

**Attachment J**

**RES, Summary of Risk and Liability Transfer Approach  
(July 12, 2019)**



Resource Environmental Solutions (“RES”) reviewed key areas of project risk, as described in RES’ Risk Management and Liability Transfer Plan, and estimated the cost to mitigate those risks. For purposes of this exercise “mitigation” means taking actions to eliminate or significantly reduce KRRC’s potential damages rather than preventing the risk from materializing.

Risk <sup>1</sup>	Mitigation Cost (indicative)
<b>Flooding impacts on downstream properties<sup>2</sup></b>	<ul style="list-style-type: none"> <li>The estimated cost of purchasing flood easements, which is a percent of the market value for potentially impacted properties - [redacted]<sup>3</sup></li> </ul>
<b>Sediment impacts on downstream infrastructure</b>	<ul style="list-style-type: none"> <li>Cost of actions needed to mitigate impacts on infrastructure and for woody debris removal - [redacted]</li> </ul>
<b>Impacts to groundwater wells</b>	<ul style="list-style-type: none"> <li>Well replacement for the wells identified in RES’ report - [redacted]</li> </ul>
<b>Impacts on natural resources</b>	<ul style="list-style-type: none"> <li>Fixed fee for long term maintenance and monitoring and adaptive management (estimated cost could go down with successfully negotiated permit conditions) - [redacted]</li> </ul>

RES considered two primary methods for mitigating risks:

- Local Impact Mitigation Fund – A fund administered by a third party to pay impacted landowners for damages. Based on discussions we have had with third-party advisors, this is a very cost-effective way to address potential litigation, even where there are valid defenses against claims in litigation (as is the case here). To determine the funding amount for the Local Impact Mitigation Fund, we used the Estimated Mitigation Costs above as a guide, taking the low end for flooding impacts. We also included a residual amount to defend claims not settled by the Local Impact Mitigation Fund (additional contingency is included in the project contingency). RES would directly assume liability for the impacts on natural resources for a fixed fee outside of the proposed fund.
- RES assumes risks – RES could assume the obligation to implement mitigation and provide an indemnity. This would be priced using the Mitigation Costs above, but taking the high end for flooding impacts and adding a fee to cover risk and uncertainty, profit and SG&A. A residual defense fund to address other risks would not be included in this price. RES would still separately assume liability for the impacts on natural resources for a fixed fee.

RES recommended the Local Impact Mitigation Fund option as the most cost effective, and robust, method for addressing the risks described above. A summary of indicative costs for that option is described below:

<sup>1</sup> Other risks such as sediment contamination, contractor-caused fire, etc. will be covered by insurance.

<sup>2</sup> Bridges and harbor impacts not included and subject to ongoing discussions.

<sup>3</sup> This is based on the market value of the properties, which is [redacted] (increased from an appraised value of [redacted]). Flood easements cost a percentage of market value that can vary depending on the specific facts surrounding a project.



**Summary – Local Impact Mitigation Fund**

- *[redacted]* – fund to compensate landowners for flooding impacts, impacts to ground water wells and sediment impacts. Includes a reserve to defend other claims.
- *[redacted]* – administrative costs for third parties to administer fund
- *[redacted]* – RES fee for assuming natural resource impacts risks (sediment, force majeure impacting success criteria, etc.).

**Total: \$35.7 million**