

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN MARINA COAST WATER DISTRICT
AND [CONSULTANT]
FOR [PROJECT NAME]

Funding (insert cost center line item(s) e.g. 01-05-040-027)

Task No. (insert Task No. created by finance e.g. PSAxWD-4001EN)

THIS AGREEMENT, made and entered into this _____, by and between Marina Coast Water District, 11 Reservation Road, Marina, CA, 93933, hereinafter called "DISTRICT", and _____, with its principal offices at _____ hereinafter called the "CONSULTANT":

WHEREAS, the DISTRICT, desires to receive the professional services related to **[PROJECT NAME, BRIEF DESCRIPTION AND PHASE OF WORK AUTHORIZED BY THE INITIAL AGREEMENT, E.G., DETAILED DESIGN]** with a scope generally defined by DISTRICT's Request for Proposal presented in Appendix A; and

WHEREAS, DISTRICT is desirous of engaging the services of said CONSULTANT to perform or furnish said services.

WHEREAS, CONSULTANT has available and offers to provide personnel and facilities necessary to accomplish said services in a timely manner.

NOW, THEREFORE, said DISTRICT and said CONSULTANT, for the considerations hereinafter set forth, mutually agree as follows:

ARTICLE I - PROFESSIONAL ENGAGEMENT

DISTRICT hereby engages **NAME OF CONSULTANT** as an independent contractor, to perform or furnish the services hereinafter more particularly described in Appendix A, commencing on the date of this Agreement.

CONSULTANT hereby agrees to perform or furnish as an independent contractor professional engineering [OR THE TYPE OF SERVICES, E.G., CEQA COMPLIANCE] and related services as set forth herein. CONSULTANT may retain qualified subconsultants to assist in the performance of professional services. DISTRICT shall be notified prior to CONSULTANT sub-contracting such services and sufficient time shall be provided to allow DISTRICT to review the subconsultant's qualification. Should DISTRICT, based upon reasonable cause, not accept any such subcontractor or subconsultant for use on the Project, DISTRICT shall so notify CONSULTANT within five (5) days following DISTRICT's receipt of such notice from CONSULTANT, and

CONSULTANT shall not subcontract with any such subcontractor or subconsultant for the Project. DISTRICT shall have the right at any time to revoke its acceptance (whether given affirmatively or by its failure to object within said five (5) day period) of any subcontractor or subconsultant on the basis of reasonable cause, in which case CONSULTANT shall submit an acceptable substitute and a Task Order equitably adjusting CONSULTANT's compensation will be issued. No acceptance of any subcontractor or subconsultant shall waive: (1) DISTRICT's right not to accept defective services performed or furnished for CONSULTANT by said subcontractor or subconsultant; or (2) any other right or remedy DISTRICT has under this Agreement, including but not limited to its rights to suspend or terminate services under this Agreement.

CONSULTANT is an independent contractor and is not and shall not be deemed to be an employee, agent, servant, partner or joint venturer of DISTRICT. CONSULTANT shall have the exclusive supervision, direction and control of all employees, subconsultants, subcontractors, suppliers, materials, equipment and facilities employed, contracted with or used by, CONSULTANT in performing or furnishing services under this Agreement.

ARTICLE II - SCOPE OF SERVICES

The scope of services performed or furnished by CONSULTANT under the terms of this Agreement is defined in Appendix A and in the executed Amendment(s) pursuant hereto which will authorize CONSULTANT to perform specific engineering [OR OTHER TYPES OF SERVICES] services related to the project. Unless modified in writing by both parties through a Amendment, duties of CONSULTANT shall not be construed to exceed those services specifically established in Appendix A. (**NOTE: ANY ADDITIONAL ENGINEERING FEES ASSOCIATED WITH SERVICES NOT INCLUDED IN APPENDIX A MUST BE DEFINED AND AGREED TO BY DISTRICT IN WRITING PRIOR TO INITIATION OF THESE SERVICES.**)

ARTICLE III – GENERAL PROVISIONS

A. The CONSULTANT hereby represents that all work described herein shall be performed only by persons under the supervision of a person who is currently licensed to perform such work and that to the best of its professional ability, all work shall be performed in accordance with applicable Federal, State, and local laws and regulations.

B. The CONSULTANT shall not discriminate in employment practices, in the performance of the terms of this Agreement, either directly or indirectly, on the grounds of race, color, religion, sex, age, or national origin, and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age or national origin.

