



TOWN OF FAIRFAX

STAFF REPORT

July 24, 2013

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Approve agreement with WRA environmental consultants for providing biological and water quality services for the Pastori Bank Stabilization project

RECOMMENDATION

- 1) Authorize the Town Manager to execute an agreement with WRA in an amount not to exceed \$26,000 for the provision of biological and water quality services for the Pastori Bank Stabilization project
- 2) Approve a contingency reserve of \$20,000 and authorize the Town Manager to use this reserve to pay for additional WRA services that may be required to comply with the regulatory permits.

DISCUSSION

At its June 26th meeting, Council authorized staff to bid out the Pastori Storm Drain Project (Project). The Project is located in the creek bank in the San Anselmo Creek near the Pastori Bridge. As the Project is in a waterway, it required permits from a variety of regulatory agencies governing biological and water quality issues. The proposed scope of work (see attached contract) makes certain assumptions to keep cost at a minimum while complying with the various permit requirements. However, the possibility exist that field conditions may require more time from the biologist. The proposed contingency provides staff the flexibility to pay for additional services on a time and materials basis without having to delay the Project because of the need to have Council approval to amend the contract.

While the Council will not award a bid for the Project until August 7th, staff recommends retaining the services of WRA now so they can be prepared to perform any required field surveys prior to construction (e.g., bird survey) as required by the regulatory permits.

Staff interviewed three firms for the work: LSA, WRA, and GANDA (Garcia and Associates). Both WRA and GANDA have offices in Marin County. All three firms are highly qualified, but staff believes WRA is the best fit for the project. WRA's average daily charge was also less than the other two firms, but was not the main criteria for selecting the firm.

Fiscal Impact

These professional service costs are budgeted in the FY13-14 Capital Improvement Program budget.

AGENDA ITEM # 9

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Fairfax, California, as of _____, 20___, by and between the Town of Fairfax, a municipal corporation (the "TOWN") and WIRA, Inc., a Corporation ("CONSULTANT"), who agree as follows:

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide to the TOWN the services described in Exhibit "A," which consists of the proposal submitted by CONSULTANT. CONSULTANT shall provide said services at the time, place, and in the manner specified in Exhibit "A."
2. **PAYMENT.** TOWN shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement. CONSULTANT shall submit all billings for said services to the TOWN in the manner specified in Exhibit "B."
3. **FACILITIES AND EQUIPMENT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control.
5. **INSURANCE REQUIREMENTS.** The insurance requirements set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.
6. **EXHIBITS.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

EXECUTED as of the day first above-stated.

Town of Fairfax, a municipal corporation

By: _____

CONSULTANT

By: Phil Greear

Phil Greear

By: Justin Semion

Justin Semion

EXHIBIT "A"

SCOPE OF SERVICES

See attached scope of work

If there are any inconsistencies between CONSULTANT's proposal and this Agreement, the provisions of this Agreement shall control.

EXHIBIT "B"

PAYMENT

1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed \$26,000, which shall be paid on a time and materials basis or per task, as specified in the PROPOSAL.

Other fees, costs, expenses and rates as described in the PROPOSAL (Exhibit A). In the event of any inconsistency between the terms of this Exhibit "B" and the PROPOSAL, the terms of this Exhibit "B" shall control.

2) Payment shall be made to CONSULTANT on a time and materials basis or per Task basis, and CONSULTANT shall submit monthly invoices to the Town of Fairfax, Attention: Town Manager, for the same.

3) Any additional meetings or work required beyond that set forth in Exhibit "A" shall be mutually agreed to by the TOWN and CONSULTANT, and shall be billed on a time and materials basis to the Town of Fairfax, Attention: Town Manager.

EXHIBIT "C"

GENERAL PROVISIONS

1) INDEPENDENT CONSULTANT. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of TOWN. TOWN shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, TOWN shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to TOWN that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT's profession. CONSULTANT represents and warrants to TOWN that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT's obligations pursuant to this Agreement.

