

AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL CONSULTING 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 Terra Verde Environmental Consulting, LLC a California limited liability company whose address is 3765 South Higuera Street, Suite 102, San Luis Obispo, CA, herein called "CONSULTANT." 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 Oceano Lagoon Area Biological Investigations Project (hereafter, the "Project"); and

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

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

ARTICLE 1. SCOPE OF WORK. The CONSULTANT shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the CONSULTANT's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. CONSULTANT warrants and represents that said Work encompasses all professional services necessary for the CONSULTANT's preparation of Biological Investigations of the Oceano Lagoon. All Work shall be performed to the highest professional standard.

ARTICLE 2. TIME FOR COMPLETION OF WORK. No Work shall be commenced prior to the CONSULTANT's receipt of the DISTRICT's Notice to Proceed. All Work shall be completed no later than January 1, 2013, 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.** The DISTRICT shall pay to the CONSULTANT as compensation in full for all Work required by this Agreement a sum not to exceed the \$78,065. The CONSULTANT's compensation shall be based on actual services performed and costs incurred at the rates set forth for each task in the CONSULTANT's Cost Proposal attached hereto as Exhibit B. Progress payments will be made as set forth below based on compensable services provided and allowable costs incurred pursuant to this Agreement.

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

C. **INVOICES.** Billing invoices shall be based upon the CONSULTANT's Cost Proposal, attached hereto as Exhibit B. Invoices shall detail the Work performed on each task and each project as applicable. Invoices shall follow a format based upon the Cost Proposal and shall reference this 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. **CONSULTANT'S ASSIGNED PERSONNEL.** All Work performed under this Agreement shall be performed by the CONSULTANT's personnel identified in the organizational chart, attached hereto as Exhibit C. Any changes to the any personnel designated on this organizational chart must be pre-approved in writing by the DISTRICT's Project Manager.

ARTICLE 4. ACCOUNTING RECORDS.

A. The CONSULTANT shall maintain accounting records in accordance with generally accepted accounting principles. The CONSULTANT shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The CONSULTANT shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal, and payroll journal.

B. The CONSULTANT shall record costs in a cost accounting system which clearly identifies the source of all costs. 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 CONSULTANT's cost accounting records.

C. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. The CONSULTANT shall safeguard the accounting records and supporting documentation.

D. The CONSULTANT shall make accounting records and supporting documentation available on demand to the DISTRICT and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the DISTRICT. The DISTRICT may require having the CONSULTANT's accounting records audited, at the CONSULTANT's expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) calendar days after completion of the audit.

ARTICLE 5. CHANGES IN SCOPE OF SERVICE. No change in the character or extent of the Work to be performed by the CONSULTANT shall be made except through a signed written amendment to this Agreement. The amendment shall set forth the proposed changes in Work, adjustment of time, and adjustment of the sum to be paid by the DISTRICT to the CONSULTANT, if any.

ARTICLE 6. NON-ASSIGNMENT OF AGREEMENT. Inasmuch as this Agreement is intended to secure the specialized services of the CONSULTANT, the CONSULTANT may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the DISTRICT and any such assignment, transfer, delegation, or sublease without the County's prior written consent shall be considered null and void.

ARTICLE 7. INSURANCE. The 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 shall provide products/completed operations coverage for four (4) years following completion of the CONSULTANT'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 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 County:

1. **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 CG0001) 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 the CONSULTANT's Work under this Agreement.

2. **BUSINESS AUTOMOBILE LIABILITY POLICY ("BAL")**. 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 CONSULTANT shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of County.

3. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("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 INSURANCE POLICY ("PL")**. This policy shall cover damages, liabilities, and costs incurred as a result of the 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). The CONSULTANT 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 CONSULTANT and approved by the DISTRICT before Work is begun pursuant to this Agreement. At the option of the DISTRICT, the CONSULTANT 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 & BAL);
2. The San Luis Obispo 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 CONSULTANT's performance of Work under this Agreement (CGL & BAL);
3. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL);
4. 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, BAL, & PL);
5. 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 County at the address set forth below (All Policies);
6. The CONSULTANT 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 (CGL); and
7. Deductibles and self-insured retentions must be declared (All Policies).

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

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 CONSULTANT, or each of the CONSULTANT'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 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:

Mark Hutchinson, Public Works Department
Room 207, County Government Center
San Luis Obispo CA 93408

ARTICLE 8. INDEMNIFICATION.

Consultant shall defend, indemnify and hold harmless the DISTRICT, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities or other losses that may be asserted by any person or entity, and that arise out of or are made in connection with the acts or omissions relating to the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the DISTRICT its officers and employees. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the DISTRICT, its officers and employees.

The preceding paragraph applies to any theory of recovery relating to said act or omission, by the Consultant, or its agents, employees, or other independent contractors directly responsible to Consultant including, but not limited to the following:

1. Violation of statute, ordinance, or regulation.
2. Professional malpractice.
3. Willful, intentional or other wrongful acts, or failures to act.
4. Negligence or recklessness.
5. Furnishing of defective or dangerous products.
6. Premises liability.
7. Strict Liability.
8. Violation of civil rights.
9. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when the Consultant is not an independent contractor.

It is the intent of the parties to provide the DISTRICT the fullest indemnification, defense, and hold harmless rights allowed under the law. 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.

ARTICLE 9. CONSULTANT'S RESPONSIBILITY FOR ITS WORK.

