



CAMBRIA COMMUNITY SERVICES DISTRICT

I, Amanda Rice, President of the Cambria Community Services District Board of Directors, hereby call a Special Meeting of the Board of Directors pursuant to California Government Code Section 54956. The Special Meeting will be held: **Tuesday, November 7, 2017, 4:00 PM, 1000 Main Street Cambria, CA 93428**. The purpose of the Special Meeting is to discuss or transact the following business:

AGENDA

SPECIAL MEETING OF THE CAMBRIA COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS

**Tuesday, November 7, 2017, 4:00 PM
1000 Main Street Cambria, CA 93428**

Copies of the staff reports or other documentation relating to each item of business referred to on the agenda are on file in the Office of the District Clerk, available for public inspection during District business hours. The agenda and agenda packets are also available on the CCSD website at www.cambriacsd.org. The District Office hours are Monday - Thursday, and every other Friday from 9:00 a.m. through 4:00 p.m. Please call 805-927-6223 if you need any assistance. If requested, the agenda and supporting documents shall be made available in alternative formats to persons with a disability. The District Clerk will answer any questions regarding the agenda.

- 1. OPENING**
 - A. Call to Order**
 - B. Pledge of Allegiance**
 - C. Establishment of Quorum**
- 2. PUBLIC COMMENT ON AGENDA ITEMS**
- 3. REGULAR BUSINESS (Estimated time: 15 Minutes per item)**
 - A. DISCUSSION AND CONSIDERATION OF APPROVAL OF CONSULTANT SERVICES AGREEMENTS WITH CLEATH-HARRIS GEOLOGISTS AND CANNON TO SUPPORT WET WEATHER PREPAREDNESS ACTIVITIES FOR THE SUSTAINABLE WATER FACILITY, SURFACE WATER IMPOUNDMENT BASIN**
 - B. DISCUSSION AND CONSIDERATION OF APPROVAL OF PUBLIC WORKS CONTRACT WITH G.F. GARCIA & SONS, INC FOR DRAINAGE SWALE AT SUSTAINABLE WATER FACILITY, SURFACE WATER IMPOUNDMENT BASIN**
- 4. ADJOURN TO CLOSED SESSION**
 - A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code Section 54957**

Title: General Manager

CAMBRIA COMMUNITY SERVICES DISTRICT

TO: Board of Directors

AGENDA NO. **3.A.**

FROM: Robert Gresens, District Engineer

Meeting Date: November 7, 2017

Subject: DISCUSSION AND CONSIDERATION OF APPROVAL OF CONSULTANT SERVICES AGREEMENTS WITH CLEATH-HARRIS GEOLOGISTS AND CANNON TO SUPPORT WET WEATHER PREPAREDNESS ACTIVITIES FOR THE SUSTAINABLE WATER FACILITY, SURFACE WATER IMPOUNDMENT BASIN

RECOMMENDATION:

Staff recommends that the CCSD Board of Directors approve the attached Consultant Services Agreements with Cleath-Harris Geologists and Cannon Corporation associated with developing and completing wet weather preparedness activities for the surface water impoundment basin for the Sustainable Water Facility. The total cost for these agreements is not to exceed \$74,164 without further Board authorization.

FISCAL IMPACT:

The fiscal impact for the two proposed Consultant Services Agreements is \$74,164, which is to be funded from the CCSD Board-approved FY 2017/2018 Sustainable Water Facility Budget. Costs of the two subject agreements are summarized below.

Firm	Purpose	Total Estimated Cost Not to Exceed
Cleath-Harris Geologists	Groundwater Assessments and method to control groundwater level.	\$38,000
Cannon Corporation –		
• Original scope of work	Analysis of 1,000 year interval storm	\$23,464
• Added work	Analysis of 100 year interval storm	\$12,700
Total		\$74,164

Of the above amounts, \$5,000 is being proposed to be included within the Cleath-Harris Geologists agreement should future support be needed during the installation of a perimeter French drain, which would control groundwater elevations, if that project is determined to be necessary. Please also note that the above referenced agreements are responsive to the requirements outlined within the July 18, 2017 Cease and Desist Order (CDO) issued by the Regional Water Quality Control Board (RWQCB) to the CCSD following flooding that occurred during the January 2017 Governor-declared flooding disasters. Future direction from the

RWQCB, as well as CCSD Board policy discussion and determination will be needed before deciding on whether to complete a French drain system around the impoundment basin to control the groundwater level.

DISCUSSION:

Wet weather preparedness activities are being coordinated with responses to the RWQCB's CDO, which was issued to the CCSD on July 18, 2017 and approved by the RWQCB during their July 13, 2017 meeting. The CDO was initiated due to two basic reasons: 1) storm water flooding from properties located to the north of the impoundment basin property had entered the impoundment basin last January decreasing its freeboard below the required minimum; and 2) the local groundwater table rose to the bottom of the impoundment basin following heavy rains, as opposed to being at least five feet below it. Due to the urgency required in responding to the RWQCB, as well as the onset of the pending rainy season, the CCSD initiated consulting work within the General Manager's authorization limit of \$25,000 per contract. Costs exceed the General Manager's authorization limit on two agreements as explained within the paragraphs below. Therefore, staff is seeking the Board's approval to ensure the authorization limits are not exceeded, while also keeping the Board informed and included in the decision making process.

Cleath-Harris Geologists

Under CDO Item 1, "Tasks to be Completed before Recommencing Surface Impoundment Operations," there are four numbered items that have been listed by the RWQCB. Geohydrological tasks outlined within the CDO include the following:

- The first sentence of CDO Item 1. (CDO p. 4) reads: "The Discharger shall contract with a hydrogeologist to perform a hydrogeological evaluation of the surface impoundment site as well as upgradient properties to determine the highest anticipated groundwater elevation beneath the surface impoundment."
- Item 2 of the CDO (CDO p. 4) reads: "The Discharger shall contract with a licensed civil engineer or geologist with the requisite surface water impoundment experience to evaluate, propose, document, and oversee the design and installation of a drainage system beneath the surface water impoundment such that the maximum groundwater surface elevation, including capillary fringe, shall be maintained at five feet of separation."
- Item 4 of the CDO (CDO p.5) reads: "The Discharger shall submit a technical report documenting the proposed changes to achieve the required groundwater separation distance and VZMS repairs¹, including milestones and timelines², to the Executive Office for review and approval."

Per the terms of the CDO, the use of Cleath-Harris Geologists for this supporting effort required advance approval by the RWQCB³. The work by Cleath-Harris Geologists was authorized under the General Manager's limit of \$25,000. However, additional funding is required for soil boring

¹ Weekly liner integrity testing by the CCSD has found there is no leakage. Therefore the scope of work does not include a repair discussion.

² The CCSD has postponed any action on addressing the five foot separation requirement with RWQCB staff approval. Therefore the scope of work does not include milestones and timelines for this item.

³ Correspondence between the RWQCB's Jon Rokke and the CCSD's Robert Gresens.

work by a drilling company working as a subcontractor to Cleath-Harris Geologists (in the approximate amount of \$8,000), which was included within a September invoice. Since then, soil boring work completed during October (approximately \$3,700) is now being billed directly to the CCSD.

The findings from the work by Cleath-Harris Geologists have been beneficial in that they identified a potential means to control the maximum level of groundwater elevation through the future installation of French drains around the perimeter of the impoundment basin (as opposed to being beneath the pond). The hydrogeological information developed by Cleath-Harris Geologists provides additional facts to the CCSD on which to support policy decisions regarding any potential future use of the impoundment basin.

Cannon Corporation

Cannon Corporation was retained to assist the CCSD in analyzing the surface water hydrology associated with the storm water runoff and potential flooding. Under CDO Item 1 “Tasks to be Completed before Recommencing Surface Impoundment Operations,” there is an item that had been included by the RWQCB with regard to surface water hydrology:

- The first sentence of CDO Item 1. (CDO p. 4) reads: “... An assessment of the volume of water with which the surface water impoundment site will be inundated in a 1,000- year, 24-hour storm event is also required.”

To date, there was an initial authorization of \$23,464 given to Cannon to analyze and assess the 1,000-year, 24-hour storm event. While conducting this initial 1,000-year analysis of the entire upstream watershed, it was found that the offsite properties to the north of the CCSD-owned impoundment basin property would produce too much runoff for the existing culverts under San Simeon Creek Road (rainfall from a 1,000-year rainfall event falling onto the impoundment site should be adequately handled). Additionally, Title 27 regulations include reference to a 100-year frequency storm event for the offsite storm water analysis.⁴ This led to the need to analyze the offsite flows using a 100-year interval storm in combination with modeling the raising of a low-lying reach of San Simeon Creek roadway to better isolate storm water from the CCSD impoundment basin. This required an additional authorization of \$12,700. The information gained from this effort will be used in follow up discussions and coordination with the County on how to best isolate the impoundment basin property from storm water that flows across San Simeon Creek from north to south within its low-lying reach (which is located immediately to the north of the impoundment basin property).

Terrain LLC

In addition to Cleath-Harris Geologists and Cannon Corporation, initial assistance from Terrain LLC was sought to help determine elevations and how storm water was entering the CCSD impoundment basin property under a General Manager-authorized contract in March 2017. Terrain also helped in coordinating the design and informal bidding and negotiation of a contract to complete a surface water swale within the impoundment basin property. The original contract authorization with Terrain was \$20,000, which falls within the limits of the General Manager’s authority; however, staff now estimates that the General Manager’s full authorization limit of

⁴ Title 27 Section 20250(c) states: “Flooding — New and existing Class II Units shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100 year return period.”

\$25,000 will be needed to complete the swale work portion of the wet weather activities. A copy of the original contract is attached, and the General Manager will provide written authorization to Terrain of the increased limit.

For the aforementioned reasons, staff is seeking formal Board approval of the agreements and limits described for Cleath-Harris Geologists and Cannon.

Attachments:

- Cleath-Harris Geologists Consultant Services Agreement
- Cannon Corporation Agreement Consultant Services Agreement No. 1
- Cannon Corporation Agreement Consultant Services Agreement No. 2
- Terrain LLC Consultant Services Agreement

BOARD ACTION: Date _____ Approved: _____ Denied: _____

UNANIMOUS: ___RICE___ FARMER___ BAHRINGER ___ WHARTON___ VACANT

AGREEMENT FOR CONSULTANT SERVICES

This AGREEMENT FOR CONSULTANT SERVICES ("Agreement") is made and effective as of August 1, 2017, between **Cleath-Harris Geologists** ("Consultant"), and the **CAMBRIA COMMUNITY SERVICES DISTRICT**, a political corporation of the State of California ("District"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on August 1, 2017 and shall remain and continue in effect until August 1, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform the tasks described and comply with all terms and provisions set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

3. **PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience and talent, perform all tasks described herein. Consultant shall employ, at a minimum generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **AGREEMENT ADMINISTRATION**

District's General Manager shall represent District in all matters pertaining to the administration of this Agreement. Timothy Cleath shall represent Consultant in all matters pertaining to the administration of this Agreement.