4) CONSULTANT NOT AN AGENT. Except as TOWN may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of TOWN in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind TOWN to any obligation whatsoever.

5) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that TOWN, in its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from TOWN of the desire of TOWN for the removal of such person or persons.

7) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices its profession. All products which CONSULTANT delivers to TOWN pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT's profession. TOWN shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

8) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by the TOWN at its discretion upon written notification to CONSULTANT. CONSULTANT is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and incomplete products up to the date of receipt of written notice to cease work shall become the property of TOWN.

9) PRODUCTS OF CONSULTING. All products of the CONSULTANT provided under this Agreement shall be the property of the TOWN.

10) INDEMNIFY AND HOLD HARMLESS.

a) If this AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and CONSULTANT is a design professional, as defined in California Civil Code § 2782.8(b)(2), CONSULTANT shall hold harmless, defend and indemnify the TOWN, its officers, agents, employees, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, except where caused by the active negligence, sole negligence, or willful misconduct of the TOWN.

b) If this AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or CONSULTANT is not a design professional as defined in subsection (a) above, CONSULTANT shall indemnify, defend, and hold harmless the TOWN, its officers, agents, employees and volunteers from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the TOWN, its officers, agents, employees or volunteers.

c) It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

d) Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

11) PROHIBITED INTERESTS. No employee of the TOWN shall have any direct financial interest in this Agreement. This Agreement shall be voidable at the option of the TOWN if this provision is violated.

12) LOCAL EMPLOYMENT POLICY. The TOWN desires wherever possible, to hire qualified local residents to work on Town projects. Local resident is defined as a person who resides in Marin County. The TOWN encourages an active affirmative action program on the part of its contractors, consultants, and developers. When local projects require, subcontractors,

contractors, consultants and developers will solicit proposals from qualified local firms where possible.

13) FEDERAL REQUIREMENTS. If federal funds are involved in this Agreement, CONSULTANT shall comply with the federal requirements in Exhibit "E". As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked, to provide no more frequently than monthly, a report which lists the employee's name, job class, hours worked, salary paid, city of residence, and ethnic origin.

14) CONSULTANT NOT A PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §§ 87200 et seq. CONSULTANT conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the TOWN or any TOWN official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any TOWN decision beyond these conclusions, advice, recommendation, or counsel.

EXHIBIT "D"

INSURANCE REQUIREMENTS

CONSULTANT 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 CONSULTANT, its agents, representatives, or employees.

1) MINIMUM SCOPE AND LIMITS OF INSURANCE

a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability 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.

b) Automobile Liability coverage (Form CA 00 01 with Code 1 – any auto) with minimum limits of \$1,000,000 per accident for bodily injury and property damage.

c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance, each in the amount of \$1,000,000 per accident for bodily injury or disease.

2) INDUSTRY SPECIFIC COVERAGES

The following insurance is also required:

Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of \$1,000,000 per occurrence.

3) INSURANCE PROVISIONS

a) DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by the TOWN. At the option of the TOWN, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the TOWN, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

b) The general and automobile liability policies (and if applicable, pollution liability, garage keepers liability and builder's risk policies) are to contain, or be endorsed to contain, the following provisions:

- i) The TOWN, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; or

automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the TOWN, its officers, officials, employees or volunteers.

- ii) For any claims related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the TOWN, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the TOWN, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
- iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the TOWN, its officers, officials, employees or volunteers.
- iv) The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, 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 TOWN.
- vi) The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONSULTANT's policy limits of coverage.

c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the TOWN.

d) VERIFICATION OF COVERAGE. CONSULTANT shall furnish the TOWN with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the TOWN or on forms equivalent to CG 20 10 11 85 subject to TOWN approval. All insurance certificates and endorsements are to be received and approved by the TOWN before work commences. At the request of the TOWN, CONSULTANT shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

e) SUB-CONTRACTORS. CONSULTANT shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of CONSULTANT to verify existence of sub-contractor's insurance shall not relieve CONSULTANT from any claim arising from sub-contractors work on behalf of CONSULTANT.