A. The CONSULTANT has been hired by the DISTRICT because of the CONSULTANT's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The CONSULTANT shall be solely responsible for such Work. The DISTRICT's review, approval, and/or adoption of any Work product shall be in reliance on the CONSULTANT's specialized expertise and shall not relieve the CONSULTANT of its sole responsibility for the Work. The DISTRICT is under no duty or obligation to review or verify the appropriateness, quality, or accuracy of any Work product, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by the CONSULTANT in performing any Work under this Agreement.

B. All information which the CONSULTANT receives from the DISTRICT should be independently verified by the CONSULTANT. The CONSULTANT should not rely upon such information unless it has independently verified its accuracy. The only exception to the foregoing arises when the DISTRICT has expressly stated in writing that certain information may be relied upon by the CONSULTANT without the CONSULTANT's independent verification. In such event, the CONSULTANT is still obliged to promptly notify the DISTRICT whenever the CONSULTANT becomes aware of any information that is inconsistent with any information which the DISTRICT has stated may be relied upon by the CONSULTANT.

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

ARTICLE 10. INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS.

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 CONSULTANT by the indemnification and insurance clauses.

ARTICLE 11. CONSULTANT'S ENDORSEMENT ON REPORTS, ETC.

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

ARTICLE 12. DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP.

All documents, information, and materials of any and every type prepared by the CONSULTANT (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 CONSULTANT (or any subcontractor) in performing Work under this Agreement, whether completed or in process. The CONSULTANT shall assume no responsibility for the unintended use by others of any

such documents, information, or materials on project(s) which are not related to the scope of services described under this Agreement.

ARTICLE 13. TERMINATION OF AGREEMENT WITHOUT CAUSE. The DISTRICT may terminate this Agreement at any time by giving the CONSULTANT thirty (30) calendar days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, the CONSULTANT shall be entitled to no further compensation or payment of any type from the DISTRICT.

ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE. If the CONSULTANT fails to perform the CONSULTANT's duties to the satisfaction of the DISTRICT; or if the CONSULTANT fails to fulfill in a timely and professional manner the CONSULTANT's obligations under this Agreement; or if the CONSULTANT violates any of the terms or provisions of this Agreement; or if the CONSULTANT, or the CONSULTANT's agents or employees fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the DISTRICT, then the DISTRICT shall have the right to terminate this Agreement effective immediately upon the DISTRICT giving written notice thereof to the CONSULTANT. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The CONSULTANT shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the DISTRICT's termination of the Agreement for cause is defective for any reason, including but not limited to the DISTRICT's reliance on erroneous facts concerning the CONSULTANT's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the DISTRICT's written notice of termination for cause to the CONSULTANT, and the DISTRICT's maximum liability shall not exceed the amount payable to the CONSULTANT under Article 13 above.

ARTICLE 15. COMPLIANCE WITH LAWS. The CONSULTANT shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of

the Work of this Agreement. This includes compliance with applicable prevailing wage rates and their payment in accordance with the California Labor Code. The CONSULTANT will comply, or cause its subconsultant(s) to comply, with the applicable provisions of Labor Code Section 1774.

ARTICLE 16. COVENANT AGAINST CONTINGENT FEES. The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this 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 warranty, 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. **NOTICE OF POTENTIAL CLAIM.** The CONSULTANT shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the DISTRICT, or for the happening of any event, thing, occurrence, or other cause, unless the CONSULTANT has provided the DISTRICT with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the CONSULTANT believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the DISTRICT prior to the time that the CONSULTANT shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the DISTRICT, or in all other cases within fifteen (15) calendar days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. 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

CONSULTANT hereby agrees that it shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the DISTRICT Director of Public Works.

B. **PROCESSING OF ACTUAL CLAIM.** In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the DISTRICT on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in section 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring to any claim relating to this Agreement. The CONSULTANT shall not be entitled to any additional compensation unless the CONSULTANT has (1) provided the DISTRICT with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code section 20104.2 and 20104.4.

C. **CLAIM IS NO EXCUSE.** Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the DISTRICT, shall excuse the CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

ARTICLE 18. CONSULTANT IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, the CONSULTANT shall be, and is, an independent contractor, and is not an agent or employee of the DISTRICT. The CONSULTANT has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting the CONSULTANT in the performance of the services rendered hereunder. The CONSULTANT 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 CONSULTANT shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be

effective unless in writing and signed by both parties. Any changes increasing the CONSULTANT'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 CONSULTANT specifically acknowledges that in entering into and executing this Agreement, the CONSULTANT 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 Contract and anything in any of the Exhibits attached hereto, the text in the body of this Contract 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. WARRANTY OF CONSULTANT. The CONSULTANT warrants that the CONSULTANT and each of the personnel employed or otherwise retained by the CONSULTANT for Work under this Agreement are, where required by law and regulation, 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT 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 CONSULTANT. The CONSULTANT's obligation to pay its subcontractors is an independent obligation from the DISTRICT's obligation to make payments to the CONSULTANT.

C. Any subcontract entered into by the CONSULTANT 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 "CONSULTANT" 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 CONSULTANT enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for equipment. The CONSULTANT 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 CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the DISTRICT shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, the CONSULTANT may either keep the equipment and credit the DISTRICT in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established DISTRICT procedures; and credit the DISTRICT in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined

at the CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the DISTRICT and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the DISTRICT."

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 County at:

Mr. Paavo Ogren, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the CONSULTANT:

Brooke Langle
Terra Verde
3765 South Higuera Street, Suite 102
San Luis Obispo, CA 93401

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 CONSULTANT shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The 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 CONSULTANT in order to carry out this Agreement, shall be protected by the CONSULTANT from unauthorized use and disclosure, and shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the DISTRICT.