5. **PAYMENT**

The District agrees to pay the Consultant in accordance with the payment rates and terms set forth in Exhibit "B," attached hereto and incorporated herein by this reference.

6. **SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) The District may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise.

If the District suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the District shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the District. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the District pursuant to Section 5.

7. **TERMINATION ON OCCURRENCE OF STATED EVENTS**

This Agreement shall terminate automatically on the occurrence of any of the following events:

- (a) Bankruptcy or insolvency of any party;
- (b) Sale of Consultant's business; or
- (c) Assignment of this Agreement by Consultant without the consent of District.
- (d) End of the Agreement term specified in Section 1.

8. **DEFAULT OF CONSULTANT**

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, District shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the District Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the District shall have the right, notwithstanding any other provision of this Agreement to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

9. **LAWS TO BE OBSERVED.** Consultant shall:

(a) Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by Consultant under this Agreement;

(b) Keep itself fully informed of all existing and proposed federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in Consultant's performance under this Agreement, or the conduct of the services under this Agreement;

(c) At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

(d) Immediately report to the District's General Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement.

(e) The District, and its officers, agents and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

10. **OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by District that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of District or its designees at reasonable times to such books and records; shall give District the right to examine and audit said books and records; shall permit District to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the District and may be used, reused, or otherwise disposed of by the District without the permission of the Consultant. With respect to computer files, Consultant shall make available to the District, at the Consultant's office and upon reasonable written request by the District, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. **INDEMNIFICATION**

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless District and any and

all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless District, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend District as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

(d) Indemnification for Design Professional Services. Notwithstanding anything herein to the contrary, to the fullest extent permitted by law for all design professional services arising under this Agreement, Consultant shall indemnify, protect, defend and hold harmless District and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

12. **INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit “C,” attached hereto and incorporated herein as though set forth in full.

13. **INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the District a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither District nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the District. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against District, or bind District in any manner.

(b) No employee benefits shall be available to Consultant in connection with performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, District shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for District. District shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

14. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was or is used against or in concert with any officer or employee of the Cambria Community Services District in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Cambria Community Services District will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the District to any and all remedies at law or in equity.

15. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of District, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

16. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without District's prior written authorization. Consultant, its officers, employees, agents, or subcontractors, shall not without written authorization from the District Manager or unless requested by the District Counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work

performed under this Agreement or relating to any project or property located within the District. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives District notice of such court order or subpoena.

(b) Consultant shall promptly notify District should Consultant, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the District. District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with District and to provide the opportunity to review any response to discovery requests provided by Consultant. However, District’s right to review any such response does not imply or mean the right by District to control, direct, or rewrite said response.

17. **NOTICES**

Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To District:	Jerry Gruber, General Manager Cambria Community Services District P.O. Box 65 Cambria, CA 93428
With a copy to:	Timothy J, Carmel, District Counsel Carmel & Naccasha, LLP 1410 Marsh St. San Luis Obispo, CA 93401
To Consultant:	Timothy Cleath Cleath-Harris Geologists 11545 Los Osos Valley Road, Suite C-3 San Luis Obispo, CA 93405

18. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, without the prior written consent of the District.

19. **GOVERNING LAW**

The District and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the superior or federal district court with jurisdiction over the Cambria Community Services District.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. **TIME**

District and Consultant agree that time is of the essence in this Agreement.

22. **CONTENTS OF PROPOSAL**

Consultant is bound by the contents of Exhibits A and B, attached hereto and incorporated herein by this reference.

23. **CONSTRUCTION**

The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

24. **AMENDMENTS**

Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.

25. **AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CAMBRIA COMMUNITY SERVICES DISTRICT

CONSULTANT

By: _____
Jerry Gruber, General Manager

By: _____

Its: _____

Attest:

Monique Madrid, District Clerk

Approved As To Form:

Timothy J. Carmel, District Counsel

EXHIBIT A
SCOPE OF WORK

SCOPE OF WORK

The primary goal of the scope of work is to assist the CCSD in addressing requirements of the Regional Water Quality Control Board's (RWQCB) Cease and Desist Order (CDO), which was issued to the CCSD on July 18, 2017 and approved by the RWQCB during their July 13, 2017 Board meeting. Under CDO Item "1 Tasks to be Completed before Recommencing Surface Impoundment Operations," there are four numbered items that have been listed by the RWQCB. Geohydrological tasks outlined within the CDO include the following:

- The first sentence of CDO Item 1. (CDO p. 4) reads; "The Discharger shall contract with a hydrogeologist to perform a hydrogeological evaluation of the surface impoundment site as well as upgradient properties to determine the highest anticipated groundwater elevation beneath the surface impoundment."
- Item 2 of the CDO (CDO p. 4) reads; "The Discharger shall contract with a licensed civil engineer or geologist with the requisite surface water impoundment experience to evaluate, propose, document, and oversee the design and installation of a drainage system beneath the surface water impoundment such that the maximum groundwater surface elevation, including capillary fringe, shall be maintained at five feet of separation."
- Item 4 of the CDO (CDO p.5) reads; "The Discharger shall submit a technical report documenting the proposed changes to achieve the required groundwater separation distance and VZMS repairs¹, including milestones and timelines², to the Executive Office for review and approval."

To assist the CCSD with the aforementioned CDO requirements, the following Scope of Work items for Cleath-Harris Geologists have been developed:

PHASE 1: INITIAL STUDIES

1. Review reference materials and data.

Review reference materials including: permit information, record drawings, geotechnical studies for the surface water impoundment basin, topographic survey information, hydrogeologic studies of the San Simeon Creek groundwater basin, borehole and monitoring well logs, groundwater level data for MW-1, MW-2, and MW-3, and LiDAR topographic data.

2. Prepare a groundwater assessment.

Prepare an initial groundwater assessment using available data and identify additional information that is required to adequately characterize the hydrogeology beneath the surface water impoundment basin. Prepare groundwater level hydrographs for the

¹ Weekly liner integrity testing by the CCSD has found there is no leakage. Therefore the proposed scope of work does not include a repair discussion.

² The CCSD has postponed any action on addressing the five foot separation requirement with RWQCB staff approval. Therefore the scope of work does not include milestones and timelines for this item.

monitoring wells. Establish the groundwater level contours for critical high water conditions using historic MW-1, -2, -3 data. Determine data gaps. Develop a field investigation program to fill in the data gaps.

PHASE 2: REFINED HYDROGEOLOGIC EVALUATION AND DESIGN OPTION REVIEW

1. Perform field investigations.

Investigate the hydrogeology and groundwater beneath and adjacent to the surface water impoundment basin. Investigative methods shall include continuous core drilling, pumping test at MW-3, pneumatic aquifer parameter tests at MW-1 and -2, and field mapping of bedrock outcrops in Van Gordon Creek.

2. Prepare updated groundwater assessment

Revise the initial groundwater assessment based on the field investigations.

PHASE 3: DESIGN RECOMMENDATION AND PRESENTATION TO REGULATORY AGENCIES

1. Recommend approach to maintain groundwater separation.

Based on the groundwater assessment and the field investigation, identify groundwater level control options including dewatering wells, a French drain, a barrier wall. Consult with the District, contractors and engineers regarding effectiveness of the control method, construction requirements, costs, and site constraints. Recommend the most effective feasible method.

2. Prepare supporting report(s).

Prepare supporting report(s). Review the design options and present the recommended design for the groundwater level control system.

3. Attend meetings and provide miscellaneous assistance to assist CCSD with regulatory agency communications.

Attend meetings at the District and regulatory agencies, and provide assistance on communications with the RWQCB, Coastal Commission, and County regulatory agencies.

EXHIBIT B

FEE SCHEDULE

The fee schedule, on a cost not-to-exceed-without-further-authorization basis for the different phases identified in Exhibit A, are as follows:

Phase 1 \$8,000 (performed/completed August 2017)

Phase 2 \$25,000 for CHG (including Professor Malama as a subconsultant for the pneumatic slug tests), \$10,400 for equipment/contractor charges – includes first S/G Drilling invoice but not second S/G Drilling invoice (sent directly to CCSD) (Performed September-November 2017).

Phase 3 \$5,000/as required prior to design and construction in 2018

EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to District in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to District.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy from CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to District for injury to employees of Consultant, subcontractors or others involved in the Work. The scope of coverage provided is subject

to approval of District following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and District agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds District, its officials employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all Consultants, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against District regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the District or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to District and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the District, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction

of discovery period) that may affect District's protection without District's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to District at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, District has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by District shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at District option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to District of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to District.

10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to District for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to District. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the District. At the time the District shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The District reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the District will negotiate additional compensation proportional to the increase benefit to District.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of District to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on District nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually as long as District, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until District executes a written statement to that effect.

16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to District within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to District, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge District or Consultant for the cost of additional insurance coverage required by this agreement. Any

such provisions are to be deleted with reference to District. It is not the intent of District to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against District for payment of premiums or other amounts with respect thereto.

22. Consultant agrees to provide immediate notice to District of any claim or loss against Consultant arising out of the work performed under this agreement. District assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve District.

AGREEMENT FOR CONSULTANT SERVICES

This AGREEMENT FOR CONSULTANT SERVICES (“Agreement”) is made and effective as of September 12, 2017, between **CANNON CORPORATION**, a California corporation (“Consultant”), and the **CAMBRIA COMMUNITY SERVICES DISTRICT**, a political corporation of the State of California (“District”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on September 12, 2017 and shall remain and continue in effect until June 30, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and comply with all terms and provisions set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience and talent, perform all tasks described herein. Consultant shall employ, at a minimum generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. AGREEMENT ADMINISTRATION

District’s General Manager shall represent District in all matters pertaining to the administration of this Agreement. Larry P. Kraemer shall represent Consultant in all matters pertaining to the administration of this Agreement.

5. PAYMENT

The District agrees to pay the Consultant in accordance with the payment rates and terms set forth in Exhibit A.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The District may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the District suspends or terminates a portion of this Agreement

such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the District shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the District. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the District pursuant to Section 5.

7. **TERMINATION ON OCCURRENCE OF STATED EVENTS**

This Agreement shall terminate automatically on the occurrence of any of the following events:

- (a) Bankruptcy or insolvency of any party;
- (b) Sale of Consultant's business; or
- (c) Assignment of this Agreement by Consultant without the consent of District.
- (d) End of the Agreement term specified in Section 1.

