

AGREEMENT FOR PROFESSIONAL SERVICES

between the

MONTEREY PENINSULA REGIONAL PARK DISTRICT

and the

COUNTY COUNSEL'S OFFICE OF MONTEREY COUNTY

This Professional Services Agreement ("Agreement") is made and entered into by and between the Monterey Peninsula Regional Park District, a California special district ("District") and the Office of the County Counsel, County of Monterey ("Attorney").

In consideration of the mutual covenants and conditions set forth in this Agreement the Parties agree as follows:

1. **SERVICES TO BE PROVIDED.** District hereby engages Attorney, and Attorney hereby agrees to perform the services described in Exhibit B in conformity with the terms of this Agreement. These services are generally described as the provision of as-needed general legal services for the District.

2. **PAYMENTS BY THE DISTRICT.** The District shall pay Attorney in accordance with the payment provisions set forth in Exhibit A (Standard Provisions). Compensation shall be payable at an hourly rate as specified in Exhibit C.

3. **TERM OF AGREEMENT.** The term of this Agreement is from the effective date to June 30, 2018 unless sooner terminated pursuant to the terms of this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement.

Exhibit A	Standard Provisions
Exhibit B	Scope of Services
Exhibit C	Hourly Rates

5. CONTRACT ADMINISTRATORS.

FOR DISTRICT:

Rafael Payan, PhD, General Manager
Kelly J. McCullough, Finance Manager
Monterey Peninsula Regional
Park District
60 Garden Court, Suite 325
Monterey, CA 93940
(831) 372-3196

FOR ATTORNEY:

Charles J. McKee, County Counsel
Leslie J. Girard, Chief Asst. County Counsel
Office of the County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901
(831) 755-5045

IN WITNESS WHEREOF, District and Attorney have executed this Agreement as of the last date opposite the respective signatures below.

MONTEREY PENINSULA REGIONAL
PARK DISTRICT

OFFICE OF THE COUNTY COUNSEL
COUNTY OF MONTEREY

By: _____
Kelly Sorenson, President

By: _____

Date: _____

Date: _____

EXHIBIT A
STANDARD PROVISIONS

1. PERFORMANCE STANDARDS

Attorney warrants that Attorney and Attorney's employees performing services hereunder are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this agreement.

Attorney and its employees shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

Attorney shall furnish, at its own expense, all materials equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. Attorney shall not use District premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

2. PAYMENT CONDITIONS

Attorney shall submit to the District's Contract Administrator an invoice on a form acceptable to the District. Such invoice shall be submitted monthly. The invoice shall set forth the amounts claimed by Attorney for the previous month, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the District may require. The Contract Administrator or designee shall certify the invoice, either in the requested amount or in such other amount as the District approved in conformity with this Agreement. A check shall be issued in the certified amount, within 30 days of receiving the invoice, to Attorney.

Attorney shall not receive reimbursement for travel expenses unless set forth in Exhibit C.

3. TERMINATION

3.01. During the term of this Agreement, either party may terminate the Agreement by giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the District shall pay to Attorney all sums due for services rendered prior to the date of termination.

3.02. The District may cancel and terminate this Agreement for good cause effective immediately upon written notice to Attorney. "Good cause" includes but is not

limited to the failure of Attorney to perform the required services at the time and in the manner provided herein. If the District terminates this Agreement for good cause, the District shall pay to Attorney all sums due for services rendered prior to the date of termination.

4. INDEMNIFICATION

Attorney shall indemnify, defend, and hold harmless the District and its officers, agents, and employees from and against the following:

(a) Any and all claims, liabilities, and losses whatsoever (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) occurring or resulting to any person, firm or corporation for damage, injury or death, to the extent that such claims, liabilities, or losses arise out of, are alleged to arise of, or connected with the wrongful, willful, or negligent act or omission of Attorney, its officers, employees or agents in the performance of this Agreement.

5. INSURANCE

5.01. The District recognizes that Attorney is a constituent part of a public entity, the County of Monterey. The County maintains general liability coverage that will also provide coverage for professional negligence, with a self-insured retention of \$1.5 million per occurrence. Attorney shall inform the District of any changes in the insurance coverage.

6. RECORDS AND CONFIDENTIALITY

6.01. District Confidentiality. Attorney and its officers, employees and agents shall comply with any and all federal, state, and local laws which provide for the confidentiality of records and other information. Attorney shall not disclose any confidential records or other confidential information received from the District or prepared in connection with the performance of this Agreement, unless the District specifically permits Attorney in writing to disclose such records or information. Attorney shall promptly transmit to the District any and all requests for disclosure of any such confidential records or information. Attorney shall not use any confidential information gained by Attorney in the performance of this Agreement except for the sole purpose of carrying out Attorney's obligations under this Agreement.