A. The General Manager of the DISTRICT shall forward an executed copy of this Agreement to the CONSULTANT within ten (10) days of execution of this Agreement by the DISTRICT.

ARTICLE IV: COOPERATION BY DISTRICT

DISTRICT shall, to the extent reasonable and practicable, cooperate with CONSULTANT in the performance of CONSULTANT's services hereunder. Such cooperation shall include, but not necessarily be limited to: providing right of access to work sites as required for CONSULTANT to perform or furnish services under this Agreement; providing relevant material available from DISTRICT 's files such as maps, drawings as available (WHETHER OR NOT AS-BUILT DRAWINGS), records, and operation and maintenance information; serving all notices; attending all hearings; payment of all permit and other required fees associated with the Project; and rendering assistance in determining the location of existing facilities and improvements which may be affected by the Project.

DISTRICT shall be responsible for providing legal services which it deems necessary for the Project including review of contract documents, public advertising and contract letting. DISTRICT shall pay fees for utility services to the Project.

DISTRICT shall appoint [NAME] as DISTRICT's REPRESENTATIVE with respect to the services to be performed under this Agreement. DISTRICT'S REPRESENTATIVE shall have complete authority to transmit instructions, receive information, and interpret and define DISTRICT's policies. CONSULTANT shall be entitled to rely on representations made by DISTRICT's REPRESENTATIVE unless otherwise specified in writing by DISTRICT.

Article V – SCHEDULE

A schedule for carrying out services performed by CONSULTANT under the terms of this Agreement is set forth in Appendix A. CONSULTANT will exert all reasonable efforts to perform or furnish all services under this Agreement in accordance with said schedule.

DISTRICT will be kept informed as to the progress of the services under this Agreement under the terms presented in Appendix A. Neither party shall hold the other responsible for damages caused by, arising out of or resulting from delays in performance caused by acts of God, strikes, lockouts, or events beyond the control of the other party.

Article VI – LITIGATION

The Agreement does not require CONSULTANT to prepare for or appear as a witness in any litigation or alternative dispute resolution proceeding on behalf of DISTRICT, other than as specified in Appendix A, except in consideration of additional reasonable compensation negotiated as part of a Amendment specifically issued for such purpose. Notwithstanding the preceding, CONSULTANT shall participate without additional compensation in any litigation or alternative dispute resolution proceeding in which CONSULTANT is a party or in which a claim is made against DISTRICT based in whole

or in part on CONSULTANT's negligence, professional errors or omissions, breach of contract or deficiencies in CONSULTANT's design or performance hereunder.

ARTICLE VII: COMPENSATION

Payment for the engineering services set forth in Appendix A and specific executed Amendment(s) shall be made by DISTRICT to CONSULTANT and shall be considered as full compensation for such services and all personnel, materials, supplies, and equipment used and costs incurred in carrying out such services. In no event shall the amount of compensation exceed the total fee specified in Appendix A without approval from the DISTRICT.

A. If payment for services performed or furnished under terms of Appendix A and/or Amendment(s) is to be on a lump sum basis, compensation shall be as described below:

1. Appendix A and/or Amendments must specify that the work is to be performed on a lump sum basis.
2. Compensation to CONSULTANT shall be a lump sum amount specified in Appendix A and Amendment(s).
3. Payments shall be monthly, based on percent completion. As each payment is due, a statement describing the services which have been performed or furnished and listing the percentage of completion and the total amount of prior payments paid by DISTRICT shall be submitted to DISTRICT. Payment shall be made for the balance due under such statement, without retention unless DISTRICT contests all or part of said billing in which event only that portion so contested will be retained by DISTRICT pending resolution of the dispute and any uncontested portion will be paid.

B. If payment for services performed or furnished under terms of Appendix A and/or Amendment(s) is to be on a time and expense reimbursable basis, with a total cost not-to-exceed, compensation shall be as described below:

1. Appendix A and/or Amendments must specify that the work is to be performed on a time and expenses basis with a total cost not-to-exceed.
2. Compensation to CONSULTANT shall be on a time and expense reimbursement basis in accordance with CONSULTANT's Schedule of Charges. A current copy of the Schedule of Charges will be included with each Amendment.
3. Payments for services provided by CONSULTANT on a time and expense basis shall be made monthly by the DISTRICT based on an

itemized invoice from CONSULTANT which lists actual costs and expenses or units of work performed on the Project in the immediately preceding month. Such payments shall be for the invoice amount, without retention unless DISTRICT contests all or part of said billing in which event only that portion so contested will be retained by DISTRICT pending resolution of the dispute and any uncontested portion will be paid.