8. **DEFAULT OF CONSULTANT**

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, District shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the District Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the District shall have the right, notwithstanding any other provision of this Agreement to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

9. **LAWS TO BE OBSERVED.** Consultant shall:

(a) Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by Consultant under this Agreement;

(b) Keep itself fully informed of all existing and proposed federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in Consultant's performance under this Agreement, or the conduct of the services under this Agreement;

(c) At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

(d) Immediately report to the District's General Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement.

(e) The District, and its officers, agents and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

10. **OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by District that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of District or its designees at reasonable times to such books and records; shall give District the right to examine and audit said books and records; shall permit District to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the District and may be used, reused, or otherwise disposed of by the District without the permission of the Consultant. With respect to computer files, Consultant shall make available to the District, at the Consultant's office and upon reasonable written request by the District, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. **INDEMNIFICATION**

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subContractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless District, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subContractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subContractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend District as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

(d) Indemnification for Design Professional Services. Notwithstanding anything herein to the contrary, to the fullest extent permitted by law for all design professional services arising under this Agreement, Consultant shall indemnify, protect, defend and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

12. **INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit "B," attached hereto and incorporated herein as though set forth in full.

13. **INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the District a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither District nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the District. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against District, or bind District in any manner.

(b) No employee benefits shall be available to Consultant in connection with performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, District shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for District. District shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

14. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was or is used against or in concert with any officer or employee of the Cambria Community Services District in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Cambria Community Services District will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the District to any and all remedies at law or in equity.

15. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of District, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

16. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without District's prior written authorization. Consultant, its officers, employees, agents, or subContractors, shall not without written authorization from the District Manager or unless requested by the District Counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the District. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.

(b) Consultant shall promptly notify District should Consultant, its officers, employees, agents, or subContractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the District. District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with District and to provide the opportunity to review any response to discovery requests provided by Consultant. However, District's right to review any such response does not imply or mean the right by District to control, direct, or rewrite said response.

17. **NOTICES**

Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To District: Jerry Gruber, General Manager
Cambria Community Services District
P.O. Box 65
Cambria, CA 93428

With a copy to: Timothy J, Carmel, District Counsel
Carmel & Naccasha, LLP
1410 Marsh St.
San Luis Obispo, CA 93401

To Consultant: Cannon Corp.
1050 Southwood Drive
San Luis Obispo, CA 93401

18. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, without the prior written consent of the District.

19. **GOVERNING LAW**

The District and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the superior or federal district court with jurisdiction over the Cambria Community Services District.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. **TIME**

District and Consultant agree that time is of the essence in this Agreement.

22. **CONSTRUCTION**

The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

23. **AMENDMENTS**

Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.

24. **AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CAMBRIA COMMUNITY SERVICES
DISTRICT**

CANNON CORPORATION

By: _____
Jerry Gruber
District Manager

By: _____
Larry P. Kraemer
Director, Public Infrastructure

ATTEST:

Monique Madrid, District Clerk

Approved As To Form:

Timothy J. Carmel, District Counsel

EXHIBIT A

SCOPE OF WORK AND PAYMENT SCHEDULE



ADDITIONAL SERVICES AGREEMENT

<u>Project Client:</u>	Cambria Community Services District	<u>Date:</u> October 10, 2017
<u>Project Name:</u>	Surface Water Impoundment Basin – Stormwater Analysis Assistance	<u>Project Number:</u> 170819

Description of Additional Services and/or Materials:

Task 1: 100-yr Hydrologic Analysis

This task includes hydrologic analyses to estimate the 100-yr, 24-hr design storm runoff for the catchments that drain to the two existing culverts under San Simeon Creek Road in the vicinity of the CCSD surface impoundment. This task includes the analyses and updating the stormwater memorandum to include the methods and results of the 100-yr analysis.

Task 2: Development of 2-Dimensional Hydraulic Model for Existing Conditions

This task includes the development of a 2-dimensional HEC-RAS hydraulic model of the existing conditions for the area in the vicinity of the surface impoundment. The model will extend approximately 1,000 feet upstream and downstream of the impoundment and will be used to evaluate flow patterns and estimate the magnitude of flow over San Simeon Creek Road for the 100-yr and 1,000-yr, 24-hr design storm events. The model will be developed using PG&E LIDAR data and field topographic survey data where available.

This task includes the development of the model, evaluating the 100-yr and 1,000-yr events, and updating the stormwater memorandum to include the results of the analysis. The results will include information to support discussions on what elevation the roadway could be raised to in order to minimize, or possibly eliminate, overflows onto the CCSD property for the 100-yr event. 8-hours have been included for Monsoon for oversight and peer review of the model.

Task 1 Additional Fee: \$ 2,100

Task 2 Additional Fee: \$ 10,600

Total Additional Fee: \$12,700

Reimbursable expenses are not included in this additional service agreement.

Authorization:

In witness whereof, the parties hereto have caused this agreement consisting of the Request for Additional Services, and the original signed proposal letter and Appendix A dated November 2011 and any other necessary and applicable documents to be executed and effective as of the date and year first above written. Payment is due within 15 days of completion of work.

Any additions and/or corrections to this agreement will be addressed in a separate agreement.

Cambria Community Services District
Client

Cannon

Robert C. Gresens, PE
District Engineer

Larry P. Kraemer, PE (C 44813)
Director, Public Infrastructure

Date _____

Date _____

EXHIBIT B

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to District in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to District.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy from CG 00 01 or the equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to defend the insured. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and District agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds District, its officials employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992 or current equivalent. Consultant also agrees to require all consultants, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against District regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the District or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to District and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the District, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect District's protection without District's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to District at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, District has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other

agreement and to pay the premium. Any premium so paid by District shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at District option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to District of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will “endeavor” (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to District.

10. Consultant agrees to ensure that subcontractors, and any other party involved with the project that is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to District for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to District. If Consultant’s existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the District. At the time the District shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The District reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the District will negotiate additional compensation proportional to the increase benefit to District.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of District to inform Consultant of non-compliance with any insurance

requirements in no way imposes any additional obligations on District nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually as long as District, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until District executes a written statement to that effect.

16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to District within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to District, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge District or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to District. It is not the intent of District to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against District for payment of premiums or other amounts with respect thereto.

22. Consultant agrees to provide immediate notice to District of any claim or loss against Consultant arising out of the work performed under this agreement. District assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve District.

AGREEMENT FOR CONSULTANT SERVICES

This AGREEMENT FOR CONSULTANT SERVICES (“Agreement”) is made and effective as of September 12, 2017, between **CANNON CORPORATION**, a California corporation (“Consultant”), and the **CAMBRIA COMMUNITY SERVICES DISTRICT**, a political corporation of the State of California (“District”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on September 12, 2017 and shall remain and continue in effect until June 30, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and comply with all terms and provisions set forth in Consultant’s proposal entitled, “CCSD Surface Water Impoundment Basin – Storm Water Analysis Assistance,” dated September 11, 2017, attached hereto as Exhibit “A,” and incorporated herein by this reference.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience and talent, perform all tasks described herein. Consultant shall employ, at a minimum generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. AGREEMENT ADMINISTRATION

District’s General Manager, Jerry Gruber, shall represent District in all matters pertaining to the administration of this Agreement. Larry Kraemer shall represent Consultant in all matters pertaining to the administration of this Agreement.

5. PAYMENT

The District agrees to pay the Consultant in accordance with the payment rates and terms set forth in Exhibit “B,” attached hereto and incorporated herein by this reference, in monthly progress payments based on time spent on each task.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The District may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the

Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the District suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the District shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the District. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the District pursuant to Section 5.

7. TERMINATION ON OCCURRENCE OF STATED EVENTS

This Agreement shall terminate automatically on the occurrence of any of the following events:

- (a) Bankruptcy or insolvency of any party;
- (b) Sale of Consultant's business;
- (c) Assignment of this Agreement by Consultant without the consent of District; or
- (d) End of the Agreement term specified in Section 1.

8. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, District shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the District Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the District shall have the right, notwithstanding any other provision of this Agreement to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

9. **LAWS TO BE OBSERVED.** Consultant shall:

(a) Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by Consultant under this Agreement;

(b) Keep itself fully informed of all existing and proposed federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in Consultant's performance under this Agreement, or the conduct of the services under this Agreement;

(c) At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

(d) Immediately report to the District's General Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement; and

(e) The District, and its officers, agents and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

10. **OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by District that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of District or its designees at reasonable times to such books and records; shall give District the right to examine and audit said books and records; shall permit District to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the District and may be used, reused, or otherwise disposed of by the District without the permission of the Consultant. With respect to computer files, Consultant shall make

available to the District, at the Consultant's office and upon reasonable written request by the District, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. **INDEMNIFICATION**

(a) **Indemnification for Professional Liability.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) **Indemnification for Other Than Professional Liability.** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless District, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) **General Indemnification Provisions.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend District as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

(d) **Indemnification for Design Professional Services.** Notwithstanding anything herein to the contrary, to the fullest extent permitted by law for all design professional services arising under this Agreement, Consultant shall indemnify, protect, defend and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

12. **INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit "C," attached hereto and incorporated herein as though set forth in full.

13. **INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the District a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither District nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the District. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against District, or bind District in any manner.

(b) No employee benefits shall be available to Consultant in connection with performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, District shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for District. District shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

14. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was or is used against or in concert with any officer or employee of the Cambria Community Services District in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Cambria Community Services District will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the District to any and all remedies at law or in equity.

15. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of District, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

16. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without District's prior written authorization. Consultant, its officers, employees, agents, or subcontractors, shall not without written authorization from the District Manager or unless requested by the District Counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the District. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.

(b) Consultant shall promptly notify District should Consultant, its officers, employees, agents, or subContractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the District. District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with District and to provide the opportunity to review any response to discovery requests provided by Consultant. However, District's right to review any such response does not imply or mean the right by District to control, direct, or rewrite said response.

17. **NOTICES**

Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To District: Jerry Gruber, District Manager
Cambria Community Services District
PO Box 65
Cambria, CA 93428

Copy to: Timothy J. Carmel
Carmel & Naccasha, LLP
1410 Marsh Street
San Luis Obispo, CA 93401

To Consultant: Cannon Corp.

1050 Southwood Drive
San Luis Obispo, CA 93401

18. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, without the prior written consent of the District.

19. **GOVERNING LAW**

The District and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the superior or federal district court with jurisdiction over the Cambria Community Services District.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. **TIME**

District and Consultant agree that time is of the essence in this Agreement.

22. **CONTENTS OF PROPOSAL**

Consultant is bound by the contents of the Proposal submitted by the Consultant, Exhibit A, attached hereto and previously incorporated herein. In the event that the terms of Consultant's Proposal conflicts with the terms of this Agreement, the terms of the Agreement shall supersede.