B. Permission to disclose information on one occasion, or public hearing held by the DISTRICT relating to this Agreement, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. All information related to the construction estimate is confidential, and shall not be disclosed by the CONSULTANT to any entity other than the DISTRICT.

ARTICLE 28. RESTRICTIVE COVENANT. The CONSULTANT 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. CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR.

A. If claims are filed against the DISTRICT by any third party that relate in any way to any Work product within the CONSULTANT's Scope of Work under this Agreement, and additional information or assistance from the CONSULTANT's personnel is requested by the DISTRICT in order to evaluate or defend against such claims, the CONSULTANT agrees to cooperate with and provide timely response to any reasonable requests for information submitted to the CONSULTANT by the DISTRICT relating to such claims. To the extent the information requested by the DISTRICT only seeks copies of documents or other factual information relating to Work performed by the CONSULTANT, the CONSULTANT will only be compensated for any clerical costs associated with providing the DISTRICT the requested factual information.

B. The CONSULTANT'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 CONSULTANT's personnel is sought by the DISTRICT through such consultation or through testimony, and only in such event, such consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the CONSULTANT's personnel services under this Agreement. In the event the testimonies of any of the CONSULTANT's personnel are sought by another party, the CONSULTANT reserves the right to charge other party a different rate for deposition or trial testimony.

C. Services of the CONSULTANT'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 CONSULTANT 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 "CONSULTANT" where it appears in this Article.

ARTICLE 31. CONFLICT OF INTEREST.

A. The CONSULTANT shall disclose any financial, business, or other relationship with the DISTRICT that may be affected by the outcome of this Agreement, or any ensuing DISTRICT construction project. The CONSULTANT 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 CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

C. Any subcontract entered into by the CONSULTANT 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 "CONSULTANT" where it appears in this Article.

D. The CONSULTANT hereby certifies that neither the CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from

this 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.

IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the County of San Luis Obispo.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

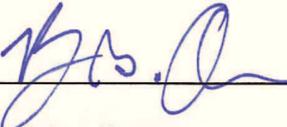
By: _____ Date: _____
Chairperson of the Board
San Luis Obispo County Flood Control and
Water Conservation District
State of California

ATTEST:

By: _____ Date: _____
County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California

TERRA VERDE ENVIRONMENTAL CONSULTING, LLC

By: Brooke Langle Date: 2-20-12
Name: Brooke Langle
Title: Principal Biologist

By: 

Date: FEB. 22, 2012

Name: Brian Dugas

Title: Principal Biologist

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN

County Counsel

By: 
Deputy County Counsel

Date: 2.27.2012

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*County of San Luis Obispo
Flood Control and Water Conservation District
Oceano Lagoon Area & Environmental Services PS# 1149*

OCEANO LAGOON AREA BIOLOGICAL INVESTIGATIONS

The San Luis Obispo County Flood Control and Water Conservation District (Flood Control District) has requested this revised proposal for biological assessments of the Oceano Lagoon and surrounding areas. The Flood Control District as partial owner of this area and is responsible for managing the potential for flooding of the surrounding residents and the South San Luis Obispo County Sanitation District's wastewater treatment plant. Flooding in December 2010 caused substantial damage to surrounding buildings, personal property, and the wastewater treatment plant. The Flood Control District must gather the necessary technical information to understand their options and constraints in order to prevent or reduce flood water elevations.

The following information is provided to outline our approach to address the needs of the Flood Control District. This includes modification to the proposed scope of work and cost estimate to account for additional survey areas as requested by Mark Hutchinson of the County Public Works Department during a November 29, 2011 meeting. A subsequent site visit was conducted on December 7, 2011 by Terra Verde and HydroTerra staff to review the additional survey area(s) and update the cost estimate accordingly. Lastly, Task 2 (Human Health and Ecological Risk Assessment) has been eliminated from the scope of work at the request of the Flood Control District.

Attachment A contains the cost estimate for the scope of work and Attachment B provides an organizational chart of the key staff that will be involved with the project.

TERRA VERDE ENVIRONMENTAL CONSULTING

Terra Verde is a local environmental consulting firm founded in 2007 by Principal Biologist Brooke Langle. The vision of Terra Verde is to provide environmental consulting services to assist clients in planning, permitting, and compliance of their projects. Specifically, Terra Verde has the experience to provide services that directly apply to the County's upcoming project as defined in the Request for Proposals. Those services not provided by Terra Verde can be provided by our team of subcontractors. The advantage that Terra Verde brings to our clients is the experience of a larger company with the lower costs of a small, specialized firm. Our biological team is based out of a single office located in San Luis Obispo, allowing us to serve the project in a timely and cost-effective fashion. We have structured the company so that we are able to focus on doing great work that we enjoy without having to worry about shareholders or large profit margins. Simply put: we do high quality work by a close-knit team of local professionals.