**BIOLOGICAL SERVICES
PASTORI AVENUE BRIDGE OUTFALL, FAIRFAX, CALIFORNIA**

SCOPE OF WORK AND ESTIMATED BUDGET

Prepared for:

Mr. Garrett Toy
Town Manager
Town of Fairfax
142 Bolinas Rd
Fairfax, California 94930

July 2, 2013

PURPOSE

The purpose of this scope of work is to perform biological and environmental compliance services at the Pastori Avenue Bridge outfall site (Project Area) in the Town of Fairfax, Marin County, California. These services include a breeding bird survey, a fish collection and relocation effort, turbidity monitoring, and reporting to the regulatory agencies. These activities will achieve compliance with the project's California Department of Fish and Wildlife (CDFW, formerly Department of Fish and Game) Streambed Alteration Agreement, National Marine Fisheries Service (NMFS) Biological Opinion, and Regional Water Quality Control Board's (RWQCB) Section 401 Water Quality Certification.

WORK PRODUCTS AND SERVICES

Work products and services included in this scope of work include:

- A breeding bird survey, including a summary letter report discussing the methods and results of the breeding bird survey
- If necessary, consultation with CDFW regarding breeding bird buffers, and the establishment of these on-site buffers
- A fish collection and relocation effort for the portion of San Anselmo Creek within the Project Area, including a letter report summarizing the relocation effort
- Turbidity monitoring during installation of the creek diversion, and daily for the duration of the project
- Monthly water quality reports to be submitted to the RWQCB
- Project communications

SCOPE OF WORK

Task 1a: Breeding Bird Survey

Nesting birds protected by federal and state laws may be present in multiple habitats within or adjacent to the Project Area, including the bridge itself, woodland, and planted ornamental habitats. Pre-construction nesting surveys are required by Avoidance and Minimization

Measure 2.11 of the Streambed Alteration Agreement to ensure that no impacts occur to active nests during construction activities. A qualified WRA wildlife biologist will conduct a breeding bird survey to determine the presence and location of active bird nests in and within 250 feet of the Project Area. The survey will be performed between the hours of dawn and 10:30 am, when birds are most active. Any active bird nests observed during the survey will be mapped.

Following the initial survey, a letter report will be prepared discussing the methods and results of the survey. The report will be provided to the client for review prior to submission to any regulatory agencies.

The cost to complete this task is **\$1,000**.

Task 1b: Breeding Bird Buffer Consultation and Establishment (if necessary)

If active nests are found in or within 250 feet of the Project Area, Avoidance and Minimization Measure 2.11 requires that breeding bird exclusion buffers be established in consultation with CDFW. CDFW typically requires a minimum exclusion buffer radius of 50 feet, but perhaps larger depending upon the species. Once CDFW has been consulted, exclusion buffers would be set up around each active nest. Exclusion zones would remain in place and no work could be conducted in the area until all young have fledged, or the nest is otherwise inactive. There is the possibility of reducing exclusion buffer size if additional monitoring determines that nesting birds are not being disturbed by construction activities; any such reduction would require concurrence from CDFW.

Subsequent monitoring of buffered nests to determine that nests are not being disturbed by project activities, and/or that nests are no longer active, would be covered under a separate Scope of Work.

The cost to complete this task, if necessary, is **\$550**.

Task 2a: Fish Collection and Relocation

Central California coast (CCC) steelhead is listed as Threatened under the federal Endangered Species Act. This species is known to be present in San Anselmo Creek and has been documented in a pool immediately downstream of the fish ladder below the Pastori Avenue Bridge, which is to be de-watered prior to project construction. To reduce project impacts to CCC steelhead, the NMFS Biological Opinion for the project stipulates that a fish collection and relocation effort be conducted in the area of the creek to be de-watered. The de-watered section will begin at the fish ladder and end approximately 100 feet downstream. WRA will conduct fish collection and relocation activities prior to and during dewatering of this area. Collection and relocation will require two qualified biologists utilizing block nets to prevent fish from entering the Project Area, and seine and dip nets, and/or electrofishing to capture fish prior to de-watering. Collected fish will be transported using methods that minimize stress and the potential for harm, and relocated to a suitable location in San Anselmo Creek upstream or downstream of the work site. The credentials of the participating biologists as well as the specific methods to be used for the fish collection and relocation will be approved by NMFS prior to conducting the work.