23. **CONSTRUCTION**

The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

24. **AMENDMENTS**

Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.

25. **AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CAMBRIA COMMUNITY SERVICES
DISTRICT**

CANNON CORPORATION

By: _____
Jerry Gruber
District Manager

By: _____
Larry P. Kraemer
Director, Public Infrastructure

ATTEST:

Monique Madrid, District Clerk

Approved As To Form:

Timothy J. Carmel, District Counsel

EXHIBIT A
CONSULTANT'S PROPOSAL



Cannon

SCOPE OF WORK

This scope of work was developed based on our phone conversations and emails with you on August 17, 2017.

Task 1 – Site Visit and Kickoff Meeting

We will visit the project site with a representative from the District to review existing conditions and discuss potential improvements. The meeting agenda will focus on the project understanding, team member involvement, schedule, and coordination protocol.

Task 2 – Storm Water Analysis and Drainage Memo

We will review all available as-built improvement and record drawings, survey data collected by Terrain LLC, LIDAR mapping of the area, the preliminary drainage design calculations from CDM Smith, and any other information pertinent to the project. We assume the District will provide these as-builts, reports, and topographic maps in PDF and AutoCAD formats, where available. Field survey work is not part of this proposal.

This work will include revisiting and updating drainage calculations to better characterize the existing drainage conditions and proposed improvements required to flood proof the existing basin. We will prepare a drainage memo that contains the following information: existing hydrologic and hydraulic conditions, drainage calculations for the 1,000-yr, 24-hr storm event, and proposed improvements for routing this storm event around the existing basin. This information will be provided for review by the Water Board and subsequent implementation into a technical report being prepared by others.

Task 3 – Storm Water Improvement Plans

Based on the information determined under Task 2, we will incorporate the proposed conditions into an improvement plan set for use by the District. To simplify this effort, we recommend preparing two improvement plan sheets depicting plan view improvements, design details, and minor grading and drainage improvements. Specifications for work will be provided on the plans as we assume the District will be constructing this work under their own forces or using an informal bidding procedure.

Task 4 – Peer Review

We will retain the services of Monsoon Consultants (Monsoon) to provide a peer review assessment of the drainage memo and proposed storm water improvement plans completed under Tasks 2 and 3. Upon completion of the review, Monsoon will participate in one (1) coordination call between CSD and Cannon to provide their comments.

For budgeting purposes, we have assumed 20 hours of Monsoon's time for this task. This task also assumes one site visit with Cannon, Monsoon, and District staff.

Task 5 – Project Management



Cannon

We will participate in coordination calls and emails with the District, Hydrogeologist Tim Cleath, and the Water Board as required during the duration of the project. An additional site visit may be required during the duration of this contract.

For budgeting purposes, we have assumed 12 hours will be budgeted for this task.

Permitting services for any of the work described above is excluded from this scope of work.

DELIVERABLES

- Drainage Memo
- Storm Water Improvement Plans

ASSUMPTIONS

The following assumptions apply to this proposal:

- Cannon is not responsible and cannot be held accountable for the accuracy of As-Builts or Record Drawings provided by the Agencies or utility providers. Cannon has no means of determining whether subsurface features were constructed per the construction / improvement drawings and does not claim to do so. Pot holing of utilities should be performed by others, if there are concerns or uncertainties regarding the subsurface utilities.
- All data prepared by others and provided to Cannon will be made available in a digital format, compatible with our systems. It is also understood that the information and technical data provided and prepared by others, on the Client's behalf or Property Owner's behalf, may be used by Cannon in performing its services and is entitled to rely upon the accuracy and completeness thereof.

EXCLUSIONS

The following exclusions apply to this proposal:

- Field Survey
- Coordination and permitting services with regulatory agencies which may have jurisdictional rights over potential proposed improvements for this project (ie. County of San Luis Obispo, Army Corps, Fish and Game, etc.)
- Final engineering services and construction support services
- Additional work will be billed on a Time and Materials basis or as an addendum to this proposal with prior written authorization from Client.

FEES

Fees are based on the rates per the enclosed fee schedule and do not include Agency checking or recording fees, or title company fees. It is our understanding that this project qualifies for California Prevailing Wages.

EXHIBIT B

FEE ESTIMATE



TASK	Project Manager		Hydraulics/ Hydrology Expert		Design Engineer		Subconsultant	Total Hrs	Total Cost
	Keone Kauo		Seth Stevens		Kendra Maly		Monsoon Consultants		
	\$189		\$169		\$133				
	Hrs	Cost	Hrs	Cost	Hrs	Cost			
1 Site Visit and Kickoff Meeting	2	\$378	4	\$676				6	\$1,054
2 Storm Water Analysis and Drainage Memo	2	\$378	60	\$10,140				62	\$10,518
3 Storm Water Improvement Plans	2	\$378	8	\$1,352	30	\$3,990		40	\$5,720
4 Peer Review	2	\$378	4	\$676			\$2,970	6	\$4,024
5 Project Management	6	\$1,134	6	\$1,014				12	\$2,148
<i>Subtotal</i>	14	\$2,646	82	\$13,858	30	\$3,990	\$2,970	126	\$23,464
Total	14	\$2,646	82	\$13,858	30	\$3,990	\$2,970	126	\$23,464

Notes

Fees are based on Prevailing Wage Rates

Reimbursables

Cambria Community Services District shall pay Engineer's expenses incurred in connection with this Agreement as follows:

- a) incidental and out-of-pocket expenses including but not limited to:
 - costs for postage, shipping, overnight courier, reproduction services, plotting, photocopies, computer expenses, parking fees and tolls
- b) travel expenses

The fees quoted in this proposal will remain valid for 90 days from this submittal date, September 11, 2017. Items not specifically identified in the Work Program are excluded from our work and will be submitted to the District for review and approval.



Accounting Specialist	\$ 45 - \$ 65
Administrative Assistant I - IV	\$ 50 - \$ 70
Assistant Resident Engineer	\$ 130 - \$ 143
Associate Construction Engineer	\$ 110 - \$ 120
Associate Engineer	\$ 140 - \$ 175
Associate Landscape Architect	\$ 135 - \$ 145
Associate Planner	\$ 140 - \$ 150
Automation Analyst	\$ 100 - \$ 110
Automation Design Engineer	\$ 110 - \$ 120
Automation Specialist	\$ 135 - \$ 145
Automation Technician	\$ 95 - \$ 105
Business Development Associate	\$ 120 - \$ 130
CADD Tech	\$ 85 - \$ 95
CADD Manager	\$ 100 - \$ 110
Chief Planner	\$ 155 - \$ 165
Chief Surveyor	\$ 175 - \$ 195
Clerical Assistant	\$ 50 - \$ 65
Construction Admin Assistant	\$ 85 - \$ 90
Construction Coordinator	\$ 90 - \$ 110
Construction Engineer	\$ 165 - \$ 175
Construction Inspector	\$ 90 - \$ 125
Construction Manager	\$ 135 - \$ 165
Controller	\$ 70 - \$ 110
Design Engineer	\$ 110 - \$ 125
Electrical Design Engineer	\$ 120 - \$ 130
Engineer Tech	\$ 90 - \$ 100
Engineering Assistant I - II	\$ 70 - \$ 90
Expert Testimony (Deposition/Trial)	\$ 250 - \$ 450
Forensics Engineer I - III	\$ 230 - \$ 280
Forensics Office Administrator	\$ 150 - \$ 175
Forensics Research & Investigation	\$ 300 - \$ 350
Forensics Survey Tech I - III	\$ 230 - \$ 280
Forensics 2-Man Survey Crew	\$ 350 - \$ 375
GIS Specialist	\$ 140 - \$ 150
GIS Tech	\$ 115 - \$ 125
Grant Funding Manager	\$ 125 - \$ 140
I&E Construction Coordinator I - II	\$ 90 - \$ 110
I&E Services Coordinator	\$ 80 - \$ 90
Information Systems Admin I - II	\$ 70 - \$ 100
Land Surveyor I - V	\$ 140 - \$ 180
Landscape Architect	\$ 105 - \$ 115
Landscape Architect CADD Tech I - II	\$ 55 - \$ 65
Landscape Designer I	\$ 70 - \$ 80
Lead Automation Analyst	\$ 116 - \$ 126
Lead Automation Specialist	\$ 147 - \$ 157
Lead Automation Technician	\$ 105 - \$ 115
Lead Designer	\$ 100 - \$ 118
Marketing Coordinator	\$ 60 - \$ 120
Marketing Director	\$ 140 - \$ 180
Office Engineer	\$ 120 - \$ 130
Planner I - IV	\$ 80 - \$ 115

Planning Assistant I - II	\$ 55 - \$ 70
Principal Construction Engineer	\$ 185 - \$ 195
Principal Designer	\$ 105 - \$ 129
Principal Engineer	\$ 160 - \$ 195
Programmer I - II	\$ 140 - \$ 165
Project Coordinator I - IV	\$ 85 - \$ 125
Project Designer I - IV	\$ 80 - \$ 120
Project Engineer	\$ 120 - \$ 145
Project Manager / Sr. Principal	\$ 210 - \$ 220
Receptionist	\$ 50 - \$ 65
Resident Engineer	\$ 155 - \$ 165
Sr. Associate Engineer	\$ 150 - \$ 175
Sr. Automation Analyst	\$ 126 - \$ 136
Sr. Automation Specialist	\$ 163 - \$ 170
Sr. Automation Technician	\$ 126 - \$ 136
Sr. CADD Tech	\$ 90 - \$ 110
Sr. Construction Engineer	\$ 175 - \$ 195
Sr. Construction Manager	\$ 175 - \$ 200
Sr. Consultant/Director	\$ 163 - \$ 250
Sr. Consultant, Public Admin/Finance	\$ 155 - \$ 165
Sr. Environmental Planner	\$ 153 - \$ 165
Sr. Land Surveyor	\$ 180 - \$ 190
Sr. Landscape Architect	\$ 153 - \$ 163
Sr. Planner	\$ 153 - \$ 163
Sr. Principal Designer	\$ 110 - \$ 139
Sr. Principal Engineer	\$ 175 - \$ 230
Sr. Project Designer	\$ 105 - \$ 130
Sr. Project Engineer	\$ 130 - \$ 150
Sr. Resident Engineer	\$ 165 - \$ 175
Structures Representative	\$ 145 - \$ 155
Survey Engineering Assistant I	\$ 85 - \$ 95
Survey Manager	\$ 180 - \$ 190
Survey Technician I - VI	\$ 90 - \$ 150
Technician	\$ 115 - \$ 125
Technical Writer	\$ 80 - \$ 120
3D HDS Data Modeling I - III	\$ 95 - \$ 125

Survey Crew Rates - Regular

One-Man Field	\$ 130 - \$ 205
Two-Man Field	\$ 185 - \$ 285
Three-Man Field	\$ 245 - \$ 360
One-Man UMO - HDS	\$ 155 - \$ 220
Two-Man UMO - HDS	\$ 238 - \$ 285
Three-Man UMO - HDS	\$ 350 - \$ 375

Survey Crew Rates - Prevailing Wage

One-Man Field	\$ 155 - \$ 220
Two-Man Field	\$ 238 - \$ 325
Three-Man Field	\$ 285 - \$ 425

Electrical - Prevailing Wage

Electrician	\$ 110 - \$ 165
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All of the above hourly rates include all direct labor costs and labor overhead, general and administrative expenses and profit.

