

**Professional Services Agreement
with
Calaveras County Water District
120 Toma Court
San Andreas, CA 95249
Telephone 209-754-3543 Fax 209-754-1120**

The terms on subsequent pages are incorporated in this document and will constitute a part of the agreement between the parties when signed.

To: Consultant

Phone:

Fax:

Date:

**Agreement No.
Purchase Order No.**

The undersigned Consultant offers to furnish the following: (scope of work)

Contract Price: Not to exceed \$_____, as shown in Attachment A.

Completion Date:

For Technical Direction by Calaveras County Water District: Kevin Williams, P.E., Senior Civil Engineer, 120 Toma Court, San Andreas, CA 95249, kevinw@ccwd.org or phone (209) 419-3979, or designee.

For Direction by Consultant:

Accepted: Calaveras County Water District

Consultant:

By: _____
Michael Minkler
General Manager

By: _____
Name
Title

Date: _____, 2021

Date: _____, 2021

Consultant agrees with Calaveras County Water District that:

- a. Hold-Harmless. When the law establishes a professional standard of care for the Consultant's services, to the fullest extent permitted by law, Consultant will indemnify and hold harmless Calaveras County Water District, its directors, officers, employees, and authorized volunteers from all claims and demands of all persons to the extent caused by 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 Consultant's negligent performance or non-performance of the work hereunder and shall not tender such claims to Calaveras County Water District nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.
- b. Indemnification. Other than in the performance of professional services, to the fullest extent permitted by law, Consultant will defend, indemnify and hold harmless Calaveras County Water District, its directors, officers, employees and authorized volunteers from all claims and demands of all persons arising out the negligent or reckless performance of the work or furnishing of materials; including but not limited to, claims by the Consultant or Consultant's employees for damages to persons or property except to the extent caused by the negligence or willful misconduct or active negligence of Calaveras County Water District, its directors, officers, employees, or authorized volunteers.
- c. Workers Compensation. By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of the professional services under this agreement. Consultant and sub-Consultants will keep workers' compensation insurance for their employees in effect during all work covered by this agreement. A sole proprietor exempt from the requirements to provide such coverage, with no employees or using no sub consultants, shall so certify on the form provided by the District.
- d. Professional Liability. Consultant will file with Calaveras County Water District, before beginning professional services, a certificate of insurance satisfactory to the Calaveras County Water District evidencing professional liability coverage of not less than \$1,000,000 per claim and annual aggregate, requiring 30 days' notice of cancellation (10 days for non-payment of premium) to Calaveras County Water District. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-: VII, or equivalent, or as otherwise approved by Calaveras County Water District. 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. In the event that the Consultant employs other consultants (sub-consultants) as part of the work 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.

- e. General Liability. Consultant will file with Calaveras County Water District, before beginning professional services, certificates of insurance satisfactory to Calaveras County Water District evidencing general liability coverage of not less than \$1,000,000 per occurrence (\$2,000,000 general and products-completed operations aggregate (if used)) for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits) and employer's liability (\$1,000,000) (if applicable); requiring 30 days (10 days for non-payment of premium) notice of cancellation to Calaveras County Water District. The general liability coverage is to state or be endorsed to state "such insurance shall be primary, and any insurance, self-insurance or other coverage maintained by Calaveras County Water District, its directors, officers, employees, or authorized volunteers shall not contribute to it". The general liability coverage shall give Calaveras County Water District, its directors, officers, employees, and authorized volunteers additional insured status using ISO endorsement CG2010, CG2033, or equivalent. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A- :VII, or equivalent, or as otherwise approved by Calaveras County Water District. In the event that the Consultant employs other consultants (sub-consultants) as part of the work 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.
- f. Insurance Notification. 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 Calaveras County Water District at least ten (10) days prior to the expiration date.
- g. Direction/Orders. Consultant shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on Page 1 as "other authorized representative(s)," subject to the limitations of paragraph "Changes", below. An Amendment to this Agreement will be issued in writing, incorporating Consultant's scope and mutually agreed-upon price and estimated schedule for completion. A fully executed Revised Purchase Order incorporating the additional/changed scope and price, shall also be issued, with a copy provided to Consultant.
- h. Invoices. Consultant shall submit to the District monthly invoices for time and expenses subject to the contract limitation. Invoices shall reference the Purchase Order and project number shown on the purchase order form. Each invoice shall also include the total invoiced and paid to date, and the remainder outstanding. Invoices received without this information shall be returned to Consultant unpaid, for revision and re-submittal. Invoices shall be submitted to:
- Calaveras County Water District
120 Toma Court
San Andreas, CA 95249
- i. Payment. Payment, unless otherwise specified, is to be 30 days after receipt of an invoice deemed acceptable in accordance with paragraph h., above, by Calaveras County Water District and its acceptance in meeting the criteria of this Agreement.