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KEY PERSONNEL

PROJECT MANAGER: BROOKE LANGLE

Ms. Brooke Langle will serve as the Project Manager for this contract. Ms. Langle has 16 years of experience in environmental consulting, including 12 years of project management experience. During her career, she has excelled in various professional roles ranging from working as a field biologist to leading a large company (TRC Solutions) as their nationwide Environmental Compliance Manager. As a biologist, Ms. Langle specializes in both wildlife biology and botany along the Central Coast. Ms. Langle has a unique understanding of the demanding and complex regulatory environment that our clients, particularly in California, must navigate in order to implement construction, operations, and maintenance projects. As a field biologist, she can utilize this understanding to focus on the key issues that may hinder the Flood Control District's project during the implementation phase. Over the last four years, she has worked on the highly complex Guadalupe Restoration Project just south of Oceano. This large-scale remediation project is regulated by numerous agencies, including the California Coastal Commission. Key concerns on this project were coastal wetlands, California red-legged frogs, and restoration of wetlands and dune habitats. She will assist Mr. Dugas in oversight of all biological research and field work that is conducted for the project. Additionally, she will manage our team to ensure we stay on schedule, under budget, and produce high quality technical documents.

Ms. Langle holds a B.S. degree in Ecology and Systematic Biology, with a concentration on Ecology, from California Polytechnic State University at San Luis Obispo. Ms. Langle has lived and worked on the Central Coast for 21 years.

SENIOR BIOLOGIST: BRIAN DUGAS

Mr. Dugas has over 15 years of experience in the environmental field as an environmental specialist with emphasis in biological resources impact analysis. During this period Mr. Dugas has performed numerous environmental impact assessments including baseline biological resource evaluations, biological and regulatory constraints analyses, and sensitive habitat studies for a variety of California Environmental Quality Act (CEQA) projects. His recent experience includes regulatory permitting for implementation of sanitation facility upgrades and other public works related projects and abandonment of coastal facilities including several offshore marine terminals and associated onshore pipeline corridors. Permitting efforts involved close coordination with all applicable regulatory agencies including formal and informal special-status species consultations with the CDFG and USFWS under the federal and California Endangered Species Acts. This has included numerous field evaluations and pre-activity surveys for federally listed species utilizing approved survey protocols.

Mr. Dugas holds a M.S. degree in General Agriculture with emphasis in Fisheries and Wildlife Management and a B.S. degree in Natural Resources Management from California Polytechnic



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State University at San Luis Obispo. Mr. Dugas recently joined Terra Verde Environmental Consulting, LLC as a Principal Biologist. In his previous employment with Padre Associates, Inc., Mr. Dugas served as manager of the San Luis Obispo office biological resources group.

FISHERIES BIOLOGIST: FREDDY OTTE, HYDROTERRA

Mr. Otte has over fourteen years of experience in the environmental field with a concentration on fisheries projects. He managed an open-ocean rearing project for seven years and followed all agency protocols and procedures for environmental compliance. Mr. Otte has conducted habitat assessments and population surveys for ESA-listed species and has the ability to present data in a concise and understandable format. He is knowledgeable in biological and environmental project management, construction monitoring, permit compliance, research, storm water, general and special-status biological assessments and field surveys, preparation of biological and environmental reports, and permit preparation for compliance with CEQA, California Department of Fish and Game (CDFG), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (Corps), and NOAA Fisheries. He is skilled in the use of various environmental testing and sampling equipment including water quality meters, GPS, electro-fishing gear, and multimedia digital presentations. While serving as City of San Luis Obispo biologist, Mr. Otte has provided guidance on City sponsored projects and associated mitigation requirements, lead environmental trainings and supplied compliance, and has assumed the role of monitoring and reporting of past City sponsored projects.

EXPERIENCE

Our team provides significant, relevant experience for the environmental services required by the Flood Control District. The section below focuses on our environmental and impact assessment experience. HydroTerra Consulting will supplement our team for the fisheries assessment component, respectively.

Biological Assessments and Technical Report Writing

Terra Verde has extensive experience in the management and preparation of a variety of special resource studies, mitigation monitoring programs, and supplemental documentation in support of the California Environmental Quality Act (CEQA) process. Our staff members have worked on commercial, industrial, residential, and infrastructure projects that have ranged from simple (minor permits) to complex and controversial (repair projects for community service districts). Our most recent biological assessment experience is with our on-call contract with the County of San Luis Obispo, providing technical peer review for biological resources assessments and processing minor CEQA documents (e.g., Initial Studies, Negative Declarations, and Mitigated Negative Declarations). Additionally, we conduct reconnaissance and protocol-level surveys each year for a variety of clients. Technical reports are conducted after these survey efforts in the form of biological resources assessments, biological assessments, wetland delineation reports, and survey specific reports.



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A large majority of the work conducted by Terra Verde is driven by the Federal and California Endangered Species Acts (ESA, CESA). We have extensive experience assisting our clients in navigating this complex regulatory process and successfully obtaining permits on their behalf. The key to our success is the consistent implementation of the following approach: conducting thorough research and field work to identify potential sensitive species; working closely with our clients via planning and developing the project description in order to avoid or minimize impacts, as feasible; and, working diligently to develop mitigation measures that are both cost-effective and successful in reducing the level of potential impacts. Our significant experience with the regulatory agencies and their expectations help us to address and resolve issues prior to CEQA review or permitting.

Federal, State, and Local Agency Experience

Terra Verde staff routinely assists clients in obtaining permits from federal, state, and local regulatory agencies. The following table includes a list of the agencies we typically work with and the type of permits obtained.