4. A budget for compensation for services provided by CONSULTANT on a time and expense basis will be established in the Compensation section of Appendix A and/or the Amendment. The budget established shall not be exceeded without DISTRICT's written authorization.

5. The budget may be increased by Amendment if necessary to complete the scope of work. If appropriate, CONSULTANT will advise DISTRICT of the anticipated expenditure over the budgeted amount at the fifty (50) percent completion point of the Amendment work and request additional budget authorization.

6. Amendments using a time and expense reimbursement should be limited in scope. The product of these Amendment(s) should adequately define the specific scope and effort necessary to achieve the necessary addition/modification and develop a lump sum proposal for the required engineering services.

C. CONSULTANT's final statement or invoice for any services which include construction, or the final statement or invoice for the Project, whichever occurs earlier in time, shall include properly completed and executed Releases of Liens and Claims (see Appendix C). Payment of any invoice not satisfying these requirements may be withheld until the requirements has been satisfied.

D. The CONSULTANT shall submit itemized statement or invoice of costs to the DISTRICT for each month that work is performed. The DISTRICT shall pay the CONSULTANT by the 25th of the month for invoices and itemized statements submitted by the first day of the same month. Payments are due upon receipt of a statement or invoice prepared in a manner acceptable to DISTRICT and approved by DISTRICT.

ARTICLE VIII: RECORDS

The CONSULTANT shall keep and maintain accurate records of costs incurred, and the time expended relating to all services to be compensated hereunder. All records shall be available to the DISTRICT for review thereof upon request by the DISTRICT or its authorized representative. All fiscal and accounting records and other supporting papers of the CONSULTANT shall be maintained for a minimum of three (3) years following the close of the DISTRICT fiscal year of expenditures.

ARTICLE IX: TITLE TO DOCUMENTS

All reports, drawings, specifications, submittals and other materials collected or produced by the CONSULTANT hereunder shall, after completion and acceptance, become the property of the DISTRICT.

The CONSULTANT may utilize existing materials developed by the CONSULTANT prior to the commencement of this engagement including, but not limited to, customized computer routines developed using proprietary or commercial software packages, reports, documents, maps, graphs, charts, photographs and photographic negatives. These materials shall remain the property of the CONSULTANT.

CONSULTANT shall be entitled to a reproducible copy of all material furnished to DISTRICT, the costs of which is included on the compensation amounts specified in Appendix A and/or the Amendment(s). Any uncompleted work of CONSULTANT delivered to DISTRICT due to cancellation of all or portions of the work or contract termination, which utilized by DISTRICT in any way, shall have CONSULTANT name removed.

ARTICLE X: KEY PERSONNEL

The CONSULTANT shall specifically assign a project manager and necessary staff to complete the Scope of Work.

The CONSULTANT hereby agrees that the assigned personnel directly responsible for conducting the Scope of Work in Appendix A shall not be changed during the course of the work without prior written consent of the DISTRICT, which consent shall not be unreasonably withheld.

ARTICLE XI: ASSIGNMENT AND SUBCONTRACTING

The CONSULTANT shall not assign, sell, mortgage, hypothecate, or otherwise transfer its interest or obligations in this agreement without written consent of the DISTRICT. Further, none of the services covered by this agreement shall be subcontracted beyond that which is specifically noted in the CONSULTANT'S proposal unless approved by the DISTRICT in writing.

ARTICLE XII: INSURANCE AND LIABILITY

The CONSULTANT agrees to indemnify, defend, and hold harmless the DISTRICT, its officers, agents, and employees as provided in Appendix B, attached hereto and hereby incorporated by reference to the fullest extent permitted by law.

Coverages described in Appendix B shall be maintained through the term of this Agreement, and the CONSULTANT shall file with the DISTRICT prior to the execution of this Agreement, and as policy renewals occur, a Certificate of Insurance evidencing that the insurance coverages required herein have been obtained and are currently in effect. Insurance policies shall provide that such insurance is primary insurance.

A. CONSULTANT and its subcontractors shall maintain worker's compensation and employers' liability insurance in accordance with the amount(s) and coverage(s) in the attached Appendix B.