6.02. District Records. When this Agreement expires or terminates, Attorney shall return to the District any records which Attorney utilized or received from the District to perform services under this Agreement.

6.03. Maintenance of Records. Attorney shall prepare, maintain, and preserve all reports and records that may be required by federal, state, county and District

rules and regulations related to services performed under this Agreement. Attorney shall maintain such records for a period of at least three-years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then Attorney shall retain said records until such action is resolved.

- 6.04. Access to and Audit of Records. The District shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Attorney related to services provided under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involved the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the District or as part of any audit of the District, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

7. INDEPENDENT CONTRACTOR

In the performance of work, duties, and obligations under this agreement, Attorney is at all times acting and performing as an independent contractor and not as an employee of the District. No offer or obligation of permanent employment with the District is intended in any manner, and Attorney shall not become entitled by virtue of this Agreement to receive from the District any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Attorney shall be solely liable for and obligated to pay directly all applicable taxes, including but not limited to federal and state income taxes and social security, arising out of Attorney's performance of this Agreement. In connection therewith, Attorney shall defend, indemnify, and hold the District harmless from any and all liability which the District may incur because of Attorney's failure to pay such taxes.

10. NOTICES

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the District's and Attorney's Contract Administrators at the addresses listed at page 2 of this Agreement.

11. GENERAL PROVISIONS

- 11.01. Conflict of Interest. Attorney covenants that he or she presently has no financial interest and shall not acquire any financial interest during the term of this Agreement which would directly or indirectly conflict in any manner or to any

degree with the full and complete performance of the professional services required to be rendered under this Agreement.

The District acknowledges that Attorney represents other clients, including the County of Monterey, LAFCO of Monterey County, the Transportation Agency of Monterey County, the Water Resources Agency of Monterey County, and the Monterey Bay Unified Pollution Control Agency, which representation may, from time-to-time, present a conflict of interest with the representation of the District. Attorney shall promptly inform the District of any situation giving rise to a conflict of interest in the representation of the District, and the parties shall confer in good faith regarding a potential waiver of any conflict. Should any conflict not be waived, the District shall seek legal services from a different attorney of its choice regarding that matter.

- 11.02. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by all the parties hereto.
- 11.03. Waiver. Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 11.04. The term "Attorney" as used in this Agreement includes Attorney's officers, agents, and employees acting on Attorney's behalf in the performance of this Agreement.
- 11.05. Assignment and Subcontracting. Attorney shall not assign, sell, mortgage, hypothecate or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the District. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the District. Notwithstanding any such subcontract, Attorney shall continue to be liable for the performance of all requirements of this Agreement.
- 11.06. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the parties hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 11.07. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 11.08. Headings. The section and paragraph headings are for convenience only and shall not be used to interpret the terms of this Agreement.

- 11.09. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 11.10. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 11.11. Non-exclusive Agreement. This Agreement is non-Exclusive and both parties expressly reserve the right to contract with other entities for the same or similar services.
- 11.12 Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment hereto.
- 11.13 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 11.14. Authority. Any individual executing this Agreement on behalf of an entity represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such entity and bind the entity to the terms and conditions of the same.
- 11.15. Integration. This Agreement, including the exhibits hereto, shall represent the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements either written or oral, between the parties as of the effective date hereof.

END OF EXHIBIT A

EXHIBIT B

SCOPE OF SERVICES

- Serve as the District's general legal counsel on an as-needed basis, except where special counsel is required.
- Attend District regular and special meetings on an as needed basis.
- Attend in-person meetings with the District's officers and employees when requested, and maintain frequent telephone and e-mail contact.
- Provide general advice to the District's Board Members, officers and employees as requested.
- Review monthly agenda items and assist in preparation of agenda documents on an as needed basis (staff reports, resolutions, administrative items, etc.).
- Review CEQA documents and assist in preparation of environmental documents as requested.
- Prepare legal opinions as necessary.
- Provide labor and employment law advice.
- Prepare and/or review legal documents, communiques, contracts and indemnification agreements as requested.
- Prepare occasional reports and present information at public hearings as requested.
- Represent the District in litigation matters, unless the District retains special counsel for this purpose. Matters requiring litigation may require a separate agreement.

END OF EXHIBIT B

EXHIBIT C

HOURLY RATES

The hourly rates for all services provided pursuant to this Agreement are as follows:

Deputy County Counsel - \$199.43/hr

Senior Deputy County Counsel - \$224.84/hr

Chief Assistant County Counsel - \$278.51/hr

County Counsel - \$315.03/hr

Rates may be adjusted by Attorney yearly, and Attorney shall notify the District of any change in rates.

TRAVEL

If travel is required pursuant to any request for services by the District, travel rates shall be assessed as follows:

At the current IRS reimbursement rate as approved by the County Auditor-Controller

END OF EXHIBIT C