Federal, State, and Local Agencies	Permit Obtained
NOAA Fisheries	Biological Opinions (via consultation with Corps)
U.S. Army Corps of Engineers	Jurisdictional Determinations Nationwide Permitting Program authorizations
U.S. Fish and Wildlife Service	Biological Opinions (via consultation with Corps)
California Coastal Commission	Coastal Development Permits Coastal Zone/Federal Consistency Reviews
California Department of Fish and Game	Streambed Alteration Agreements
Regional Water Quality Control Board	401 Water Quality Certifications/Waivers
County of San Luis Obispo	Minor Use Permits, Conditional Use Permits, Grading Permits, Temporary Events Permits

Protection, Mitigation, and Enhancement Measures

A key component of the biological assessments we prepare is identifying impacts and associated protection, mitigation, and enhancement measures, including those for aquatic species. When we evaluate an aquatic system, we first look for ways to avoid impacts of the associated project. Once these measures are identified, we then work to minimize or reduce impacts. Finally, we assist clients in preparing restoration plans to leave the area in at least the same condition, if not better, than prior to the project. It is common for us to draft the



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monitoring plans for these measures. Examples of this include our work with Santa Ynez Community Services District. Along with our client, Cannon Associates, we met with key regulatory staff where the project engineer discussed potential repair design ideas. The agencies provided direct feedback concerning their areas of jurisdiction. We then conducted habitat assessments of six sites that were in need of repair. We were able to immediately identify constraints identified by the regulatory staff and adjust our field work to ensure all possible designs would be covered by the biological work. This included evaluating staging locations near the stream repair locations, as well as surveying a larger area to allow flexibility, should the design plans change. We were also able to evaluate site conditions that enabled us to identify mitigation and restoration options once the project is completed. For example, one area is largely comprised of weedy, invasive species. We were able to develop a realistic restoration plan that would allow for native vegetation to be replanted, enhancing the value of the habitat at the repair site. The Santa Ynez Community Services District will be able to tailor their mitigation and monitoring needs with these options once the final design is completed. The regulatory agencies were participants in the development of these plans, assisting in the permitting effort that remains to be completed.

RECENT PROJECTS AND REFERENCES

Chevron's Guadalupe Restoration Project (Padre Associates)

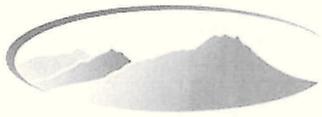
Terra Verde has worked with Chevron and their team of contractors during the long term remediation of 2,800 acres of coastal dunes and wetlands. This complex project involves numerous regulatory agencies and oversight, including the California Coastal Commission, the Regional Water Quality Control Board, the County of San Luis Obispo, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game. Our work on this project included biological and botanical surveys, assisting with reporting requirements, interfacing with regulatory agencies, and planning for future permitting and remediation activities. Contact: Chevron, Bob Skiba. Bob.skiba@chevron.com 805-343-0836 or Padre, Simon Poulter. spoulter@padreinc.com 805-683-1233. Key tasks: California red-legged frog surveys and monitoring, reporting, coastal wetland restoration, and agency coordination.

City of San Luis Obispo On-call Contract

Terra Verde's work with the City between June 2008 and September 2010. Terra Verde was awarded an on-call contract from the City and provided biological and archaeological services during this term. Bridget Fraser was the contract manager for the City. Contact: City of San Luis Obispo, Neil Havlik. Nhavlik@slocity.org 805-781-7211. Key tasks: biological surveys, technical report writing, and archaeological monitoring and reporting.

County of San Luis Obispo On-call Contract

This work has included processing minor CEQA documents for the County, peer review of biological assessments and technical reports submitted to the County, assistance with revising the County's biological survey and report preparation guidelines, and assisting the County in hosting training workshops for biologists on the County's list of pre-approved biologists.



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Contact: County of San Luis Obispo, Trevor Keith 805-781-1431. TKeith@co.slo.ca.us. Project is ongoing. Key tasks are peer review and preparation of minor CEQA documents on behalf of the County.

Silveira Bank Stabilization Project

Terra Verde is currently assisting a private homeowner in San Luis Obispo to gain authorization to repair and stabilize an eroded creek bank along Old Garden Creek. The project has entailed conducting biological and botanical surveys, monitoring erosion through the rainy season, and coordinating with regulatory agencies to gain authorization for the repair. Agencies include the City of San Luis Obispo, U.S. Army Corps of Engineers (Corps), CDFG, NOAA, and the Regional Water Quality Control Board.

Contact Liz Silveira 805-441-6577. Key tasks are biological survey work, agency coordination, permit application preparation, construction monitoring, and habitat restoration.

Cannon Associates On-call Contract

Terra Verde has been retained by Cannon Associates, an engineering firm, to aid clients in biological resources surveys and technical reports to support their applications to comply with CEQA. In particular, Terra Verde recently worked with Cannon and their client Santa Ynez Community Services District, to gain permits and authorizations for numerous raw sewage pipeline repairs in an ephemeral creek in Santa Barbara County. Protective cover over the sewer pipeline has eroded, heightening the risk of a raw sewage spill into the creek system during high flows.

Contact Larry Kraemer 805-544-7407. LarryK@CannonCorp.Us. Key tasks include regulatory coordination, permitting assistance, biological surveys with technical report.

TASKS

OUR APPROACH

Overview

Our team intends on providing a comprehensive analysis of the Oceano Lagoon area by means of research, biological and botanical surveying, wetland assessment, and mapping. Our approach is summarized below and further explained in more detail.

- Habitat assessment and literature research analysis of the project area, specifically for proximity of California red-legged frog, steelhead, and tidewater goby.
- Biological surveys will be conducted and a comprehensive list of aquatic and terrestrial species will be provided. Protocol level surveys will be conducted for California red-legged frog and focused fisheries studies will be completed with emphasis on the determination of presence/absence of steelhead and tidewater goby. Additionally, a floristic inventory will be conducted, with a focus on occurring or potentially occurring sensitive plant species.



