreement and acceptance by the DISTRICT. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the DISTRICT, its officers, employees, volunteers, and agents. For purposes of the insurance policies required hereunder, the term "DISTRICT" shall include officers, employees, volunteers, and agents of the San Luis Obispo County Flood Control and Water Conservation District, California, individually or collectively.

A. **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 DISTRICT:

1. **COMMERCIAL GENERAL LIABILITY ("CGL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG0001) with policy limits not less than the following:

   $1,000,000 each occurrence;

   $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 the ENGINEER's Work under this Agreement.

2. **BUSINESS AUTOMOBILE POLICY ("BAP").** Policy shall include coverage at least as broad as set forth in Insurance Services Office Business Automobile Liability Coverage, Code 1 "Any Auto" (Form CA 0001). This policy shall include a minimum (combined single limit) of not less than One-million ($1,000,000) dollars for each occurrence, for bodily injury and/or property damage. Such policy shall be applicable to vehicles used in pursuit of any of the activities associated with this Agreement. The ENGINEER shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of DISTRICT.

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

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

   b. 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.

4. **PROFESSIONAL LIABILITY ("PL").** This policy shall cover damages, liabilities, and costs incurred as a result of the ENGINEER'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 three (3) years thereafter with respect to incidents which occur during the performance of this Agreement). The ENGINEER shall notify the DISTRICT if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

B. **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 the ENGINEER and approved by the DISTRICT before Work is begun pursuant to this Agreement. At the option of the DISTRICT, the ENGINEER shall either reduce or eliminate such deductibles or self-insured retentions as respect the DISTRICT, its officers, employees, volunteers, and agents, or shall provide a financial guarantee satisfactory to the DISTRICT guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

C. **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:

1. A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAP);

2. The San Luis Obispo County Flood Control and Water Conservation District, its officers, employees, volunteers, and agents are hereby added as additional insureds with respect to all liabilities arising out of the ENGINEER's performance of Work under this Agreement (CGL & BAP);

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

4. 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) calendar days prior to the effective date of such reduction or cancellation to DISTRICT at the address set forth below (All Policies);

5. The ENGINEER and its insurers shall agree to waive all rights of subrogation against the DISTRICT, its officers, employees, volunteers, and agents for any loss arising under this Agreement (WC); and

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

D. **ABSENCE OF INSURANCE COVERAGE.** The DISTRICT may direct the ENGINEER to immediately cease all activities with respect to this Agreement if it determines that the ENGINEER 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 the ENGINEER's delay and expense. At the DISTRICT discretion, under conditions of lapse, the DISTRICT may purchase appropriate insurance and charge all costs related to such policy to the ENGINEER.

E. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION.** Prior to commencement of Work under this Agreement, and annually thereafter for the term of this Agreement, the ENGINEER, or each of the ENGINEER's insurance brokers or companies, shall provide the DISTRICT 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 the ENGINEER 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:

San Luis Obispo County Public Works Department
Attn: Jeff Lee
County Government Center, Room 206
San Luis Obispo CA 93408

ARTICLE 8. INDEMNIFICATION.

A. The ENGINEER 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 ENGINEER. The parties

agree that, in addition to the ENGINEER's general and professional duties of care, the ENGINEER has a duty of care to act in accordance with the terms of this Agreement. In addition to whatever other acts or omissions of ENGINEER that constitute negligence, recklessness, or willful misconduct under applicable law, the parties acknowledge that any act or omission of the ENGINEER that causes any damages or monetary losses, and constitutes a breach of any duty under, or pursuant to, this Agreement, shall at a minimum constitute negligence (and may constitute recklessness or willful conduct if so warranted by the facts).

B. 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 Agreement, "ENGINEER" shall include the ENGINEER, and/or its agents, employees, subcontractors, or other independent contractors hired by, or working under, the ENGINEER.

C. 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 Agreement 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 Agreement shall be construed to require the ENGINEER to indemnify the DISTRICT against any responsibility or liability in contravention of Civil Code 2782.8.

ARTICLE 9. <u>ENGINEER'S RESPONSIBILITY FOR ITS WORK.</u>

A. The ENGINEER has been hired by the DISTRICT because of the ENGINEER's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The ENGINEER 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 ENGINEER's specialized expertise and shall not relieve the ENGINEER 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 ENGINEER in performing any Work under this Agreement.

B. All information which the ENGINEER receives from the DISTRICT should be independently verified by the ENGINEER. The ENGINEER 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 ENGINEER without the ENGINEER's independent verification. In such event, the ENGINEER is still obliged to promptly notify the DISTRICT whenever the ENGINEER becomes aware of any information that is inconsistent with any information which the DISTRICT has stated may be relied upon by the ENGINEER.