If the client requests, or the client's schedule requires work to be done on an overtime basis, a multiplier of 1.5 will be applied to the above rates for weekdays and 2.0 for weekends and holidays.

**Other Direct Charges**

In-House Reproduction

Printing/Copies 8 ½ x 11

\$0.05 per page

Black Line Plots

\$2.00 per page

Printing/Copies 11 x 17

\$1.00 per page

Color Plots

\$5.00 per page

Outside Reproduction

Cost + 15%

Travel and Related Subsistence

Cost + 15%

Truck or Field Vehicle

\$80.00 per day

Mileage Reimbursement

IRS Rate per mile

CAD and Simulation Software

\$15.00 per day

Automation & Electrical Materials

Cost + 25% (+tax)

Subconsultant Fees

Cost + 10%

All direct expenses, such as special equipment, shipping costs, travel other than by automobile, parking expenses, and permit fees will be billed at the actual cost plus 15%.

If the client requests, or the client's schedule requires work to be done on an overtime basis, a multiplier of 1.5 will be applied to the stated rates for weekdays for daily hours in excess of 8 as well as weekends and a multiplier of 2.0 for daily hours in excess of 12 and holidays.

If the client requests field services to be provided outside of normal working hours (between 6:00 p.m. and 6:00 a.m.), a multiplier of 1.5 will be applied to the stated rates.

Survey Crews and Automation Field staff are billed portal to portal, and mileage charges are included in the hourly rate. A minimum charge of 4 hours will be charged for any Automation Field Service calls outside of normal working hours (between 6:00 p.m. and 6:00 a.m.).

The stated rates are subject to change, typically on an annual basis.

EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to District in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to District.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy from CG 00 01 or the equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend the insured. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and District agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds District, its officials employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992 or current equivalent. Consultant also agrees to require all consultants, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against District regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the District or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to District and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the District, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect District's protection without District's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to District at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, District has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other

agreement and to pay the premium. Any premium so paid by District shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at District option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to District of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will “endeavor” (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to District.

10. Consultant agrees to ensure that subcontractors, and any other party involved with the project that is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to District for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to District. If Consultant’s existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the District. At the time the District shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The District reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the District will negotiate additional compensation proportional to the increase benefit to District.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of District to inform Consultant of non-compliance with any insurance

requirements in no way imposes any additional obligations on District nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually as long as District, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until District executes a written statement to that effect.

16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to District within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to District, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge District or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to District. It is not the intent of District to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against District for payment of premiums or other amounts with respect thereto.

22. Consultant agrees to provide immediate notice to District of any claim or loss against Consultant arising out of the work performed under this agreement. District assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve District.

AGREEMENT FOR CONSULTANT SERVICES

This AGREEMENT FOR CONSULTANT SERVICES ("Agreement") is made and effective as of March 1, 2017 between **Terrain Group, Inc.** ("Consultant"), and the **CAMBRIA COMMUNITY SERVICES DISTRICT**, a political corporation of the State of California ("District"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on March 1, 2017 and shall remain and continue in effect until June 30, 2017, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform the tasks described and comply with all terms and provisions set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

3. **PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience and talent, perform all tasks described herein. Consultant shall employ, at a minimum generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **AGREEMENT ADMINISTRATION**

District's General Manager, Jerry Gruber, shall represent District in all matters pertaining to the administration of this Agreement. Consultant's President, Paul Reichardt, shall represent Consultant in all matters pertaining to the administration of this Agreement.

5. **PAYMENT**

The District agrees to pay the Consultant in accordance with the payment rates and terms set forth in Exhibit "B," attached hereto and incorporated herein by this reference, in monthly progress payments based on time spent on each task.

6. **SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) The District may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall

immediately cease all work under this Agreement, unless the notice provides otherwise. If the District suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the District shall pay to Consultant the actual value of the work performed up to the time of termination. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the District pursuant to Section 5.

7. TERMINATION ON OCCURRENCE OF STATED EVENTS

This Agreement shall terminate automatically on the occurrence of any of the following events:

- (a) Bankruptcy or insolvency of any party;
- (b) Sale of Consultant's business;
- (c) Assignment of this Agreement by Consultant without the consent of District;
or
- (d) End of the Agreement term specified in Section 1.

8. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, District shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the District Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the District shall have the right, notwithstanding any other provision of this Agreement to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

(c) Consultant may terminate this Agreement upon giving District ten (10) calendar days prior written notice for any of the following: (1) breach by District of any material term of this Agreement, including but not limited to Payment Terms; (2) material changes in the

conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes; (3) suspension of the Project or the Consultant's services by District for more than ninety (90) calendar days, consecutive or in the aggregate.

9. **LAWS TO BE OBSERVED.** Consultant shall:

(a) Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by Consultant under this Agreement; but not such permits, fees and charges required to be paid by the project or district, unless included in Exhibit "A" attached hereto.

(b) Keep itself fully informed of all applicable federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in Consultant's performance under this Agreement, or the conduct of the services under this Agreement in effect at the time services are rendered;

(c) At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

(d) Immediately report to the District's General Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement; and

(e) The District, and its officers, agents and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

10. **OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by District that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted Consulting practices and shall be clearly identified and readily accessible. Consultant shall provide free access contingent on receipt of compensation of services rendered to date and indemnity of reuse of such information without the Consultants prior written authority to the representatives of District or its designees at reasonable times to such books and records; shall give District the right to examine and audit said books and records; shall permit District to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such

records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement and upon payment for services rendered to date, all original documents, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the District and may not be used, reused, or otherwise disposed of by the District without the express written permission of the Consultant. With respect to computer files, Consultant shall make available to the District, at the Consultant's office and upon reasonable written request by the District, and upon receipt of payment for services rendered to date the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including reimbursement of reasonable attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, and hold harmless District, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant. The District shall indemnify and hold harmless the Consultant, its employees, officials, agents from and against any and all losses, liabilities, damages, costs and expenses, including reimbursement of reasonable attorney's fees and costs to the extent same are caused by any negligent or wrongful act, error or omission of the District, its officers, agents, employees, or contractors.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from

each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify District as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

(d) Indemnification for Design Professional Services. Notwithstanding anything herein to the contrary, to the fullest extent permitted by law for all design professional services arising under this Agreement, Consultant shall indemnify and hold harmless District and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including reimbursement of reasonable attorney's fees and costs to the extent which arise out of the negligence, recklessness, or willful misconduct of the Consultant.

12. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit "C," attached hereto and incorporated herein as though set forth in full.

13. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the District a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither District nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the District. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against District, or bind District in any manner.

(b) No employee benefits shall be available to Consultant in connection with performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, District shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for District. District shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

14. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure was or is used against or in concert with any officer or employee of the Cambria Community Services District in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Cambria Community Services District will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the District to any and all remedies at law or in equity.

15. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of District, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

16. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without District's prior written authorization. Consultant, its officers, employees, agents, or subcontractors, shall not without written authorization from the District Manager or unless requested by the District Counsel or law enforcement agencies, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the District. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.

(b) Consultant shall promptly notify District should Consultant, its officers, employees, agents, or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the District. District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with District and to provide the opportunity to review any response to discovery requests provided by Consultant. However, District's right to review any such response does not imply or mean the right by District to control, direct, or rewrite said response.

17. **NOTICES**

Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To District: Jerry Gruber, District Manager
Cambria Community Services District
PO Box 65
Cambria, CA 93428

Copy to: Timothy J. Carmel
Carmel & Naccasha, LLP
1410 Marsh Street
San Luis Obispo, CA 93401

To Consultant: Terrain Group, Inc.
374 Worcester Drive
Cambria, CA 93428

18. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, without the prior written consent of the District.

19. **GOVERNING LAW**

The District and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the superior or federal district court with jurisdiction over the Cambria Community Services District.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. TIME

District and Consultant agree that time is of the essence in this Agreement. Notwithstanding the foregoing, District agrees that the Consultant is not responsible for damages arising directly or indirectly from any delays for causes beyond the Consultant's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by District or District's contractors or Consultants; or discovery of any hazardous substances or differing site conditions.

22. CONTENTS OF PROPOSAL

Consultant is bound by the contents of the Proposal submitted by the Consultant, Exhibit "A," attached hereto and previously incorporated herein.

23. CONSTRUCTION

The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

24. AMENDMENTS


Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.

25. AUTHORITY TO EXECUTE THIS AGREEMENT


The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CAMBRIA COMMUNITY SERVICES DISTRICT

By: 
Amanda Rice, Board President

Terram Group, Inc.

By: 
Paul Reichardt, President


Jerry Gruber, District Manager

Approved As To Form:


Timothy J. Carmel, District Counsel

EXHIBIT A
CONSULTANT'S PROPOSAL

Provide office and field survey services to prepare a topographic survey that will append CCSD's archived topographic surveys for use in providing CCSD information to correct drainage issues located along the Northerly, Westerly and Easterly edges of the Brine Storage facility along San Simeon Creek road.

Provide construction administration to facilitate CCSD directed drainage improvements. This work may include field surveying for alignment and grade of drainage ditches, as well as subcontractor bid administration, and subcontractor field supervision.

All design components to be provided to Terrain for construction implementation prior to commencing work. Terrain will provide coordination with and communicate field issues with CCSD representative.

EXHIBIT B**FEE ESTIMATE**

Cost will be on a time and material expense with a total cost not to exceed \$20,000 without further written authorization.

Fee Schedule

January 1, 2017

Principal	\$150
Expert Witness/Depositions	\$275
Planner	\$100
Surveyor II	\$125
Surveyor I	\$85
Project Administrator	\$65
Construction Administrator	\$95
1-Man Survey GPS Crew	\$145
Prevailing Wage	\$185
2-Man Survey Party	\$160
Prevailing Wage Straight Time	\$210
Prevailing Wage Overtime	\$275
File Clerk/ Errand Runner	\$35
Intern	\$35

EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to District in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to District.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy from CG 00 01 or the equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against negligent acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend the insured. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and District agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds District, its officials employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992 or current equivalent. Consultant also agrees to require all consultants, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against District regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the District or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to District and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.