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- Wetland assessment focusing on hydric soils, hydrophytic vegetation, and site hydrology per the U.S. Army Corps of Engineers guidance as well as guidance provided by the California Coastal Commission.
- Habitat types, species specific habitat, wetlands and other special areas will be mapped.
- A biological survey report will be prepared as outlined in Task D above.

DETAILED SUMMARY BY TASK

Task A: Biological Surveys

Our team of fisheries and wildlife biologists will conduct general and specific species surveys to properly characterize the Oceano Lagoon and adjacent areas. Our first step will be to query the California Natural Diversity Database (CNDDDB) for special-status species and sensitive habitats within the project area. We understand there is a large focus on steelhead, California red-legged frog, and tidewater goby, so our team will conduct the necessary surveys to determine presence or absence of these species with emphasis on California red-legged frog. In some cases, however, it will be beneficial to assume presence of one or more of these species in order to streamline the permitting process for the selected flood control project and avoid costly delays during future project implementation. For example, in the event tidewater goby are not identified during the surveys outlined below, we would recommend assuming presence during the permitting process due to their known occurrence in nearby lagoons and ability to quickly repopulate areas containing suitable estuarine habitat.

A two-day site assessment will be conducted to identify suitable habitat for sensitive species, and access routes for protocol-level surveys followed by a three-day fisheries assessment with emphasis on tidewater goby and steelhead trout. Protocol-level surveys for California red-legged frog will be initiated in February 2012 and will include the lower section of Arroyo Grande Creek located directly adjacent to the Oceano Lagoon levee and flood gates.

Tidewater goby - Tidewater goby (*Eucyclogobius newberryi*) was listed as endangered under the Endangered Species Act (ESA) in 1994. Gobies typically thrive in shallow lagoon habitats up and down the coast of California but 25 to 50% of the population has been lost in the past 100 years. According to *Moyle in Inland Fishes of California*, these lagoon areas have sand or silt bottoms and gobies prefer water with salinity of less than 10 ppt and depths of 20-100 centimeters surrounded by beds of emergent vegetation (Moyle, 2002). Populations are typically controlled by environmental conditions but the Oceano Lagoon appears to have habitat preferred by gobies. With a known population of gobies found in the estuary of Arroyo Grande Creek, there is a high likelihood of finding gobies in the lagoon area.

The team is proposing to investigate the extent of the habitat available in the project area and determine where sampling locations can be established for tidewater goby. An analysis of the general habitat features along with substrate sampling will be conducted and integrated into



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where sampling locations are established to determine if gobies are residing in the project area. This will include a review of the Phillip Williams and Associates (PWA) focused bathymetric studies of the Oceano Lagoon. Specifically, two staff will be deployed for two days to survey the available habitat and three staff will conduct three days of sampling. Seines will be utilized along with dip nets to determine the assemblage of fishes in the project area focusing on habitat typically utilized by gobies.

Steelhead trout – Steelhead trout were listed as threatened under the ESA in this area in 1997 and reaffirmed in 2006. Steelhead typically inhabit flowing streams which have access to the ocean and require cold, clear, well oxygenated water. There are numerous steelhead living in Arroyo Grande Creek but there is a low likelihood of finding steelhead in the project area. The habitat available is not conducive for steelhead utilization and no runs of steelhead have ever been documented in the Meadow Creek Drainage. However, due to the known populations of steelhead in Arroyo Grande Creek, surveys will be conducted for this species to determine presence or absence.

Surveys for steelhead will also involve seining of open water areas and channels within the Oceano Lagoon. This survey will take place concurrently with the tidewater goby survey and no further staffing will be necessary.

California red-legged frog – This project will require protocol-level surveys for California red-legged frog (*Rana draytonii*). Terra Verde will conduct a site assessment and prepare a site assessment report per U.S. Fish and Wildlife Service (USFWS) protocol. The USFWS protocol requires that a site assessment be completed, with the accompanying report submitted to USFWS prior to initiation of field surveys. This allows for the USFWS to provide guidance on how the field surveys will be conducted (e.g., more or less area may need to be surveyed based on site conditions, surveys may not be necessary, etc.). Moreover, the site assessment activity will assist Terra Verde staff in identifying all areas containing suitable California red-legged frog habitat within the project site and access routes/survey corridors for safe access including the lower section of Arroyo Grande Creek. The survey will commence once the protocol level scope has been achieved (see below for protocol-level scope). Further, all survey efforts will cease upon confirmed California red-legged frog identification.

Qualified Terra Verde biologists will conduct the protocol-level surveys in accordance with the USFWS. This will include:

- Conducting a total two daytime and four nighttime surveys (during breeding season) beginning at the end of February 2012 and continuing for four consecutive weeks.
- Conducting one daytime and one nighttime survey (during non-breeding season) after July 1, 2012.
- Submittal of a final report to document the survey efforts, including USFWS survey data sheets and locations of identified California red-legged frogs, if any.



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Task B: Wetlands Assessment

Terra Verde will provide an assessment of the potential waters and wetlands subject to the regulatory authority of the Corps and EPA under Section 404 of the Clean Water Act which will be delineated in accordance with procedures provided in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory 1987) and the *Arid West Supplement* (Environmental Laboratory 2006) and in Regulatory Guidance Letters 82-2, 86-9, and 90-7. Terra Verde will prepare the wetland assessment, including a discussion of required permits. The wetland delineation will be subject to approval by the Corps Los Angeles District, Ventura Field Office.