C. Pursuant to the provisions of this Article, the ENGINEER is responsible for all Work under this Agreement, including the Work performed by any subcontractors or any other independent contractors which ENGINEER hires or contracts with regarding the Work.

D. The ENGINEER accepts the relationship of trust and confidence established with DISTRICT by this Agreement, and covenants with the DISTRICT to furnish the ENGINEER's reasonable skill and judgment in furthering the interests of the DISTRICT. The ENGINEER shall use its best efforts to perform in an expeditious and economical manner consistent with the interests of the DISTRICT.

E. If ENGINEER ever has reason to believe that any of its general or professional duties of care conflict with any requirements of this Agreement, the ENGINEER shall promptly so notify the DISTRICT in writing.

ARTICLE 10. <u>INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS.</u> The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated in this Agreement includes compensation for the risks transferred to the ENGINEER by the indemnification and insurance clauses.

ARTICLE 11. ENGINEER'S ENDORSEMENT ON REPORTS, ETC. The ENGINEER 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 12. DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP. All documents, information, and materials of any and every type prepared by the ENGINEER (or any subcontractor) pursuant to this Agreement 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 ENGINEER (or any subcontractor) in performing Work under this Agreement, whether completed or in process. The ENGINEER 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 Agreement.

ARTICLE 13. TERMINATION OF AGREEMENT WITHOUT CAUSE. The DISTRICT may terminate this Agreement at any time by giving the ENGINEER 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 ENGINEER shall be entitled to no further compensation or payment of any type from the DISTRICT.

ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE. If the ENGINEER fails to perform the ENGINEER's duties to the satisfaction of the DISTRICT; or if the ENGINEER fails to fulfill in a timely and professional manner the ENGINEER's obligations under this Agreement; or if the ENGINEER violates any of the terms or provisions of this Agreement; or if the ENGINEER, or the ENGINEER'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 Agreement effective immediately upon the DISTRICT giving written notice thereof to the

ENGINEER. 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 ENGINEER shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the DISTRICT's termination of the Agreement for cause is defective for any reason, including but not limited to the DISTRICT's reliance on erroneous facts concerning the ENGINEER's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the DISTRICT's written notice of termination for cause to the ENGINEER, and the DISTRICT's maximum liability shall not exceed the amount payable to the ENGINEER under Article 13 above.

ARTICLE 15. <u>COMPLIANCE WITH LAWS.</u> The ENGINEER shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the Work of this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with the California Labor Code. The ENGINEER acknowledges that labor performed on site to support any Work required under this Agreement is a public work within the meaning of Labor Code Section 1720. The ENGINEER will comply, or cause its subconsultant(s) to comply, with the provisions of Labor Code Section 1774.

ARTICLE 16. <u>COVENANT AGAINST CONTINGENT FEES.</u> The ENGINEER represents that it has not employed or retained any company or person, other than a bona fide employee working for the ENGINEER, to solicit or secure this Agreement, 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 Agreement. For breach or violation of this representation, the DISTRICT shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 17. DISPUTES & CLAIMS.

A. **EXCLUSIVE REMEDY.** Any demand or assertion by ENGINEER 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 17. For purposes of this Article 17, 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 Agreement, an action or inaction of ENGINEER or DISTRICT, or any other event, issue, or circumstance. If the Disputed Work relates to any Work performed by any subcontractors or subconsultants hired by ENGINEER in compliance with the provisions of this Agreement, any such Claims must also be processed by ENGINEER in accordance with the provisions of this Article 17.

The administration of a Claim as provided in this Article 17, including ENGINEER's performance of its duties and obligations specified in this Article 17 is ENGINEER's sole and exclusive remedy for disputes of all types pertaining to the payment of money, extension of time, the adjustment or interpretation of the Agreement or other contractual or tort relief arising from Agreement. Compliance with the procedures described in this Article 17 is a condition precedent to the right to file a Government Code Claim, commence litigation, or commence any other legal action. ENGINEER waives the right to pursue or submit any Claims not processed in accordance with Article 17.

B. **MANDATORY PROCEDURE AND CONDITION PRECEDENT**. The requirements set forth in this Article 17 are mandatory, and ENGINEER shall strictly comply with these requirements. Strict compliance with these requirements is a condition precedent to ENGINEER's ability to exercise any rights or remedies that may otherwise be available to ENGINEER under the Agreement or any applicable Laws or Regulations relating to the Claim. No action or inaction by ENGINEER and/or DISTRICT to try to resolve any Claim(s) through agreement, amendment, mediation, settlement, or any other means shall excuse ENGINEER from strictly complying with the requirements of this Article 17. ENGINEER shall bear all costs incurred in complying with the provisions of this Article 17.