6. All coverage types and limits required are subject to approval by the District, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect District's protection without District's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to District at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, District has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement

and to pay the premium. Any premium so paid by District shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at District option.

8. Certificate(s) are to reflect that the insurer will provide 30 days' notice to District of any cancellation of coverage. A ten (10) day notice to District shall apply to non-payment of premium. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage (except Professional Liability and Workers' Compensation) required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self-insurance available to District.

10. Consultant agrees to ensure that subcontractors, and any other party involved with the project that is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to District for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to District. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the District. At the time the District shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The District reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in additional cost to the Consultant, the Consultant agrees to invoice the District for the change as validated by Consultant's insurance broker and any other supporting documentation as District may reasonably require. District understands and agrees that implementation of the change is contingent upon Consultant's receipt of District's payment of Consultant's invoice and Consultant shall not be held in breach of contract as a result of District's non-payment of such invoice.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of District to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on District nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually for a period not to exceed 3 (three) years after termination of services. . This obligation applies whether or not the agreement is canceled or terminated for any reason.

16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to District within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to District, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by Consultant's sub-consultants, if applicable, involved in any way with the project reserves the right to charge District or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to District. It is not the intent of District to reimburse any third party for the cost of complying

with these requirements. There shall be no recourse against District for payment of premiums or other amounts with respect thereto.

22. Consultant agrees to provide immediate notice to District of any claim or loss against Consultant arising out of the work performed under this agreement. District assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve District.

CAMBRIA COMMUNITY SERVICES DISTRICT

TO: Board of Directors

AGENDA NO. **3.B.**

FROM: Robert Gresens, District Engineer

Meeting Date: November 7, 2017

Subject:

DISCUSSION AND CONSIDERATION
OF APPROVAL OF PUBLIC WORKS
CONTRACT WITH G. F. GARCIA &
SONS, INC FOR DRAINAGE SWALE
AT SUSTAINABLE WATER FACILITY,
SURFACE WATER IMPOUNDMENT
BASIN**RECOMMENDATION:**

Staff recommends that the CCSD Board of Directors approve the attached public works contract with G.F. Garcia & Sons, Inc. for completion of a drainage swale for the surface water impoundment basin at the Sustainable Water Facility. The total cost for this work is not to exceed \$45,000 without further Board authorization.

FISCAL IMPACT:

The fiscal impact for the contract is not to exceed \$45,000, which is to be funded from the CCSD Board-approved FY 2017/2018 Sustainable Water Facility Budget.

DISCUSSION:

The proposed drainage swale is part of wet weather preparedness activities that are needed to further protect the surface water impoundment basin from flooding. This effort is to ensure compliance with the impoundment basin's Title 27 permit conditions, which require the impoundment basin to be isolated from surface water drainage. In addition to the drainage swale, a sand bag berm is currently being completed inside of the impoundment basin's frog fence. To date, the added sand bag barrier is approximately 50% complete.

Off-site storm water had previously flooded the impoundment basin property from a low-lying reach of San Simeon Creek Road, which was inundated during Governor-declared flood emergencies this past January and February. During those events, District staff completed temporary sandbagging operations and ditching to divert water. Those efforts were performed under emergency conditions with no set grade or cross section being established. The swale work to be completed will be at a set grade and cross section, and will also include erosion control measures.

The drainage work is also being coordinated with responses to the Regional Water Quality Control Board's (RWQCB) Cease and Desist Order (CDO), which was issued to the CCSD on July 18, 2017 and approved by the Water Board during their July 13, 2017 Board meeting. The CDO was initiated due to two basic reasons: 1) storm water flooding from properties located to the north of the impoundment basin property had entered the impoundment basin last January decreasing its freeboard below the required minimum; and 2) the local groundwater table rose to the bottom of the surface impoundment basin following heavy rains, as opposed to being at least five feet below it. Discussions with RWQCB staff indicated they were most concerned with

isolating the impoundment basin from storm water. Therefore, measures to control groundwater elevation (e.g., a French drain system) are being deferred to a later time with RWQCB approval. Due to the urgency required in responding to the RWQCB, as well as the onset of the pending rainy season, the CCSD has informally obtained a bid from G.F. Garcia & Sons, Inc. to complete a drainage swale around the northern and eastern berms of the surface water impoundment basin.

In addition to the sandbagging and on-site drainage swale work that is being completed, CCSD staff is involved in a continuing dialogue with County Public Works and the offsite property owners to improve the drainage on the surrounding properties to prevent storm water from crossing the roadway from north to south. The recent efforts this year by County Public Works staff to improve drainage along the roadway shoulder areas are certainly appreciated. To date, further efforts are needed to remove blockages from the main Van Gordon Creek channel, improve hydraulic inlet conditions and sediment removal within the main Van Gordon Creek culvert under San Simeon Creek Road, and to raise the low-lying reach of San Simeon Creek Road, which is located immediately to the north of the impoundment basin.

Attachments: Public Works Contract with G.F. Garcia & Sons, Inc.

 BOARD ACTION: Date _____ Approved: _____ Denied: _____

UNANIMOUS: ___RICE___ FARMER___ BAHRINGER ___ WHARTON___ VACANT

SHORT FORM PUBLIC WORKS CONTRACT

SURFACE WATER IMPOUNDMENT BASIN DRAINAGE SWALE

THIS AGREEMENT, made and entered into this _____ day of November, 2017, by and between the **CAMBRIA COMMUNITY SERVICES DISTRICT**, a special district (hereinafter "District"), party of the first part, and **G.F. Garcia & Sons, Inc.** (hereinafter "Contractor"), party of the second part,

WITNESSETH: That the parties hereto do mutually agree as follows:

ARTICLE I. For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by District, Contractor agrees with District to furnish all materials, equipment and labor and construct facilities for District, and to perform and complete in a good and workmanlike manner all the work pertaining thereto shown on the plans and described in the specifications hereto attached and as generally described herein below (the "project" or "work"), and to furnish at his own proper cost and expense all tools, equipment, labor, and materials necessary therefore, except such materials as in the said specifications are stipulated to be furnished by District, and to do everything required by this Contract and the said specifications and plans, and the requirements of the Engineer under them, to wit:

PROJECT DESCRIPTION:

To achieve an acceptable level of service, the District Engineer has determined that certain follow up work is needed to improve upon emergency response measures undertaken by District forces to divert storm water flooding during January 2017.

Drainage grading and associated erosion control measures shall be performed on the District's impoundment basin property as shown on Exhibit "A" (General Conditions and Special Provisions), Exhibit "B" (Drawing), and Exhibit "C" (Contractor's Proposal), which exhibits are attached hereto and incorporated herein by reference.

COMMENCEMENT OF WORK AND TIME LIMITS:

The Contractor shall commence Work on the Project as of November __, 2017 and shall diligently prosecute the completion of said Project. Prior to commencing work, Contractor shall sign and return a copy of this Contract and any document hereto; provide proof of insurance as required herein; and, meet and confer with the District Engineer and wastewater plant staff at least one (1) day in advance. **ALL WORK MUST BE COMPLETED WITHIN 10 WORKING DAYS AND NO LATER THAN November 30, 2017.**

PAYMENT SCHEDULE:

District shall pay Contractor in accordance with the provisions set forth in Exhibit C, in an amount not to exceed \$45,000.

A five percent (5%) retention shall be withheld from any partial payment requests.

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the District to the Contractor no sooner than thirty-five (35) days after a Notice of Completion has been recorded, unless otherwise stipulated in the Notice of Completion, provided the work has then been completed, the Contract fully performed, and a final Certificate for Payment has been issued by the District.

This Contract is subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to Contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with that Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

ARTICLE II. For furnishing all said equipment, materials and labor, performing demolition as required, and doing all the work contemplated and embraced in this Contract; and for all loss and damage arising out of the nature of the work aforesaid, or from the action of the elements or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work until its acceptance by District, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work, except such as in the said specifications are expressly stipulated to be borne by District; and for well and faithfully completing the work and the whole thereof, in the manner shown and described in the said plans and specifications and in accordance with the requirements of the District Engineer under them, District will pay and Contractor shall receive as full compensation therefore the amounts for such work as described above.

ARTICLE III. District hereby promises and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth in the specifications; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to full performance of the covenants herein contained.

ARTICLE IV. The following contract documents (if checked) are hereby incorporated in and made a part of this Contract as though set forth in full:

- | | |
|--------------|--|
| <u> X </u> | 1. Statement of Prevailing Wages; |
| <u> X </u> | 2. Bond for Faithful Performance; |
| <u> X </u> | 3. Bond for Materials and Laborers; |
| <u> X </u> | 4. Standard Specifications; |
| <u> X </u> | 5. Special Provisions; |
| <u> X </u> | 6. Construction Specifications and Standard Details; |
| | Supplemental Conditions (See Exhibit A) |

ARTICLE V. If checked above, Contractor shall forthwith furnish in triplicate, a faithful performance bond in an amount equal to 100% of the contract price and a labor and materials bond in an amount equal to 100% of the contract price, both bonds to be written by a surety company acceptable to District and in the form prescribed by law.

ARTICLE VI. Materials: Should any of the materials or equipment prove defective or should the work prove defective due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the drawings, typical details, and specifications, due to any of the above causes, all within twelve (12)

months after date on which the work called for in this Contract is accepted by District, the undersigned agrees to reimburse District, upon demand, for its expenses incurred in restoring said work to the condition contemplated in said project, including the cost of any such equipment or materials replaced and the cost of removing and replacing any work necessary to make such replacement or repairs, or, upon demand by District, to replace any such materials and to repair said work completely without cost to District so that said work will function successfully as originally contemplated.

District shall have the unqualified option to make any needed replacement or repairs itself or to have such replacements or repairs done by the undersigned. In the event District elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within a reasonable time after the receipt of demand from District. If the undersigned shall fail or refuse to comply with his obligations under this guaranty, District shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of the said failure or refusal.

ARTICLE VII. If Contractor should be adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should persistently violate any of the provisions of the Contract, or if he should disregard laws, ordinances or the instructions of the Engineer, then District may, upon certificate of the Engineer when sufficient cause exists to justify such action, serve written notice upon Contractor and his surety (if applicable) of its intention to terminate the Contract, such notice to contain the reasons for such intention to terminate the Contract, and unless, within five (5) days after the serving of such notice, such violations shall cease and satisfactory arrangements for correction thereof be made, the Contract shall, upon the expiration of said five (5) days, cease and terminate.