- j. Permits. Permits required by governmental authorities will be obtained at Consultant's expense, and Consultant will comply with applicable local, state, and federal regulations and statutes including Cal/OSHA requirements.
- k. Changes. Any change in the scope of the professional services to be done, method of performance, nature of materials or price thereof, or to any other matter materially affecting the performance or nature of the professional services will not be paid for or accepted unless such change, addition or deletion is approved in advance, in writing by an Agreement Amendment executed by the General Manager of Calaveras County Water District.
- l. Progress of Work. Consultant shall perform the professional services promptly, diligently and in such manner and sequence as to assure the timely completion of other work dependent thereon and to permit completion of the professional services in a manner to ensure the work is completed on or before the Completion Date set forth above ("Schedule Requirements"). In this regard, Consultant shall at all times furnish and have available such sufficient and satisfactory equipment, materials, supplies and workers to perform the professional services in a prompt and timely manner in accordance with the timelines of this Agreement. In the event Consultant fails to perform the professional services in accordance with the Schedule Requirements, Consultant, at its own expense, shall provide additional equipment, work force, overtime or additional shifts so as to meet and maintain the Schedule Requirements. Consultant will pay all expenses and damages incurred by Owner resulting from the failure of Consultant to meet the Schedule Requirements, or abide by Contractor's instructions with regard to the Schedule Requirements, to Owner upon demand.
- m. Assignment. Consultant shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the express prior written consent of the Calaveras County Water District.
- n. Termination. District may terminate this Agreement with ten (10) days prior written notice to Consultant and identifying the Consultant's final work date. In the case of such termination Consultant shall provide the Calaveras County Water District a final invoice for work performed and expenses incurred prior to termination within 30 calendar days following the final work date provided in the notice of termination. No additional invoices will be accepted, nor charges paid by the Calaveras County Water District after this 30-day final invoicing period.
- o. Products. All work products resulting from this Agreement, including documents and reports, drawings, models, specifications, computer drawings and other electronic expression, and the like that may be drafted, assembled, compiled, or obtained by Consultant during the performance of assigned tasks, and delivered to the Calaveras County Water District as Consultant's work product shall be the property of the Calaveras County Water District for its exclusive use. Except as may be distributed in its original form, any modification or other reuse of such work product for purposes other than those intended by this Agreement shall be at the Calaveras County Water District's sole risk and without liability to Consultant.
- p. Provided Information. Calaveras County Water District shall furnish the Consultant with associated drawings (plan and section) of associated equipment and/or infrastructure as necessary.

- q. Third Parties. The services to be performed by Consultant are intended solely for the benefit of the Calaveras County Water District. No person or entity not a signatory to this Agreement shall be entitled to rely on the Consultant's performance of its services hereunder, and no right to assert a claim against the Consultant by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of the Consultant's services hereunder. Notwithstanding the foregoing Consultant understands and agrees that Calaveras County Water District will be submitting the report to various State and/or Federal agencies for their review. Consultant agrees that the agencies receiving the report may and will rely on its accuracy. Moreover, this section in no way impairs Calaveras County Water District's rights to indemnity from Consultant as provided in this agreement, including any claims by third parties.
- r. Access to Records. Consultant shall provide access to the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- s. Record Retention. Consultant shall retain all required records for three years after the Calaveras County Water District makes final payments and all other pending matters are closed.
- t. Modification. No waiver, amendment or modification of any term, provision, condition or covenant of this Agreement shall be effective unless set forth in writing, signed by the Parties hereto, and which specifically identifies such waiver, amendment or modification. Such waiver, amendment or modification shall be effective only to the extent identified in such writing.
- u. Independent Contractor Relationship. Consultant is and shall be an independent contractor of the District. Neither Consultant nor Consultant's employees shall be deemed to be employees or agents of the District. Nothing in this Agreement is intended to establish a partnership, joint venture, or agency relationship between the parties, and neither Consultant nor Consultant's employees are authorized to bind the District or make any representations on its behalf in any matter.
- v. Electronic Signatures. All parties agree to conduct this transaction electronically and use scanned or electronic signatures in accepting and conveying this agreement electronically by email or other electronic means, and therefore both parties acknowledge this agreement is accorded legal effect and binding on both parties.

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