C. **NOTICE OF POTENTIAL CLAIM.** The ENGINEER shall not be entitled to any additional compensation and/or time under this Agreement for any act, or failure to act, by the DISTRICT, or for the happening of any event, thing, occurrence, or other cause, unless the ENGINEER has provided the DISTRICT's Public Works Director with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the ENGINEER 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 ENGINEER shall have performed any Disputed Work. It is the intention of this paragraph that differences between the parties relating to this Agreement 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 ENGINEER 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 Director of Public Works.

D. **NOTICE OF FINAL CLAIM** As soon as reasonably practical upon completion of the Disputed Work, and no later than 30 days after completion of the Disputed Work, ENGINEER 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 the Agreement 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. **ENGINEER'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 ENGINEER from full and timely performance in accordance with the terms of this Agreement. ENGINEER shall promptly respond to any requests for further information or documentation regarding ENGINEER's potential or final Claim. If ENGINEER fails to provide an adequate written response to DISTRICT within 15 days of DISTRICT's written request for such further documentation or information, ENGINEER 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 ENGINEER more than 15 days to comply with, the written request shall provide the ENGINEER 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 60 days of receipt thereof Claim, or may request, in writing, within 45 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 ENGINEER. ENGINEER 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 ENGINEER 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

ENGINEER within 30 days after receipt of such further information and documentation, or within a period of time no greater than that taken by the ENGINEER in producing the additional information or documentation, whichever is greater. ENGINEER may request an informal conference to meet and confer for settlement of the issues in dispute, but ENGINEER shall have no right to demand such a conference. Neither the requesting of any such conference by ENGINEER 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 ENGINEER 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 Public Works Director or his authorized representative. In the event a valid written decision is not provided to ENGINEER within the time prescribed in this Article 17, 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 17, shall constitute the date of the final decision on the Claim under the provisions of this Article 17. 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 17 procedures, ENGINEER 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 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 ENGINEER 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 18. ENGINEER IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, the ENGINEER shall be, and is, an independent contractor, and is not an agent or employee of the DISTRICT. The ENGINEER has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting the ENGINEER in the performance of the services rendered hereunder. The ENGINEER shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

ARTICLE 19. ENTIRE AGREEMENT AND MODIFICATION. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. The ENGINEER 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 parties. Any changes increasing the ENGINEER's compensation and/or benefits must be approved by the DISTRICT's Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the DISTRICT. The ENGINEER specifically acknowledges that in entering into and executing this Agreement, the ENGINEER relies solely upon the provisions contained in this Agreement and no others. To the extent there is any inconsistency between the text in the body of this Agreement and anything in any of the Exhibits attached hereto, the text in the body of this Agreement shall prevail.

ARTICLE 20. ENFORCEABILITY. If any term, covenant, condition, or provision of this Agreement 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 21. REPRESENTATION OF ENGINEER. The ENGINEER represents that the ENGINEER and each of the personnel employed or otherwise retained by the ENGINEER for Work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 22. SUBCONTRACTORS.

A. Other than Work designated in Exhibits A and B to be performed by other persons or entities, the ENGINEER shall perform the Work contemplated with resources available within its own organization and no portion of the Work shall be subcontracted without written authorization by the DISTRICT. In the event the DISTRICT provides written authorization for Work to be performed by a subcontractor, the use of the words "subcontractor" and "subcontract" in this Article shall refer to such authorized subcontracting to a subcontractor of the first tier or any other tier. The terms "subcontract" and "subcontractor" include any and all contracts or arrangements by which ENGINEER hires or enters into a contract with any subconsultants regarding any Work.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the DISTRICT and any subcontractors, and no subcontract shall relieve the ENGINEER of its responsibilities and obligations hereunder. The ENGINEER agrees to be as fully responsible to the DISTRICT for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the ENGINEER. The ENGINEER's obligation to pay its subcontractors is an independent obligation from the DISTRICT's obligation to make payments to the ENGINEER.

C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor 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 subcontractor in place of the word "ENGINEER" where it appears in this Article.

D. Any substitution of subcontractors must be approved in writing by the DISTRICT's Project Manager in advance of assigning Work to a substitute subcontractor.

ARTICLE 23. EQUIPMENT PURCHASE.