B. CONSULTANT and its subcontractors shall maintain commercial general liability and automobile liability insurance protecting it against claims arising from bodily or personal injury or damage to property, including loss of use thereof, resulting from operations of CONSULTANT pursuant to this AGREEMENT or from the use of automobiles and equipment of or by CONSULTANT. The amount(s) and coverage(s) shall be in accordance with Appendix B.

C. CONSULTANT shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions for which it is legally liable in the performance or furnishing of professional services pursuant to this AGREEMENT. (Such insurance shall be maintained for one (1) year after final completion of construction. The amount(s) and coverage(s) shall be in accordance with Appendix B.

D. CONSULTANT shall submit to the DISTRICT a Certificate of Insurance evidencing that the insurance coverages required herein have been obtained and are currently in effect. Upon written request from DISTRICT CONSULTANT is required to provide DISTRICT with complete copies of such policies or certified evidence of coverage. Approval or acceptance of said insurance by DISTRICT shall not relieve or decrease the liability of CONSULTANT hereunder.

E. To the extent applicable, DISTRICT agrees to endeavor to include a provision in the DISTRICT'S contract with the Construction Contractor engaged on the Project which requires that CONSULTANT be listed as an additional insured on such Construction Contractor(s) liability insurance policy and property insurance (Builder's Risk) policy, if any.

Article XIII - Suspension of Work

DISTRICT may, at DISTRICT'S discretion, suspend, in writing, all or a portion of the services under this Agreement. CONSULTANT may suspend the services under this Agreement in the event DISTRICT does not make payment in accordance with the payment terms in Article VII. The services under this AGREEMENT will only be suspended for non-payment after written notice is received by DISTRICT from CONSULTANT of its intention intending to suspend performance and a cure period of seven (7) days after receipt of this notification by DISTRICT. The time for completion of the services under this AGREEMENT shall be extended by the number of days the services under this AGREEMENT is suspended. If the period of suspension exceeds ninety (90) days, the terms of this AGREEMENT are subject to renegotiations, and both parties shall have the option to terminate the services under this AGREEMENT on the suspended portion of Project in accordance with Article XII.

ARTICLE XIV: TERMINATION

Either party may terminate this Agreement upon substantial breach of the terms thereof by the other party. The DISTRICT may terminate this agreement at any time upon giving thirty (30) days written notice to CONSULTANT. Such notice shall set forth the effective date of such termination.

DISTRICT, by notifying CONSULTANT in writing, may terminate any or all of the services covered by this AGREEMENT. In the event of such termination, CONSULTANT shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing of the job. Such additional time shall not exceed five percent (5%) of the total time expended to the date of notice of termination or a designated total time agreed upon in an Amendment. All charges thus incurred, together with associated expenses reasonably incurred by CONSULTANT and reasonable charges for any other commitments outstanding at the time of termination (such as for termination of subconsultants, rental agreements, orders for printing, etc.), shall be payable by DISTRICT within forty-five (45) days following submission of a final statement by CONSULTANT. However, in the event that termination of said AGREEMENT with CONSULTANT occurs at the completion of a specific phase of the design, the aforesaid provision for the proper filing and closing will not apply unless agreed to by DISTRICT under a specific Amendment. The payment provided for under this Article XII shall constitute full satisfaction of any obligation DISTRICT has, may have or could be found to have to pay for services performed or furnished and expenses or charges incurred by CONSULTANT pursuant to this AGREEMENT and any and all liabilities or damages arising out of or resulting from the termination of this AGREEMENT.

ARTICLE XV: NOTICE

Any notice to be given hereunder shall be delivered to the party to be noticed by either personal delivery or by first class mail, postage prepaid, and addressed as follows:

TO: Marina Coast Water District
920 2nd Avenue, Suite A
Marina, CA 93933
Attention: General Manager

TO: _____

Attention: _____
[Consultant Name & Address]

ARTICLE XVI: BINDING EFFECT; AMENDMENTS; COUNTERPART EXECUTION; CONSTRUCTION

This Agreement supercedes and integrates all prior writings and understandings between the parties concerning, is binding on the parties and their successors, and may be amended only by written agreement signed by the DISTRICT and the CONSULTANT. This Agreement may be signed in counterparts, each of which when fully executed shall be considered a duplicate original document. Both parties have participated fully in the review and revision of this Agreement, and neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654.