The cost to complete this task is **\$6,150**.

Task 2b: Fish Capture and Relocation Report

As per the NMFS Biological Opinion, a report will be prepared summarizing the fish collection and relocation activities, including the number of CCC steelhead relocated (if any). The report will be provided to the client for review prior to submission to any regulatory agencies.

The cost to complete this work is **\$1,100**.

Task 3a: Initial Turbidity Monitoring

The Section 401 Water Quality Certification outlines turbidity monitoring requirements in conditions 5 and 6. Turbidity must be monitored prior to the initial installation of the diversion, and then every fifteen minutes during diversion installation until the readings achieve a steady state. A WRA biologist will measure turbidity as per these requirements using an electronic turbidity meter with sufficient precision to comply with the requirements of the Certification.

The cost to complete this work is **\$1,000**.

Task 3b: Daily Turbidity Monitoring

As per conditions 5 and 6 in the Certification, a WRA biologist will measure turbidity daily and also estimate flow rate and the amount of water discharged daily. If turbidity readings exceed the threshold specified in the 401 Certification letter, corrective actions will be recommended and additional measurements taken. While on the site, the biologist will also briefly inspect the project area; observed practices that violate permit requirements or have the potential to result in violations will be reported to the on-site foreman for corrective action.

The cost to complete this work is **\$270** per day. It is estimated that daily turbidity monitoring will cost **\$12,200** in total (see assumptions below).

Task 3c: Regional Water Quality Control Board Monthly Reporting

As required by the Certification, a letter report summarizing turbidity monitoring data, as well as daily estimates of the flow rate and volume of water discharged by the diversion, will be drafted and submitted to the Water Board within seven days of the end of any month in which stream flow is diverted. Reports will be provided to the client for review prior to submission to the Water Board.

The cost to complete this work is **\$2,250**.

Task 4: Project Communications

Communications with the regulatory agencies, project contractors and other relevant entities will be maintained as needed by the WRA Project Manager and Principal in Charge for the duration of the project.

The cost to complete this work is **\$1,500**.

SCHEDULE

This work will be undertaken upon acceptance of this Scope of Work and Budget, and in

accordance with the site construction schedule.

STAFFING

Tom Fraser, Principal Ecologist, will be the Principal in Charge of the project. Jason Yakich, Wildlife Biologist, will be the Project Manager and oversee the breeding bird survey. Daniel Chase, Fisheries Biologist, will lead the fish collection and relocation effort. They will be assisted by additional technical staff as needed.

ASSUMPTIONS

This Scope of Work includes the following assumptions:

- Client will provide access to the property and notify anyone who is currently on the property or manages it of WRA’s site visits and field activities.
- This Scope of Work does not include follow-up surveys for nest monitoring if nesting birds are located within the survey area.
- De-watering of the pool within the work area (and thus the associated fish capture and relocation effort) will take no more than two work days.
- Installation of the creek diversion will take no more than one work day.
- The project will be no more than 13 weeks in duration, with five work days per week.

ESTIMATED COST

Estimated costs for this project are provided in the table below.

Task	Cost
1a: Breeding Bird Survey	\$ 1,000
1a: Buffer Establishment and Consultation (if necessary)	\$ 525
2a: Fish Collection and Relocation	\$ 6,150
2b: Fish Capture and Relocation Report	\$1,100
3a: Initial Turbidity Monitoring	\$ 1,000
3b: Daily Turbidity Monitoring (63 days)	\$ 12,200
3c: Water Board Monthly Reporting	\$ 2,250
4: Project Communications	\$1,500
Total	\$ 25,200
Total with implementation of buffers (if necessary)	\$ 25,725

These costs are based on assumptions provided in the Scope of Work and are provided as a not-to-exceed amount for the work described above. If circumstances require work performed that is outside of the tasks described above (e.g., additional nest monitoring, a third day of fish collection and relocation, or additional daily turbidity monitoring beyond 13 weeks), a change order may need to be prepared, which will outline the reasons for the change in fee. Hourly rates for WRA staff are provided in the table below. The client will be billed monthly on a time and materials basis for work completed to date.