The following information will be utilized to evaluate physical and vegetative features of the Oceano Lagoon area prior to initiation of the wetland assessment:

- Aerial photographs;
- Topographic maps;
- PWA focused studies (e.g., Sandbar Management Plan, Bathymetry Study, etc.); and
- Cannon Associates topographic surveys indicating approximate Ordinary High Water Mark (OHWM) within the Oceano Lagoon.

Our next step will involve assessing representative sample plots for three wetland indicators; hydric soils, hydrophytic vegetation and wetland hydrology. Our ground survey will include a two-day site assessment to evaluate the Oceano lagoon habitat features and map the various plant communities including overall wetland features which will be required for the final Biological Survey Report. Subsequently, a focused wetland delineation will be completed which will include the entire Oceano Lagoon and the additional wetland habitat features located adjacent to the Oceano Airport. The focused wetland delineation tasks to be completed by Terra Verde staff have been outlined below and will take an estimated week to complete:

- **Hydric Soils.** The San Luis Obispo County soil survey (Ernstrom, 1984) will be reviewed for general information pertaining to soil-mapping units in the project area. The Field Office Official List of Hydric Soil Map Units for San Luis Obispo County, California (U.S. Department of Agriculture, 1992) will be consulted to determine if on-site soils are classified as hydric soils. At representative sample plots in the field, soil samples will be collected and examined for hydric characteristic including redoximorphic features (mottling and gleying), low chroma, and presence of sulfidic material. Soil color will be determined using Munsell soil color charts (Munsell, 1990).
- **Hydrophytic Vegetation.** Hydrophytes are plants that occur in areas that are frequently flooded or have saturated soil for a prolonged duration. In accordance with Corps methodology, for a site to display a positive wetland vegetation indicator, greater than 50 percent of the plant species at a sampling location must be classified as hydrophytic. At each of the sampling plot, the dominant plants will be identified to species using standard taxonomic references (Hickman, 1993; Mason, 1957), and the hydrophytic



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status of each species will be determined in accordance with the National List of Plant Species that Occur in Wetlands, Region 0 (Reed, 1988) as obligate (OBL), facultative-wetland (FACW), facultative (FAC), or upland (UPL). All categories except upland are considered as hydrophytes.

- **Wetland Hydrology.** Hydrologic characteristics of the sample points will be evaluated by identifying evidence of inundation or free water, saturation, water marks, sediment deposits, and/or oxidized root channels in the upper 12 inches of the soil. We will determine the elevation of the ordinary high water mark (Corps jurisdictional limit) from stream gage data from the closest gaging station. If appropriate data are not available, Terra Verde will base the elevation of OWHM on field methods (e.g., debris lines, shelving, etc.) as outlined by the Corps.

As the primary wetland consultant to the California Coastal Commission, the CDFG essentially relies on the USFWS wetland definition and classification system, with some minor changes in classification terminology, as the methodology for wetland determinations (Radovich, 1993). However, one important difference in the CDFG delineation process compared to the USFWS process is that the DFG only requires the presence of *one* attribute (e.g., hydrology, hydric soils, or hydrophytic vegetation) for an area to qualify as a wetland. Therefore, Terra Verde will also map wetland features located outside the boundaries of identified federal wetland areas which meet the single-attribute wetland criterion. These areas will be mapped accordingly as state defined wetlands subject to the jurisdiction of the California Coastal Commission in addition to all mapped federal wetland areas.

Based upon the results of the wetland delineation process outlined above, Terra Verde will identify the delineated wetland boundaries with lath and flagging for a professional surveyor such as Cannon to record data points. Due to their current knowledge of the site, this would be the most appropriate and cost effective method for documenting the wetland boundaries. The survey data will be incorporated into GIS for production of the final wetland delineation maps. As necessary, Terra Verde staff will accompany the Cannon surveyors to ensure that the all data points (i.e., soil test pit locations, etc.) and wetland boundaries are being appropriately recorded. The final wetland delineation report including all wetland maps will be made available to County staff to facilitate future project permitting.

Floristic surveys will be timed to overlap with the wetland delineation to avoid or reduce separate survey efforts. Our team of biologists will also review the site for potential habitat for sensitive plant species during other field work.

Task C: Mapping

As discussed above, our GIS specialist and field staff will use GPS data, professional surveyor data, aerial photographs, and other field data to create maps that satisfy the following:

- Wetlands, Environmentally Sensitive Habitat Areas, and Sensitive Resource Areas as defined by the California Coastal Act and the San Luis Obispo County Local Coastal Plan.



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- Wetlands, Waters of United States, Other Waters and Clean Water Act Jurisdiction as defined by regulations adopted by the U.S. Army Corps of Engineers.
- Habitat types, species specific habitat, special areas and other mapping as required to fully illustrate and present the information developed by the Biological Survey.

All data for these maps will be collected while conducting the biological assessment and wetland delineation as described above

Task D: Biological Survey Report

Terra Verde will provide the Flood Control District with a document that encompasses the previously described sampling methods and results compiled in such a manner that is suitable for the Flood Control District's use and submittal to other agencies and the public. All of the information and data collected during our surveys and assessments will be included in this document to aid the Flood Control District in determining further course(s) of action. This report will support the development of documents that pertain to the California Environmental Quality Act (CEQA).