ARTICLE XVII: DISPUTES

The parties must submit any disputes arising under this Agreement to non-binding mediation before filing suit to enforce or interpret this Agreement. Upon request by either party, the parties will within ten (10) days select a single mediator, or if the parties cannot agree, they shall ask the then presiding Judge of the Monterey County Superior Court to select a mediator to mediate the dispute within fifteen (15) days of such selection.

In the event of legal proceedings to interpret or enforce this agreement, the prevailing party shall be awarded reasonable attorney fees and costs, including reasonable costs of experts reasonably engaged by the attorney.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated the day and the year first above written.

Marina Coast Water District

(CONSULTANT)

Remleh Scherzinger
General Manager

[Type name and title]

Appendix A

Appendix A includes:

Scope of Work
Fee Schedule

Appendix B
Insurance Requirements

INDEMNIFICATION AGREEMENTS

INSURANCE REQUIREMENTS

AGREEMENTS

Workers' Compensation Insurance - By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this contract.

Indemnification - To the fullest extent permitted by law, Consultant, at Consultant's own cost, shall defend and indemnify and hold harmless the Marina Coast Water District (District), its directors, officers, employees, authorized employees and each of them from and against:

- a. When the law establishes a professional standard of care for Consultant's services, all claims and demands of all persons that arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct in the performance (or actual or alleged non-performance) of the work under this agreement. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the work hereunder, and shall not tender such claims to the District nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.
- b. Other than in the performance of professional services, all claims and demands of all persons arising out of the performance of the work or the furnishing of materials; including but not limited to, claims by the Consultant or Consultant's employees for damages to persons or property except for the sole negligence or willful misconduct or, with respect to construction, the active negligence of the District, its directors, officers, employees, or authorized volunteers.
- c. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.
- d. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Consultant to faithfully perform the work and all of the Consultant's obligations under the agreement.

Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

- e. Consultant acknowledges and understands that the area in and around which the work will be performed has been identified as a possible location of munitions and explosives of concern ("MEC"). All indemnification obligations of Consultant under this Agreement shall specifically include claims and demands involving, arising out of or related to MEC. [Include this paragraph only for work on the former Fort Ord outside the cantonment area.]

Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District or any of its directors, officers, employees, or authorized volunteers.

Consultant shall pay and satisfy any judgment, award or decree that may be rendered against the District or any of its directors, officers, employees, or authorized volunteers, in any and all such aforesaid suits, actions, or other legal proceedings.

Consultant shall reimburse District and its directors, officers, employees or authorized volunteers, for any reasonable legal expenses and costs incurred by each of them in connection with, in any way, all such aforesaid suits, actions or other legal proceedings or in enforcing the indemnity herein provided, to the extent that they are covered by the above obligations to indemnify.

Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, or its directors, officers, employees or authorized volunteers.

GENERAL CONDITIONS

Laws, Regulations and Permits - The Consultant shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the work. The Consultant shall be liable for all violations of the law in connection with work furnished by the Consultant. If the Consultant performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, the Consultant shall bear all costs arising therefrom.

Safety - The Consultant shall execute and maintain his/her work so as to avoid injury or damage to any person or property.

In carrying out his/her work, the Consultant shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including State of California, Department of Industrial Relations (Cal/OSHA) regulations, and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety

precautions, as applicable, shall include but shall not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

Liability Insurance - The Consultant shall provide and maintain at all times during the performance of the work under this agreement, the following commercial general liability, professional liability and automobile liability insurance:

Coverage - Coverage shall be at least as broad as the following:

1. Coverage for **Professional Liability** appropriate to the Consultant's profession covering Consultant's wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the contract work. Consultant shall purchase a one-year extended reporting period i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.
2. Insurance Services Office Commercial **General Liability** Coverage (Occurrence Form CG 0001)
3. Insurance Services Office **Automobile Liability** Coverage (Form CA 0001), covering Symbol 1 (any auto) Symbol 8 (hired) and 9 (non-owned)

Limits - The Consultant shall maintain limits no less than the following:

1. **Professional Liability** – Limits no less than One million dollars (\$1,000,000) per occurrence or claim, and Two million dollars (\$2,000,000) policy aggregate. **[NOTE: THIS VALUE SHOULD BE ADJUSTED BASED ON VALUE OF PROJECT. UPPER RANGE IS ESTIMATED AT \$5,000,000 WHICH WOULD BE FOR LARGER CONSTRUCTION PROJECTS, E.G., STORAGE TANKS, TREATMENT FACILITIES, LARGE PUMP/LIFT STATIONS.]**
2. **General Liability** - Two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage.