Title	Hourly rate*
Principal in Charge [†]	\$ 200
Project Manager/Ornithologist	\$ 115
Fisheries Biologist	\$ 115
Senior Technician	\$ 109
Technician	\$ 98

* Preferred rate for existing clients (3% discount).

[†] Project work limited to document review and communications.

LIMITATIONS

WRA's liability for damages shall be limited to its work product and it shall not be responsible for changes, alterations, or monetary damages to Client's activity or project due to decisions rendered by federal, state, or local agencies, or by any subsequent court action.

CONFIDENTIALITY

All work will be conducted on a confidential basis and draft documents submitted to Client for review. No correspondence with any government agency will be submitted without the consent of Client, except in cases where it is a requirement of WRA's permits with federal and state agencies to report findings on rare and endangered species. In addition, WRA staff must report any federal or state law violations if questioned by agency personnel in the conduct of their investigations. Client is advised to seek legal counsel concerning information or matters it wishes to protect under attorney-client confidentiality rules.

LEGAL COUNSEL

WRA can advise on regulatory and permitting issues as published in federal and state regulatory notices. However, Client is advised to consult with their independent legal counsel to interpret recent law and court cases as they relate to wetlands and endangered species compliance. Legal counsel is should also be consulted for action(s) that may involve any activities prior to permit issuance. The landowner assumes responsibility for all actions conducted on the land that may lead to enforcement actions by the federal or state government.

UNFORESEEN CIRCUMSTANCES

All parties understand that the regulatory and legal environment for this type of project are constantly changing and that concerns expressed by governing agencies and the public cannot be predicted in terms of the proposed project. WRA is not responsible for unforeseen circumstances that may require additional field work, agency consultation and/or public hearings. WRA will assist you in resolving these issues; however, it is understood that such work will necessarily be covered under additional task assignments.

TERMS AND CONDITIONS

WRA will invoice Client for its services on a monthly basis on a time and expenses basis for

actual work completed. Expenses and subcontractors will be billed at cost plus 10%. Payment is due in full within 20 days of the date of any invoice. A service charge of 1.0% per month is added to all account balances over 30 days past due.

Reimbursable expenses including subcontractor fees, mileage, copy, postage, equipment, and telephone costs are charged at cost plus 10%.

Either party may terminate this Scope of Work at any time upon signed written notice sent or delivered to the other party. All work completed up to the effective notice of termination will be due and payable by Client and all data and/or reports prepared by WRA up to such time shall be provided to Client.

Any notice provided for in this Scope of Work will be given in writing. Notices shall be effective on the date of service if served personally on the party to whom notice is to be given, or on the second day after mailing if mailed by first class mail, postage pre-paid addressed to the other party at their address set forth herein or to such other addresses as either party may later specify by notice to the other.

This Scope of Work and Budget constitute the entire agreement between the parties relating to the subject matter contained in it and supersedes all prior and contemporaneous representations, agreements, or understandings between the parties. No amendment or supplement of this Agreement shall be binding unless in writing signed by the party to be bound. No waiver of any one provision of this agreement shall constitute a waiver of any other provision.

INSURANCE

The insurance coverage provided by WRA's insurance policies is: Professional Liability: \$1 million per claim and in the aggregate; General Liability: \$1 million per occurrence with \$2 million in the aggregate; Employers' Liability under Worker's Compensation: \$1 million; Excess General and Employers' Liability: \$2 million and Auto Liability: \$1 million.

APPROVAL TO PROCEED

The work can be initiated with a letter of authorization, through acknowledgment of this Scope of Work by signing a copy of this Scope below, or by Purchase Order issued to WRA.