In the event of any such termination, District shall immediately serve written notice thereof upon the surety (if applicable) and Contractor, and the surety shall have the right to take over and perform the Contract, provided, however, that if the surety, within ten (10) days after the serving upon it of notice of termination, does not give District written notice of its intention to take over and perform the Contract or does not commence performance thereof within the ten (10) days stated above from the date of the serving of such notice, District may take over the work and prosecute the same to completion by Contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and his surety shall be liable to District for any excess cost occasioned District thereby, and in such event District may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plans and other property belonging to Contractor as may be on the site of the work and necessary therefore. In such case Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price shall exceed the expenses of finishing the work, including compensation for additional managerial and administration services, such excess shall be paid Contractor. If such expense shall exceed such unpaid balance, Contractor shall pay the difference to District. The expense incurred by District, as herein provided, and damage incurred through Contractor's default, shall be certified by the District Engineer.

ARTICLE VIII. The Contractor shall indemnify, defend, and hold harmless the District, and its officers, officials, employees and agents, from and against any and all claims asserted, liability, loss, damage, expense, costs (including without limitation costs and fee of litigation) of every nature arising of, directly or indirectly, or in connection with this Contract or the acts or omissions of Contractor, Contractor's Subcontractors, employees, representatives, agents and invitees including, but not limited to, performance of the work hereunder or failure to comply with any of the obligations contained herein, except such loss or damage which was caused by the established proven sole negligence or willful misconduct of District, its officers, officials, employees and agents. Said indemnification and hold

harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such liability, loss, damage, expense or cost.

The Contractor agrees that the use of any and all public streets and improvements which are part of or subject to this Contract shall be at all times, prior to the final acceptance by the District, the sole and exclusive risk of the Contractor. The Contractor further specifically agrees that he shall indemnify and hold District free of any liability for any accident, loss, or damage to the work, which is the subject of this Contract prior to its completion and acceptance by the District.

ARTICLE IX. Liquidated Damages. Pursuant to Government Code Section 53069.85, if work is not completed within the contract time or in strict accordance with the Project Schedule, it is understood, acknowledged and agreed that the District will suffer damage. It is therefore agreed that the Contractor shall pay to the District the sum of \$200.00 for each and every calendar day of delay beyond the Contract Time, or beyond any completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule, or beyond the time indicated in the Project Schedule for any individual Contract activity.

Contractor expressly understands, acknowledges and agrees that such liquidated damages can and shall be imposed if the Contractor does not meet each and every aspect of any activity schedule, completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule. If the District accepts work or makes any payment under this Contract after a default by reason of delays, the acceptance of such work and/or payment(s) shall in no respect constitute a waiver or modification of any provisions regarding Contract Time, a completion schedule, the Project Schedule or the accrual of liquidated damages. In the event the same is not paid, the Contractor further agrees that the District may deduct the amount thereof from any money due or that may become due the Contractor under the Contract. This paragraph does not exclude recovery of damages under provisions of the Contract Documents, and is expressly in addition to the District's ability to seek other damages.

ARTICLE X. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal (if one) therefore, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid or proposal conflicting herewith.

ARTICLE XI. Time is of the essence of this contract and failure to comply with this provision shall be a material breach of this contract.

ARTICLE XII. If any part of this contract is held invalid by a court of competent jurisdiction, the balance shall retain its full force and effect.

ARTICLE XIII. Maintenance of required insurance coverage is a material element of this contract and failure to maintain or renew coverage or to provide evidence of renewal shall be a material breach of this contract. Contractor shall execute and provide the attached Certificate of Workers Compensation Insurance.

ARTICLE XIV. Additional Provisions Required by Law. Each and every provision of law and clause required by law to be inserted in this Contract, including but not limited to the following statutorily required provisions, shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

The following statutorily required provisions hereby apply to this contract:

Record Audit. In accordance with Government Code, Section 8546.7, records of both the District and the Contractor shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

Retention of Securities. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract, at the request and expense of the Contractor.

Claims. In accordance with the requirements of Public Contract Code Section 9204(e), a copy of Public Contract Code Section 9204 is attached hereto and made a part hereof.

IN WITNESS WHEREOF: The parties hereto have caused this Contract to be executed the day and year first above written.

**CAMBRIA COMMUNITY SERVICES
DISTRICT**

CONTRACTOR

AMANDA RICE, Board President

Approved as to Content:

JERRY GRUBER, District Manager

ATTEST:

MONIQUE MADRID, District Clerk

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, District Counsel

By: _____

Its: _____

Date:

STATEMENT OF PREVAILING WAGES

In accordance with California Labor Code Section 1725.5, Contractors and Subcontractors (as defined by California Labor Code Section 1722.1) bidding on or engaging in the performance of any Public Works contracts in California shall be registered with the Department of Industrial Relation.

In accordance with California Labor Code Section 1770 and 1773, the District has determined that prevailing wage rates apply to this project. Copies of the prevailing rates of per diem wages applicable to this Contract are available from the California Division of Labor Statistics and Research at www.dir.ca.gov/dslr/PWP/index.htm or 455 Golden Gate Ave. 9th Floor, San Francisco, CA 94102. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work performed.

Pursuant to California Labor Code Section 1775, the Contractor shall forfeit no more than \$200 per calendar day, or portion of a day, for each worker paid less than the prevailing rates for such work or craft, and the penalty shall be imposed and distributed pursuant to Section 1775.

The following Labor Code sections are hereby referenced and made a part of this Agreement:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
2. Section 1777.4 - Apprenticeship Requirements.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1775 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

The District will not recognize any claims for additional compensation because of the payment of the wages set forth in the Contract.

In accordance with the requirements of Labor Code Section 1771.4(a)(1), this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations

In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.17 of the California Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

-- END OF STATEMENT OF PREVAILING WAGES --

PAYMENT BOND (FOR LABOR AND MATERIAL)

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____ as Surety, are held and firmly bound unto the Cambria Community Services District, _____ Dollars in the sum of (\$ _____) lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the above obligation is such that whereas said Principal has been awarded and is about to enter into a written contract with the Cambria Community Services District for the work described in CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF "**SURFACE WATER IMPOUNDMENT BASIN DRAINAGE SWALE**," which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said District to give this bond in connection with the execution of said contract;

NOW THEREFORE, if said Principal, as Contractor in said contract, or Principal's Subcontractor, fail to pay any of the persons referred to in Section 3181 of the Civil Code of the State of California for labor performed, skills or other necessary services bestowed, site improvement made, equipment leased, or appliances, equipment implements, machinery, materials, power, provender, provisions, teams, or trucks furnished or used in, upon, for, or about the performance of the work contracted to be done, or for amounts due under the employment Insurance Act with respect to work or labor performed by any such claimant, said Surety shall pay for the same. In an amount not exceeding the sum specified above; and if suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond is pursuant to the provisions of Ch 7 Div 3, Pt 4, Tit 15, of the Civil Code of the State of California, and shall insure to the benefit of any of the persons referred to in said Civil Code Section 3181, as it now exists or may hereafter be amended, so as to give a right of action to such persons or their assigns in any suit brought upon this bond. No premature payment by said District to said Principal shall exonerate any Surety unless the District Board of Directors of said District shall have actual notice that such payment is premature at the time and it is ordered by said Board, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extension of time granted under the provisions of said contract release either the Principal or Surety, and notice of such alterations or extensions of the contract is hereby waived by the surety.

WITNESS our hands this _____ day of _____, 20__.

 Surety

 Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

-- END OF PAYMENT BOND --

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____ as Surety, are held and firmly bound unto the Cambria Community Services District, in the sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum, well and truly to be

made, has been awarded and is about to enter into a written contract with the Cambria Community Services District for the work described in the CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF **SURFACE WATER IMPOUNDMENT BASIN DRAINAGE SWALE**, which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said District to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal shall well and truly do and perform all of the covenants and obligations of said contract on Principal's part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect. No premature payment by said District to said Principal shall exonerate any Surety unless the District Board of Directors of said District shall have actual notice that such payment is premature at the time it is ordered by said Board, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extensions of time granted under the provisions of said contract release either the principal or surety, and notice of such alterations or extensions of the contract is hereby waived by the Surety.

WITNESS our hands this _____ day of _____, 20__.

Surety

Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

-- END OF FAITHFUL PERFORMANCE BOND --

EXHIBIT A

GENERAL CONDITIONS

A. General: The work embraced herein shall be done in accordance with the applicable provisions of the most recently issued California Building Code, "Green Book" Standard Specifications for Public Works Construction, hereinafter referred to as Standard Specifications, California Manual on Uniform Traffic Control Devices (CAMUTCD), Chapter 6, the District's Standard Plans, hereinafter referred to as "Standard Plans," insofar as the same may apply, and in accordance with the following Standard Provisions.

The following provisions are hereby added to the Standard Specifications:

- i. Section 5 – Utilities, subpart 5-1: All potholes must be filled in the same day, unless otherwise allowed by the District Engineer. Surrounding areas shall be restored to their original condition.

B. Definition of Terms: Whenever the following terms are used in the Standard Specifications, they shall be understood to mean the following:

- "Owner" or "Agency": Cambria Community Services District
"Board": Cambria Community Services District Board of Directors
"Defective Work": The term "defective work" shall include work that does not conform to the contract specifications.
"District Engineer": The District Engineer, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.

Other terms appearing in the Standard Specifications shall be given the intent and meaning specified therein.

C. Description of the Work: The work shall consist of furnishing and supplying labor, materials, tools, equipment, transportation, and services necessary to complete the subject project as described in the project plans.

D. Control of Work: The District Engineer shall decide all questions, which may arise as to quality of work, acceptability of materials, and conduct of the work, including, but not limited to, coordination and changes in plans, superintendence of work, control of equipment, and inspection of work. Any person employed who is found by any District representative to be incompetent, intemperate, troublesome, disorderly, or otherwise objectionable or who fails or refuses to perform work properly and acceptably, shall be immediately removed from the Project upon request, by the Contractor, and shall not again be employed on the Project.

E. Construction Schedule: The contractor shall provide the District Engineer with a detailed schedule outlining the procedure and approved by the District Engineer prior to performing any work other than preliminary matters such as ordering materials and setting up staging areas. Extensions of the contract period due to delays that do not affect the critical path will not be allowed, if the delay can be accommodated within available float time.

F. Guaranty: The Contractor shall guarantee all materials, equipment furnished, and work performed for a period of one (1) year from the date of final completion. The Contractor warrants and guarantees for a period of one (1) year from the date of final acceptance of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reasons of such defects including the repairs of any damages to other parts of the system resulting from such defects. The District will give notice of observed defects with reasonable promptness. In the event that the Contractor should fails to make such repairs, adjustments, or other work that may be necessary by such defects the District may do so and charge the Contractor the cost thereby incurred, as well as an administrative fee of an additional twenty 20% of the cost thereby incurred by the District.

G. Contract Changes: When changes in work are required or initiated by the Contractor or the Cambria Community Services District, the procedures in Section 3 of the Standard Specifications shall govern.