If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the District) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.

3. ***Automobile Liability*** - Two million dollars (\$2,000,000) for bodily injury and property damage each accident limit.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the Member Water Agency requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

Required Provisions - The general liability policy is to contain, or be endorsed to contain the following provisions:

1. The District, its directors, officers, employees, or authorized volunteers are to be given additional insured status (via ISO endorsement CG 2010 10 01, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the Consultant; and premises owned, occupied or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the District, its directors, officers, employees, or authorized volunteers.
2. For any claims related to this project, the Consultant's insurance shall be primary insurance at least as broad as ISO CG 20 01 04 13 as respects the District, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by the District, its directors, officers, employees, or authorized volunteers shall not contribute to it.
3. Any failure to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to the District, its directors, officers, employees, or authorized volunteers.
4. 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.

Such liability insurance shall indemnify the Consultant and his/her sub-consultants against loss from liability imposed by law upon, or assumed under contract by, the Consultant or his/her sub-consultants for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation and removal of lateral support.

The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

The policies specified above shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Consultant, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to the District.

All of the insurance shall be provided on policy forms and through companies satisfactory to the District.

In the event any change is made in the insurance carrier, scope of coverage or retroactive date of professional liability coverage required under this agreement, Consultant shall notify the District prior to any changes.

1. **Workers' Compensation and Employer's Liability Insurance** - The Consultant and all sub-consultants shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees employed directly by them or through sub-consultants in carrying out the work contemplated under this contract, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Consultant shall provide employer's liability insurance with limits no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee. **Waiver of Subrogation:** The insurer(s) named above agree to waive all rights of subrogation against the District, its directors, officers, employees, and authorized volunteers for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the District has received a waiver of subrogation from the insurer.

Deductibles and Self-Insured Retentions - Any deductible or self-insured retention exceeding \$50,000 must be declared to and approved by the District. At the option of the District, the insurer shall either reduce or eliminate such deductibles or self-insured retention.

Acceptability of Insurers - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise approved by the District.

MEC Coverage – For work involving portions of the former Fort Ord outside the cantonment area, all insurance maintained by Consultant shall include coverage for services, work in or around MEC, or claims, damage or injury related in any way to this Agreement which arise from MEC. The Marina Coast Water District, its officers, directors and employees and any of its authorized representatives and volunteers shall be named as additional insureds under all insurance maintained by Consultant related in any way to work performed by it on behalf of the Marina Coast Water District.

Evidences of Insurance - Prior to execution of the Agreement, the Consultant shall file with the District a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include the additional insured endorsements. Such evidence shall also include confirmation that coverage includes or has been modified to include Required Provisions. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them.

The Consultant shall, upon demand of the District, deliver to the District such policy or policies of insurance and the receipts for payment of premiums thereon.

All insurance correspondence, certificates, binders, etc., shall be mailed to:

Marina Coast Water District
920 2nd Avenue, Suite A
Marina, CA 93933
Attn: Stephenie Verduzco

Continuation of Coverage – If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the District at least ten (10) days prior to the expiration date.

Sub-Consultants - In the event that the Consultant employs other consultants (sub-consultants) as part of the services covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

Appendix C

Appendix C includes:

Release of Liens and Claims (CONSULTANT)

Release of Liens and Claims (Subconsultants and Subcontractors)

CONSULTANT'S RELEASE OF LIENS AND CLAIMS

WHEREAS, the undersigned, has installed or performed or furnished labor, services, materials and/or equipment for the installation of the Project entitled _____, (the "Project"), installed pursuant to a written agreement dated _____, 20____, between the undersigned, as CONSULTANT, and _____ having an office at _____, hereinafter called DISTRICT, at or on real estate owned by DISTRICT and described and located as follows:

(the "Facilities"); and,

WHEREAS, we, the undersigned, have agreed to release any and all claims and liens which the undersigned has, or might have, against the DISTRICT, or said Facilities by reason of services, labor, materials and equipment performed or furnished by us in connection with the Project.