A. Prior authorization in writing, by the DISTRICT's Project Manager, shall be required before the ENGINEER enters into any unbudgeted purchase order or subcontract exceeding $5,000 for equipment. The ENGINEER shall provide an evaluation of the necessity or desirability of incurring such costs and three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

B. Any equipment purchased as a result of this Agreement is subject to the following: "The ENGINEER 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 the Agreement, or if the Agreement is terminated, the ENGINEER 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 ENGINEER elects to keep the equipment, fair market value shall be determined at the ENGINEER'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 ENGINEER, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the DISTRICT."

ARTICLE 24. APPLICABLE LAW AND VENUE. This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement 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 Agreement.

ARTICLE 25. 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:

Mr. Wade Horton, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 206
San Luis Obispo, CA 93408

And to the ENGINEER:

James Brantley, P.E.
HDR Engineering, Inc.
2121 N. California Blvd. Suite 475
Walnut Creek, CA. 94596

ARTICLE 26. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS. Pursuant to Government Code section 7550, if the total cost of this Agreement is over $5,000, the ENGINEER 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 Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

ARTICLE 27. 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 ENGINEER in order to carry out this Agreement, shall be protected by the ENGINEER from unauthorized use and disclosure, and shall not be made available to any individual or organization by the ENGINEER 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 Agreement, shall not authorize the ENGINEER 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 ENGINEER to any entity other than the DISTRICT.

ARTICLE 28. RESTRICTIVE COVENANT. The ENGINEER agrees that it will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the DISTRICT, unless and until the DISTRICT waives this restriction.

ARTICLE 29. QUALITY CONTROL AND QUALITY ASSURANCE. The ENGINEER 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 30. CLAIMS FILED BY DISTRICT'S CONSTRUCTION CONTRACTOR.

A. If claims are filed against the DISTRICT by the DISTRICT's construction contractor or any other third party that relates in any way to any subject, plans, designs, or other Work within the ENGINEER's Scope of Work under this Agreement, and additional information or assistance from the ENGINEER's personnel is requested by the DISTRICT in order to evaluate or defend against such claims, the ENGINEER agrees to cooperate with and provide timely response to any reasonable requests for information submitted to the ENGINEER 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 ENGINEER, the ENGINEER will only be compensated for any clerical costs associated with providing the DISTRICT the requested documents or factual information.

B. The ENGINEER's personnel that the DISTRICT considers essential to assist in defending against such claims will be made available for consultation with the DISTRICT upon reasonable notice from the DISTRICT. In the event the expert opinions of the ENGINEER'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 ENGINEER's personnel services under this Agreement. In the event the testimonies of

any of the ENGINEER's personnel are sought by another party, the ENGINEER reserves the right to charge other party a different rate for deposition or trial testimony.

C. Services of the ENGINEER's personnel in connection with the DISTRICT's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this agreement in order to finally resolve the claims.

D. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor 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 subcontractor in place of the word "ENGINEER" where it appears in this Article.

ARTICLE 31. <u>CONFLICT OF INTEREST.</u>

A. The ENGINEER shall disclose any financial, business, or other relationship with the DISTRICT that may be affected by the outcome of this Agreement, or any ensuing DISTRICT construction project. The ENGINEER shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing DISTRICT construction project, which will follow.

B. The ENGINEER 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 Agreement.

C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor 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 subcontractor in place of the word "ENGINEER" where it appears in this Article.

D. The ENGINEER hereby certifies that neither the ENGINEER, nor any firm affiliated with the ENGINEER will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. 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 subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or

on any contract to provide construction inspection for any construction project resulting from this Agreement.

ARTICLE 32. <u>COMPLIANCE WITH FUNDING AGREEMENT, GRANT AGREEMENT AND USDA AGREEMENT.</u> ENGINEER acknowledges and agrees that this Agreement is subject to the obligations and limitations imposed on DISTRICT by Grant Agreement, Funding Agreement and USDA Agreement received for the Project. ENGINEER agrees to fully execute and be bound by the provisions of Exhibit D "USDA-Rural Development Emergency Community Water Assistance Grant Engineering Agreement" and provisions of the State of California Department of Water Resources (DWR) Integrated Regional Water Management (IRWM) Proposition 84 drought funding and agrees to take all actions necessary for the DISTRICT to satisfy its obligations thereunder, including entering into any amendments to this Agreement deemed necessary by the DISTRICT. ENGINEER further agrees that the DISTRICT has the right to enter into amendments to the Funding Agreement and USDA Agreement and shall not be restricted or impaired, in any way, by this Agreement. Without limiting the foregoing or any other terms herein, ENGINEER expressly agrees that the following provisions shall become a part of this Agreement:

A. ENGINEER shall maintain books, records and other documents pertinent to the Work performed hereunder in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the DISTRICT, DWR and USDA at any and all reasonable times.