Terra Verde will document the background, methods and results of all research and field surveys in a Biological Survey Report that complies with generally accepted standards for work of this type. We will include the results of all background work, field surveys, delineations and mapping in a comprehensive report suitable for the Flood Control District's use in determining further course(s) of action and suitable for released to other agencies and the public. The report will support the development of any follow-up surveys and the development of environmental documents pursuant to CEQA. The report will be submitted to the San Luis Obispo County Department of Public Works.

PROJECT STAFFING

To complete the detailed tasks discussed above Terra Verde will provide a project manager, senior biologist, staff biologists, and GIS specialist. Terra Verde will also provide fisheries biologist, Freddy Otte, of HydroTerra Consulting as a subcontractor. An organizational chart has been provided as Attachment B.

We have structured our work and cost estimate to utilize our mid-level staffing as much as practical to reduce the overall cost of the project. Our senior level staff (Ms. Langle and Mr. Dugas) will ensure high quality work from surveys to the final reports and maps.

SCHEDULE

Our goal will be to accomplish this scope of work as quickly and efficiently as possible, without compromising quality or protocol requirements. We anticipate that we will meet with the key staff from the Flood Control District to gather information and coordinate our planned field surveys. We feel that we will need to engage the Flood Control District initially to kick off the



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project, and then just occasionally as we need assistance with access or to provide updates on our progress.

We will begin research and set up an initial meeting once the contract is awarded. We feel we can draft most of the framework for the technical documents prior to field work being conducted due to our knowledge of the site and initial field visits. We will begin California red-legged frog surveys as soon as possible (February 25 is the seasonal window recommended by USFWS). We will combine these efforts with our fisheries sampling to increase the efficiency of the field work. Once this initial work is completed, we will continue to finalize the technical reports.

The wetland assessment and floristic surveys will be conducted during the appropriate spring blooming period. However, some initial field work will be conducted to identify potential habitat for special status species.

The majority of our work will be completed by late spring, with the California red-legged frog survey report finishing last due to the requirement for non-breeding season surveys. The schedule may be greatly accelerated if California red-legged frogs are discovered early on.

ASSUMPTIONS

- A non-motorized vessel will be used for all fisheries and CRLF surveys and habitat assessments. If a motorized vessel is required, it will be rented and charged as a pass-through item with no mark up.
- CRLF daytime and nighttime surveys will occur in the same day as a means of saving time and money. This is in accordance with an allowable stipulation provided by the USFWS.
- While focus will be placed on the southern portion of the lagoon, our protocol-level surveys must involve an even distribution throughout the project area including the nearby lower section of Arroyo Grande Creek which provide suitable habitat for CRLF.
- The Flood Control District will provide Terra Verde with the permissions to enter and survey on public property. Additionally, the Flood Control District will secure any private property access deemed necessary for the project.
- All previous biological survey reports as well as current focused studies being conducted by PWA and survey efforts by Cannon Associates will be made available to Terra Verde.

PROJECT FEES AND INSURANCE

The above scope of work will be conducted on a time and materials basis by Terra Verde Environmental Consulting, LLC, with a not-to-exceed amount of **\$78,065** (see Attachment A).



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Work beyond the scope and budget estimate will only be conducted once approved in writing by the County.

Terra Verde Environmental Consulting
 Project: Oceano Lagoon Area Biological Investigations
 December 15, 2011

	Task A		Task B		Task C		Task D		Task E & F		Total
	Biological Surveys*	Wetland Delineation Report	Mapping	Biological Survey/CRLF Reports	Impact Assessment	Hours	Costs	Hours	Costs	Hours	
Terra Verde Staff											
Project Manager	18	\$1,980.00	6	\$660.00	32	\$3,520.00	10	\$1,100.00	82	\$9,020.00	
Senior Wildlife Biologist/Botanist	193	\$16,405.00	6	\$510.00	120	\$8,400.00	4	\$460.00	199	\$16,915.00	
Staff Biologist	346	\$24,220.00	8	\$560.00	12	\$780.00	4	\$260.00	522	\$36,540.00	
Staff GIS Specialist		\$0.00	32	\$2,080.00	164	\$12,700.00	14	\$1,360.00	68	\$4,420.00	
TOTAL LABOR	557	\$42,605.00	52	\$3,810.00	166	\$12,700.00	14	\$1,360.00	871	\$66,895.00	
Hydro Terra Consulting											
Fisheries Biologist	93	\$7,440.00	2	\$0.00	4	\$0.00	0	\$0.00	99	\$7,920.00	
TOTAL LABOR	93	\$7,440.00	2	\$0.00	4	\$0.00	0	\$0.00	99	\$7,920.00	
Project Expenses: Terra Verde Staff											
Trimble GPS Unit	10	\$1,000.00								\$1,000.00	
Vehicles/Transportation (per day)	30	\$2,250.00								\$2,250.00	
PROJECT EXPENSES COST		\$3,250.00								\$3,250.00	

TOTAL Terra Verde LABOR & OTHER DIRECT COSTS	650	\$53,295.00	86	\$6,420.00	52	\$3,810.00	14	\$1,360.00	970	\$78,065.00
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Total Costs **\$78,065.00**

* Increased overall survey hours to complete biological assessment including wetland delineation and CRLF surveys of additional wetland habitat areas along Oceano Airport and surrounding areas (substantial increase in overall survey area). Please note that this does not include costs for land surveyor (i.e., Cannon Associates) to survey wetland delineation boundaries. Assume surveyor would contract directly with County for these services.

ASSUMPTIONS:

*See proposal for assumptions



County of San Luis Obispo
Flood Control and Water Conservation District
Oceano Lagoon Area Environmental Services PS# 1149