H. Existing Utilities: The Contractor shall be responsible for contacting all utility companies and/or utility districts as to location and/or relocation of existing utilities prior to construction. The Contractor shall contact Underground Service Alert [USA], telephone 1-800-642-2444, a minimum of ten (10) days prior to any excavation. The District assumes no responsibility for the completeness or accuracy of the delineation of any underground utilities, or the existence of other buried objects or utilities which are not shown on the Plans. The Contractor is solely responsible for any damage to underground or above ground utilities, which may be incurred as a result of any work performed by him under this Contract, regardless of the fact that the utilities' existence was known or unknown.

I. Prosecution, Progress and Acceptance of the Work: The Contractor's prosecution, progress and acceptance of the work shall be in accordance with Section 6 of the Standard Specifications and these Special Provisions.

J. Traffic, Access and Signage: Traffic control, if any, shall be in accordance with Section 7-10 of the Standard Specifications. The Contractor shall furnish, place and maintain such devices necessary to provide safe passage for the traveling public through the construction sites, as well as for the safeguard of workers. The Contractor shall furnish, place and maintain such devices in accordance with the most recent "California Manual on Uniform Traffic Control Devices" published by the State of California, Department of Transportation (Caltrans). The provisions shall not relieve the Contractor from the responsibility to provide such additional devices as are necessary for public safety. The Contractor shall furnish, place, maintain and remove all signage needed for maintaining public safety and controlling traffic.

K. Insurance Requirements and Indemnification:

i. General: The Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder, by the Contractor, his agents, representatives, employees or Subcontractors.

ii. Minimum Scope of Insurance: Coverage shall be at least as broad as:

- a. ISO CGL coverage ("Occurrence," Form CG-0001).
- b. ISO CGL Endorsement Form (ISO CG 20 10 11 85).
- c. ISO Form No. CA-0001 (ED. 1/78), covering Automobile Liability, Code 1, "Any Auto," and endorsement CA-0025.

- d. Worker's Compensation Insurance as required by the State of California;
- e. Course of Construction insurance covering for all risks of loss.

iii. Minimum Limits of Insurance: The Contractor shall maintain limits no less than:

General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit;

Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and

Worker's Compensation: As required by the State of California.

iv. Other Insurance Provisions: The policies are to contain, or to be endorsed to contain, the following provisions:

GENERAL LIABILITY AND AUTOMOBILE LIABILITY COVERAGE:

- a. The District, its officials, employees, agents and volunteers; are to be covered as insured as respects liability arising out of activities performed by or on behalf of the Contractor, including but not limited to blanket contractual liability, broad form property damage, explosion, collapse and underground hazard coverage, products and completed operations of the Contractor, or premises owned, leased or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the District, its officials, employees or volunteers, and shall protect them from claims for personal injury, death or property damage suffered by third persons or by officers, agents and employees of Contractor and arising out of or in connection with the work which is the subject of this Contract.
- b. The Contractor's insurance coverage shall be primary insurance as respects the District, its officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the District, its officials, employees, agents or volunteers; shall be in excess of the Contractor's insurance, and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the District, its officials, employees, agents or volunteers.
- d. Coverage shall state that the Contractor's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insurer's liability.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE:

- a. The insurer shall agree to waive all rights of subrogation against the District, its officials, employees, agents, and volunteers for losses arising from work performed by the Contractor for the District.

ALL COVERAGE:

- a. Each insurance policy required by this Section shall be in effect on the date the work is commenced and shall expire no sooner than one (1) year after the date on which the work is accepted by the District. Each insurance policy required by this Section shall be endorsed using ISO Form (CG 20 10 11 85) to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by Certified Mail, Return Receipt Requested has been given to the District.
- b. Insurance is to be placed with insurers with a Best Rating of no less than A-V and who are admitted to write policies in the State of California and contribute to the state guaranty fund.
- c. Contractors shall furnish the District with certificates of insurance and with original endorsements affecting coverage required by this Section (actual policy). The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the District and are to be received and approved in writing by the District before work commences. The District reserves the right to require complete, certified copies of all insurance policies, including endorsements affecting the coverage required by these Special Provisions at any time.
- d. The Contractor shall include all Subcontractors as named insured under his policies, or shall furnish separate certificates and endorsements for each Subcontractor. All coverage for Subcontractors shall be subject to all of the requirements stated herein.
- e. The Contractor shall indemnify, defend, and hold harmless the District, and its officers, officials, employees and agents, from and against any and all claims asserted, liability, loss, damage, expense, costs (including without limitation costs and fee of litigation) of every nature arising of, directly or indirectly, or in connection with this Contract or the acts or omissions of Contractor, contractor's subcontractors, employees, representatives, agents and invitees including, but not limited to, performance of the work hereunder or failure to comply with any of the obligations contained herein, except such loss or damage which was caused by the established active negligence of District or the established sole negligence or willful misconduct of District, its officers, officials, employees and agents. Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such liability, loss, damage, expense or cost. The Contractor agrees that the use of any and all public streets and improvements which are part of or subject to this Contract shall be at all times, prior to the final acceptance by the District, the sole and

exclusive risk of the Contractor. The Contractor further specifically agrees that he shall indemnify and hold the District free of any liability for any accident, loss, or damage to the work, which is the subject of this Contract prior to its completion and acceptance by the District.

L. Non-Discrimination: While this Contract is in effect, the Contractor shall comply with all provisions of the California Labor Code Section 1735, as amended, regarding non-discrimination practices and equal employment opportunity.

M. Permits and Taxes: Unless otherwise provided in Contract documents, the Contractor shall obtain, and pay for, all construction permits, licenses or other permits necessary to complete the project and shall be responsible for all governmental charges, inspection fees, utility connection charges, and sales and use taxes.

N. Notices: Any notices from one party to the other with respect to this Contract shall be mailed, faxed, e-mailed, or delivered as shown on the signature block on the Contract.

O. Effectiveness: This Contract shall be effective only when signed by both parties to the Contract.

P. Waiver: The waiver of any breach of any condition, covenant, term, or provision of this Contract by any party to this Contract shall not be deemed to be a waiver of any preceding or subsequent breach under the Contract, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

Q. Authorizations: All officers and individuals executing, this and other documents on behalf of the respective parties do hereby certify and warrant that they have the capacity and have been duly authorized to so execute said documents on behalf of the entity so indicated. Each signatory shall also indemnify the other party to this Agreement, and hold them harmless, from any and all damages, costs, attorneys' fees, and other expenses, if the signatory is not so authorized.

R. Severability: If any term, provision, covenant, or condition of this Contract shall be or become illegal, invalid, null, void, unenforceable, or against public policy, in whole or in part, or shall be held by any court of competent jurisdiction to be illegal, invalid, null, or void, or against public policy, the term, provision, covenant, or condition shall be deemed severable, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected, impaired, or invalidated. The term, provision, covenant, or condition that is so invalidated, voided, or held to be unenforceable shall be modified or changed by the Parties to the extent possible to carry out the intentions and directives set forth in this Contract.

S. Entire Agreement: This Contract constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the Contract and supersedes all prior and contemporaneous agreements, promises, representations, warranties, understandings, or undertakings by either of the Parties, either oral or written, of any character or nature. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Contract.

T. Attorney's Fees: In any litigation, arbitration, or other proceeding in law or equity by which one party to the Contract seeks to enforce its contract rights under the Contract, to resolve an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Contract, to seek a declaration of any rights or obligations under this Contract, or to interpret the provisions of this Contract, the prevailing party shall be entitled to recover from the losing party

actual attorneys' fees incurred to resolve the dispute and to enforce the final judgment, award, decision, or order and such fees, costs; or expenses shall be in addition to any other relief to which the prevailing party may be entitled.

-- END OF GENERAL CONDITIONS --

SPECIAL PROVISIONS

The following Sections and Details from the San Luis Obispo County Department of Public Works & Transportation, 2011 Public Improvement Standards are hereby incorporated by reference to these terms and conditions of the Contract:

Introduction, part A, "Applicability of the Standard and Related Publications"

Part 2.2 - Construction Specifications for Site Preparation & Grading

Part 5.2 - Construction Specifications for Storm Drainage

Part 9.2 - Construction Specifications for Traffic Control

Part 10 - Project Completion

Appendix A1 – General Notes

Appendix A2 – Erosion Control

Appendix A3 – Traffic Control Notes

Should a conflict occur between the aforementioned Special Provisions and the Technical Specifications and Drawings provided in Exhibit C, the specifications and drawings of Exhibit C shall apply.

Erosion Control Blanket:

The swale shall be lined with North American Green Bionet SC150BN, or an approved equal.

See: (https://nagreen.com/sites/default/files/2017-03/EC_RMX_MPDS_SC150BN_6.13.pdf)

Special Conditions:

1. The Contractor shall coordinate with the District's contract biologist to avoid impacting sensitive species. Coordination may include pre-site disturbance monitoring, training on identifying and responding to the discovery of a sensitive species, and maintaining a clean project site.
2. The Contractor shall coordinate with the District's contracted cultural resource specialist prior to and during disturbance of earth to avoid impacting any cultural resources.
3. All disturbed areas shall be restored to their existing conditions or better. Removed or damaged structures shall be reconstructed to look equal or better to their preexisting condition to the satisfaction of the District.
4. Debris shall be placed onsite in a location pre-determined by the District or its assigned representative.
5. The hours of work that will be allowed for this project are between 7:00 am and

5:00 pm Pacific Standard Time Monday through Friday. Permission to work outside of these specified hours requires written permission from the District.

6. The Contractor shall be responsible for complying with the terms and conditions of the County-issued Emergency Coastal Development Permit.

7. The Contractor shall establish his erosion control measures during the performance of the work in compliance with local and state requirements.

8. All work shall be coordinated with the District's water and wastewater departments.

9. Shutdown of any pipelines and plant facilities shall be scheduled with District staff with at least 48-hours advanced notice.

-- END OF SPECIAL PROVISIONS --

Exhibit B

Drawing

EXHIBIT C

Contractor's Proposal

DRAINAGE SWALE

Project Description:

The work consists of improving upon and completing a drainage swale outside the northern and eastern berms of the District's existing surface water impoundment basin. This is in follow up to trenching completed under duress by District operations staff during an earlier Governor-declared flooding disaster during January 2017. The earlier trenching effort was not fully completed, nor constructed to the engineered grade or cross section shown on the drawing.06

Payment Schedule:

Line Items/Bid Items:

Item No.	Description	Unit	Quantity	Unit Price \$	Total Amount \$
1	Mobilization	LS	1		
2	Completion of Swale	LS	1		
3	Completion of erosion control	LS	1		
4	Demobilization	LS	1		
TOTAL (subject to District Board approval)					