B. All records of ENGINEER in connection with the performance of this Agreement shall be preserved for at least three (3) years after project completion or final billing under the Grant Agreement, whichever comes later but nothing in this paragraph shall serve to decrease any document retention requirements otherwise set forth herein, including without limitation those contained within Article 4 of this Agreement.

C. ENGINEER acknowledges that employees and consultants or subcontractors to ENGINEER may be required by the State to file a Statement of Economic Interests (Fair Political Practices Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.

D. ENGINEER certifies, under penalty of perjury under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990

(Government Code Section 8350 et seq.) and has or will provide a drug-free workplace by taking the actions described in the Funding Agreements.

E. ENGINEER shall name DWR, its officers, agents and employee as additional insureds on its liability insurance for activities undertaken pursuant to this Agreement.

F. ENGINEER, and the agents and employees of ENGINEER, in the performance of this Agreement, shall act in an independent capacity and not as officer, employees or agents of the USDA or DWR.

G. USDA or DWR shall have the right to inspect the work being performed at any and all reasonable times during the term of the Agreement.

H. ENGINEER agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Agreement shall be made available to USDA and DWR and shall be in the public domain to the extent to which release of such material is required under applicable federal regulations and California Public Records Act (Government Code Section 6250 et seq.)

I. ENGINEER affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and ENGINEER agrees that it will comply with such provisions before commencing the performance of work under this Agreement and will make its contractors and subcontractors aware of this provision.

In addition, without limiting the general obligations of the ENGINEER under this Article set forth above, ENGINEER expressly agrees that upon the execution of the USDA Agreement, this Agreement will become subject to, without limitation (1) 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Program" and (2) Federal acquisition regulations, 29 including 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq. and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. ENGINEER agrees to enter into any amendments to this Agreement deemed necessary by the DISTRICT to meet the requirements thereunder.

IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement 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: Debbie Arnold Date: May 5, 2015

Chairperson of the Board
San Luis Obispo County Flood Control and
Water Conservation District
State of California

ATTEST:

By: TOMMY GONG Date: May 5, 2015

County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California By: [signature]
Deputy Clerk

ENGINEER

By: [signature] Date: 4.13.15

Name: Holly Kennedy

Title: Vice President

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

By: [signature] Date: 4/16/15

Deputy County Counsel

V:\ADM_SERV\Trisha\AGREEMENTS\CSA 23 Interle HDR FC Prof Engr Agmt_nonfed funds_061013.doc

CSA23/AMWC/GF Intertie
Exhibit A – Scope of Work

HDR Engineering shall provide construction management, engineering, inspection, surveying, and materials testing services for the following project in accordance with the construction documents approved by the Board of Supervisors. HDR's services shall ensure project completion within the scope, schedule and budget established by the construction documents, and as directed by the District.

Intertie between CSA 23 (Santa Margarita), Atascadero Mutual Water Company, and Garden Farms Community Water District
Project No. 300536

The terms "construction documents" and "contract documents" are used herein to refer to the construction contract documents approved and/or awarded by the Board of Supervisors, and as may be amended by change order(s).

The scope of work may include, but is not limited to, the following tasks for any or all of the projects listed above.

1. Act as primary point of contact during construction between the contractors, the District and other stakeholders. HDR will report to the Public Works Department Construction Engineer.

2. Conduct preconstruction and periodic meetings as necessary with contractors and stakeholders to facilitate necessary communications between the parties, and ensure contract compliance.

3. Review and coordinate all plans and changes with the designer, District staff, contractor, and funding agencies in a timely manner as required for conformance with the contract documents.

4. Perform construction management, surveying, testing, and inspection services in accordance with the Caltrans Construction Manual, the Caltrans Staking Manual, the Caltrans Standard Test Methods, the San Luis Obispo County Public Works Department's Quality Assurance Program (QAP), the requirements of the various water purveyors, the American Water Works Association (AWWA), and best industry standards.

5. Oversee the contractor's work within the scope of the projects to ensure compliance with the contract documents. Engineer's observation or monitoring portions of the work performed under construction contracts shall not relieve construction contractor from responsibility for performing work in accordance with applicable contract documents. Engineer shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction.

Engineer shall not be responsible for the acts or omissions of construction contractor or other parties on the project.