NOW THESE PRESENTS WITNESS that the undersigned, in consideration of the premises herein, and of the sum of One Dollar (\$1.00) in hand paid by DISTRICT, at and before the sealing and delivery hereof, the receipt and sufficiency of which are hereby acknowledged, remises, releases and forever quitclaims, and by these presents does remise, release and forever quitclaim, unto DISTRICT, its successors and assigns, any and all manner of liens, claims and/or demands whatsoever which the undersigned now has, or might or could have, on or against the Facilities, or DISTRICT for work done, for services performed or furnished or for equipment or materials furnished in connection with the Project installation. It is the intent of this Release that DISTRICT, its successors and assigns, shall and may hold, have, use and enjoy the Facilities free and discharged from all liens and demands whatsoever which the undersigned now has, or might or could have, against the same if these presents had not been made.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of the ____ day of _____, 20____ written.

(SEAL)

CONSULTANT

Dated: _____

By: _____

Title: _____

I, _____, duly authorized representative of _____, designated as CONSULTANT in the above-referenced Agreement, do hereby state that the parties whose names are signed to the attached releases, Documents 1 through _____, are all of the parties who have performed or furnished labor, services, materials, or equipment in connection with the construction of the Facilities mentioned above, excepting only such materials as may have been furnished by DISTRICT.

Dated: _____

Duly Authorized

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

[illegible]

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State

SUBCONTRACTOR's OR SUBCONSULTANT's
RELEASE OF LIENS AND CLAIMS

WHEREAS, the undersigned, has installed or performed or furnished labor, services, materials, and/or equipment for the installation of the Project entitled _____, (the "Project"), installed pursuant to a written agreement dated _____, 19____, between the _____, having an office at _____, hereinafter called DISTRICT and, _____ having an office at _____, hereinafter called CONSULTANT, at or on real estate owned by DISTRICT and described and located as follows:

(the "Facilities"); and,

WHEREAS, the undersigned, has agreed to release any and all claims and liens which the undersigned has, or might have, against DISTRICT or Facilities by reason of the services, labor, materials and equipment performed or furnished by the undersigned in connection with the Project.

NOW THESE PRESENTS WITNESS that the undersigned, in consideration of the premises herein, and of the sum of One Dollar (\$1.00) in hand paid by DISTRICT, at and before the sealing and delivery hereof, (the receipt and sufficiency of which are hereby acknowledged), remises, releases and forever quitclaims and by these presents do remise, release and forever quitclaim, unto DISTRICT, its successors and assigns, any and all manner of liens, claims and/or demands whatsoever which the undersigned now has, or might or could have, on or against the Facilities, or DISTRICT for work done, for services performed or furnished or for equipment or materials furnished in connection with the Project installation. It is the intent of this Release that DISTRICT, its successors and assigns shall and may hold, have, use and enjoy the Facilities free and discharged from all liens and demands whatsoever which the undersigned now has, or might or could have against the same if these presents had not been made.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of the _____ day of _____, 20____ written.

(SEAL)

(Company Name)

Dated: _____

By: _____

Title: _____

I, _____, duly authorized representative of _____, designated as CONSULTANT in the above-referenced Agreement, do hereby state that the parties whose names are signed to the attached releases, Documents 1 through _____, are all of the parties who have performed or furnished labor, services, materials, or equipment in connection with the construction of the Facilities mentioned above, excepting only such materials as may have been furnished by DISTRICT.

Dated: _____

Duly Authorized

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF MONTEREY)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN MARINA COAST WATER DISTRICT
AND [CONSULTANT]
FOR [PROJECT NAME]

AMENDMENT NO. []

Article II - Scope of Services shall be [DESCRIPTION OF ADDITIONAL OR MODIFIED SCOPE OF SERVICES].

Article IV - Schedule shall be amended by a [] week extension.

Article IX - Payment shall be amended by a lump sum (or not-to-exceed if time and expense contract) amount of [\$]. (***NOTE: IF TIME AND EXPENSE CONTRACT, TASK ORDER MUST BE ACCOMPANIED BY ENGINEER'S MOST CURRENT SCHEDULE OF CHARGES.***)

All other articles of the [DATE] AGREEMENT FOR ENGINEERING SERVICES remain the same.

DISTRICT and ENGINEER have caused this Agreement to be amended by representatives duly authorized to act, all as of the effective date of [].

Prepared by: _____ Date _____
(DISTRICT REPRESENTATIVE)

ENGINEER
[Name of consulting firm]

DISTRICT
Marina Coast Water District

By _____

By _____

Title _____

Title: General Manager

Date _____

Date _____