6. Perform all surveying, construction staking, and checking the lines and grades of the work in accordance with Caltrans Staking Manual, and as directed by the District for compliance with the contract documents.

7. Perform all testing in accordance with the QAP, Caltrans Standard Test Methods, the project contract documents, AWWA, and applicable industry standards. Observe all testing by the contractor and ensure compliance with the contract documents.

8. Establish and maintain project records in accordance with the Caltrans Construction Manual, District procedures, and the requirements of the funding agencies.

9. Coordinate and facilitate shop drawing reviews, RFIs and all other communications with all relevant parties. Work with the project designers and other project team members to resolve issues that may arise during the course of construction. Recommend action consistent with project scope, schedule and budget to execute resolution.

10. Coordinate and communicate with staff of the District and the various water agencies to minimize water service interruptions and ensure safe, clean operations in conformance with the contract documents, AWWA Standards and agency procedures. Enforce and document compliance, and recommend remedial action in the event of non-compliance.

11. Ensure that impacts to roadways, ingress and egress to the site are minimized, and respond to interested parties in a timely and professional manner.

12. Facilitate contractor required coordination with operators of utilities adjacent to the projects to resolve conflicts, protect utility and other facilities, and facilitate utility relocation as needed to minimize impacts to the project.

13. Manage and inspect the work performed by the contractor to implement the requirements of the various resource and regulatory agencies pursuant to permits acquired for the projects, and ensure compliance and coordination with the agencies.

14. Prepare Resident Engineer Daily Reports, Assistant Resident Engineer Daily Reports, and other engineering reports in accordance with the Caltrans Construction Manual, and District and funding agency requirements.

15. Prepare, or review and process pay estimates in accordance with the construction documents, the Caltrans Construction Manual, District and funding agency procedures, and the Public Contract Code. Monitor and forecast project costs and contingencies, and report estimates and forecasts to the Construction Engineer and other relevant parties.

16. Prepare, maintain and issue weekly statements of working days in accordance with the construction documents and the Caltrans Construction Manual. Work with the contractor to resolve construction schedule issues and ensure timely completion. Review and distribute progress schedule submittals. Assess accuracy and recommend remedial action if contract milestones appear to be unattainable.

17. Provide estimates of potential change order costs and impacts on schedule; recommend approval as required. Write and administer change orders in accordance with the construction documents, the Caltrans Construction Manual, and District procedures, coordinating with designers, the District and other agencies required for approvals.

18. Monitor compliance with labor law and UDBE provisions. Coordinate with the District's labor monitoring consultant to enforce compliance.

19. Work with the contractor and stakeholders to avoid claims and resolve issues during claims process. Review potential claim correspondence, recommend action, and provide timely response to the contractors consistent with the contract, the Caltrans Construction Manual, and District direction.

20. Prepare all final reports for the District and the funding agencies in accordance with District and agency procedures.

21. Prepare and distribute all as-built drawings in accordance with District and agency procedures.

Exhibit B - Cost Proposal
San Luis Obispo County Flood Control & Water Conservation District
CM Services - Intertie between CSA 23 (Santa Margarita)/Atascadero Mutual Water Company/Garden Farms

2030 10th Street
Los Osos, CA 93402

Schedule	Start	End	May	June	July	August	September	October	November	December	January	February
Scope of Work												
CSA 23 (Santa Margarita)	5/15/2015	12/1/2015										
Construction Phase	7/15/2015	11/1/2015										

Position	Name	Rate	May	June	July	August	September	October	November	December	January	February	Hours	Fee
CSA 23 Santa Margarita														
Construction Manager	James Brantley	$220.00	8	8	24	24	24	24	16				128	$28,160
Administration/Document Control Specialist	Sandie Goings	$93.00		8	24	24	24	24	8				112	$10,416
Office Engineer	Kyle DeBacker	$83.00		8	16	16	16	16	8				80	$6,640
Senior Construction Inspector	Terry Paris	$137.00			80	152	152	80					464	$63,568
Expenses Materials Testing	Earth Systems Pacific													$22,000
Expenses Surveys	MBS Land Surveys													$10,900
Expenses Other Direct Costs														$10,151
												M/U 5%		$2,153

Total Fee CSA 23 (Santa Margarita) **$153,988**

Exhibit C "Organization Chart"

CSA 23 - Santa Margarita Intertie Project

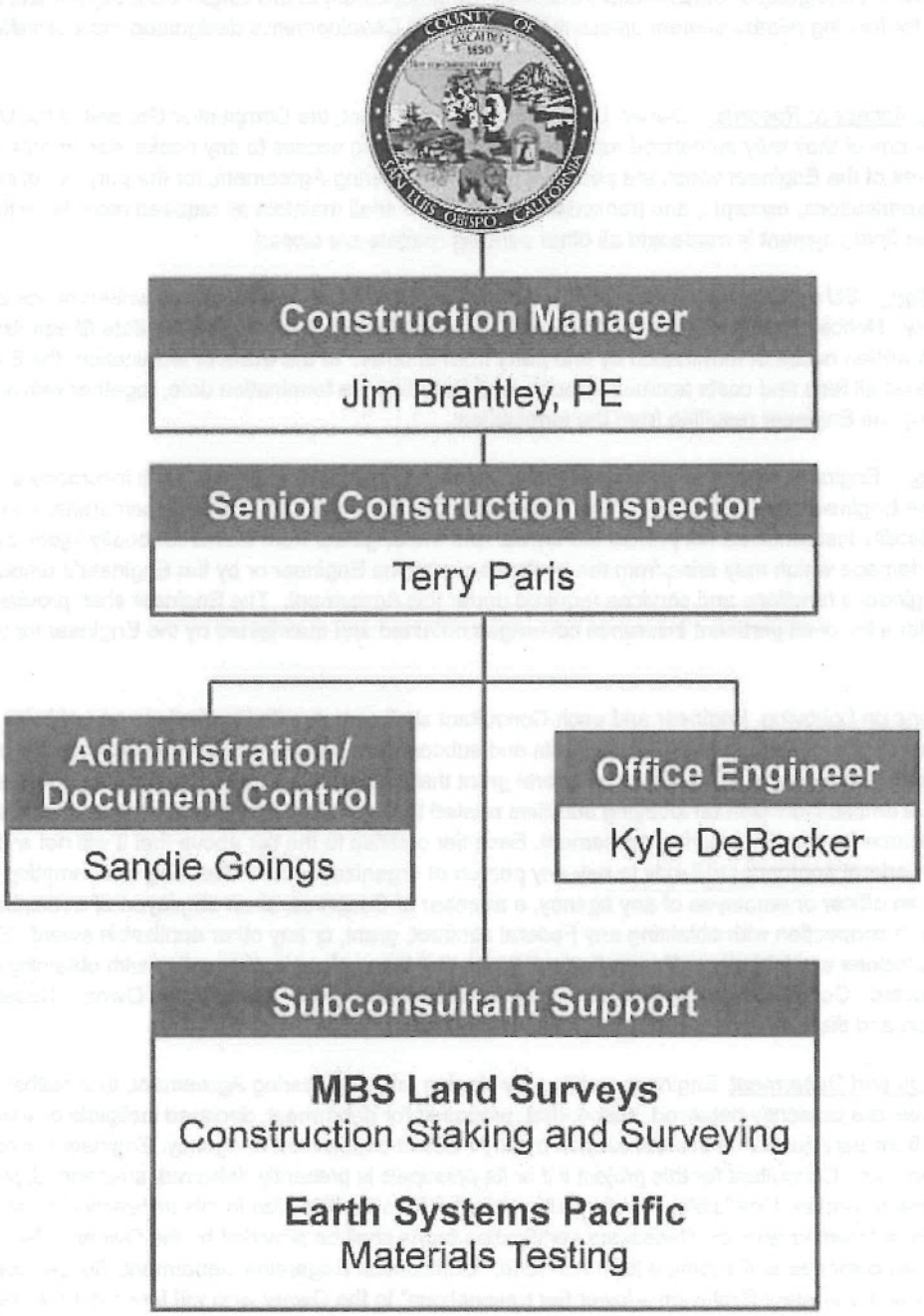

Exhibit D

Supplemental Provisions

A. *Agency Concurrence:* Signature of a duly authorized representative of USDA Rural Development does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Engineering Agreement conforms to USDA Rural Development's applicable requirements. This Engineering Agreement shall not be effective for funding reimbursement unless the USDA Rural Development's designated representative concurs. No amendment to this Engineering Agreement shall be effective for funding reimbursement unless the USDA Rural Development's designated representative concurs.

B. *Audit and Access to Records:* Owner, USDA Rural Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Engineering Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.

C. *Termination:* Either party may terminate this contract at any time upon fifteen days written notice to the other party. Notice shall be effective upon receipt. The termination date shall be the date fifteen days after receipt of written notice of termination by one party from another. In the event of termination, the Engineer shall be paid all fees and costs accrued through and including the termination date, together with all costs incurred by the Engineer resulting from the termination.

D. *Insurance:* Engineer agrees to obtain and maintain, at the Engineer's expense, such insurance as will protect the Engineer from claims under the Workman's Compensation Act and such comprehensive general liability insurance as will protect the Owner and the Engineer from claims for bodily injury, death, or property damage which may arise from the performance by the Engineer or by the Engineer's employee's of the Engineer's functions and services required under this Agreement. The Engineer shall provide the Owner with a list of all pertinent insurance coverages obtained and maintained by the Engineer for this project.

E. *Restrictions on Lobbying*. Engineer and each Consultant shall comply with Restrictions on Lobbying if they are recipients of engineering services contracts and subcontracts that exceed $100,000 at any tier under a Federal loan that exceeds $150,000 or a Federal grant that exceeds $100,000. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Engineering Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

F. *Suspension and Debarment*. Engineer certifies, by signing this Engineering Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions" to the Owner who will forward it the USDA Rural Development processing office.

Approved Prior

Supplemental Provisions

A. *Agency Concurrence:* Signature of a duly authorized representative of USDA Rural Development does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Engineering Agreement conforms to USDA Rural Development's applicable requirements. This Engineering Agreement shall not be effective for funding reimbursement unless the USDA Rural Development's designated representative concurs. No amendment to this Engineering Agreement shall be effective for funding reimbursement unless the USDA Rural Development's designated representative concurs.

B. *Audit and Access to Records:* Owner, USDA Rural Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Engineering Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.

C. *Termination:* Either party may terminate this contract at any time upon fifteen days written notice to the other party. Notice shall be effective upon receipt. The termination date shall be the date fifteen days after receipt of written notice of termination by one party from another. In the event of termination, the Engineer shall be paid all fees and costs accrued through and including the termination date, together with all costs incurred by the Engineer resulting from the termination.

D. *Insurance:* Engineer agrees to obtain and maintain, at the Engineer's expense, such insurance as will protect the Engineer from claims under the Workman's Compensation Act and such comprehensive general liability insurance as will protect the Owner and the Engineer from claims for bodily injury, death, or property damage which may arise from the performance by the Engineer or by the Engineer's employee's of the Engineer's functions and services required under this Agreement. The Engineer shall provide the Owner with a list of all pertinent insurance coverages obtained and maintained by the Engineer for this project.

E. *Restrictions on Lobbying*. Engineer and each Consultant shall comply with Restrictions on Lobbying if they are recipients of engineering services contracts and subcontracts that exceed $100,000 at any tier under a Federal loan that exceeds $150,000 or a Federal grant that exceeds $100,000. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Engineering Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

F. *Suspension and Debarment*. Engineer certifies, by signing this Engineering Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions" to the Owner who will forward it the USDA Rural Development processing office.

Compensation for Engineer's Services

1. The fees for the Engineer's services are described below:

Preliminary Engineering Services	$ _____
Final Design and Contract Documents	$ _____
Contract Award Services	$ _____
Construction Phase Services	$ 55,820-
Resident Inspection	$ 63,568-
If needed:	
Geotechnical Services	$ 23,100-
Construction Phase Surveying	$ 11,500-
Easement Acquisition/ROW's	$ _____
Operation & Maintenance Manual	$ _____
Other (identify) _____	$ _____
Other (identify) _____	$ _____
Total Amount:	$ 153,988-

2. The Engineer's invoices shall include a breakdown of the services provided and the invoices shall only include work that has been completed. The invoiced charges shall be based on Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

3. A copy of the Engineer's current Standard Rate Schedule is attached.

4. The Engineer's billing shall not exceed the Total Amount shown. Any changes to the Engineering fees must be approved by USDA Rural Development. Any approved adjustments to the fees shall be made by written amendment.

U.S. DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

HDR Engineering, Inc.

Organization Name

PR/Award Number or Project Name

Holly Kennedy, Vice President

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

4.13.15

Date

Form AD-1048 (1/92)

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transaction and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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ATTACHMENT 2
Additional Services

Construction Support Services. Based on field conditions and unexpected PROJECT delays, the ENGINEER will attend additional construction meetings, respond to field changes, review and respond to numerous RFIs, late submittals and excessive re-submittals in order to maintain the project delivery schedule.

ATTACHMENT 3
Fee Proposal for Additional Services

Professional Services: Construction Support Services			(rounded)
	Hours	**Rate**	**Total**
Construction Manager	16	$220	$3,520
Document Control Specialist	24	$93	$2,240
Senior Construction Inspector	28	$137	$3,840
		Total	**$9,600**