

**AGREEMENT FOR
PROFESSIONAL SERVICES (Long Form)**

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the CENTRAL MARIN SANITATION AGENCY, a joint powers agency in Marin County, California (hereinafter referred to as "CMSA") and _____ (Tax I.D. No. _____) (hereinafter referred to as "Contractor").

WITNESSETH:

In consideration of the mutual promises set out below Contractor and CMSA agree as follows:

1. (A) The services to be performed, (B) the time within which said services are to be performed, (C) the amount of compensation and (D) the schedule for payment of such compensation shall be as specified in Exhibit "A"; attached hereto and by this reference incorporated herein.

2. **ADDITIONAL PROVISIONS.** Those additional provisions unique to this Agreement are set forth in Exhibit "B".

3. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. Any inconsistency between said general provision and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

4. **DESIGNATED REPRESENTATIVES.** _____ is the representative of CMSA and will administer this Agreement for the CMSA. _____ is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

5. **EXHIBITS.** All Exhibits referred to herein are attached hereto and by this reference incorporated herein. Exhibits include:

Exhibit "A" - Services and Payment
Exhibit "B" - Additional Provisions
Exhibit "C" - General Provisions

6. **AGREEMENT DATE.** The Agreement Date is _____, 199__.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

"CMSA"

"CONTRACTOR"

CENTRAL MARIN SANITATION AGENCY

By: _____

By: _____

ATTEST:

EXHIBIT "A"

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

A.2 TIME SERVICES RENDERED.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. CMSA shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY CMSA

EXHIBIT "A" (Continued)

A.5. PAYMENT

CMSA shall pay CONTRACTOR as follows:

(1) **BASE CONTRACT FEE.** CMSA shall pay CONTRACTOR a contract fee not to exceed _____ dollars and no cents (\$_____.00) per _____. CONTRACTOR shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. In no event shall total compensation paid to CONTRACTOR under this Provision A.5(1) exceed _____ without an amendment to this Agreement approved by the Central Marin Sanitation Agency.

(2) **MILEAGE.** CMSA shall reimburse CONTRACTOR for travel by private vehicle as required by this Agreement at the standard mileage rate allowed by CMSA to reimburse CMSA staff. At the time of this Agreement that rate is twenty-eight cents (\$.28) per mile. If the mileage rate should change during the contract period, CONTRACTOR shall be paid at that new rate, but in no event shall the reimbursement be less than \$.28 per mile. In no event shall reimbursements under this Provision A.5(2) to CONTRACTOR exceed _____ per month without prior written approval of the Director of _____;

(3) **TRAVEL COSTS.** CMSA shall not pay CONTRACTOR for meals, lodging or other travel costs not included in this Agreement unless said costs are approved in advance by CMSA representative and then CMSA shall pay CMSA per diem rates in effect on the date of invoice upon presentation of invoices. Irrespective of any prior approvals the total of such travel cost reimbursements shall not exceed _____ under this Provision A.5(3).

(4) **AUTHORIZATION REQUIRED.** Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid for by CMSA. Payment for additional services shall be made to CONTRACTOR by CMSA if, and only if, this Agreement is amended by both parties in advance of performing additional services.

(5) **SPECIAL CIRCUMSTANCES.** Additional costs may be incurred up to a maximum of \$_____ with written approval of the designated CMSA Representative for this Agreement.

(6) **MAXIMUM CONTRACT AMOUNT.** The maximum amount payable to CONTRACTOR under this Agreement shall not exceed the following:

A.5(1) Base Contract Fee	_____
A.5(2) Mileage	_____
A.5(3) Travel Costs	_____
A.5(4) Authorization Required	_____
A.5(5) Special Circumstances	_____
MAXIMUM CONTRACT AMOUNT	_____

EXHIBIT "B"

*** ADDITIONAL PROVISIONS**

* **Please type "None" if there are no additional provisions.**

EXHIBIT "C"

GENERAL PROVISIONS

1. Acceptance by CMSA of the work performed under this Agreement does not operate as a release of said Contractor from responsibility for the work performed. Contractor understands and agrees that the scope of the work to be performed under this Agreement can and shall be performed in a manner compatible with the standards of contractor's occupation or profession.

2. It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of CMSA. This Agreement shall not be construed as an agreement for employment. Contractor shall be solely liable and responsible to pay all required taxes and other obligations, including but not limited to, withholding and Social Security.

3. Contractor shall provide CMSA with timely advice of all significant developments arising during performance of its services hereunder, orally or in writing, as Contractor deems appropriate.

Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

4. It is recognized by the parties hereto that a substantial inducement to CMSA for entering into this Agreement was and is the reputation and competence of Contractor. Neither this Agreement nor any interest therein may be assigned by Contractor without prior written approval of CMSA, and this agreement contemplates the services of contractor as the primary provider of the services called for to be performed. Except as otherwise provided in this section, Contractor shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of CMSA. Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of Contractor, as may be allowed by this Agreement (hereinafter referred to as the "Secondary Parties"), shall comply with each term and condition of this Agreement. Furthermore, Contractor shall be responsible for the Secondary Parties acts and satisfactory performance of the terms and conditions of this Agreement.

5. Contractor shall maintain books, records, documents and other evidence directly pertinent to all work under this Agreement in accordance with accepted professional practice and accounting procedures for a minimum period of four years after the termination of the Agreement. CMSA, or any of its duly authorized representatives, shall have access to such books, records, documents, and other evidence for purposes of inspection, audit and copying.

6. 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, his agents, representatives, or employees or subconsultants.

a. **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

- (1) Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
- (2) Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.

- (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- (4) Errors and omissions liability insurance appropriate to the consultant's profession.

b. **Minimum Limits of Insurance**

Consultant shall maintain limits no less than:

- (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit 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.
- (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- (3) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- (4) Errors and omissions liability: \$1,000,000 per occurrence.

c. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County , Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and volunteers ; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. **Other Insurance Provisions**

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County , Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities 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 Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County , Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and volunteers.
- (2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County , Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County, Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of

warranties shall not affect coverage provided to the Agency, its members including San Rafael Sanitation District, Larkspur, Sanitary District No. 1 of Marin County, Sanitary District No. 2 of Marin County, the City of San Rafael, the Town of Corte Madera, their officers, officials, employees and 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.

(5) 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, returned receipt requested, has been given to the Agency.

e. **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, unless otherwise acceptable to the agency.

f. **Verification of Coverage**

Consultant shall furnish the Agency with original endorsements affecting general and automobile liability insurance coverage required by this clause. The endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the Agency before work commences.

g. **Subconsultants**

Consultant shall include all subconsultants as insured under its policies or shall furnish separate evidence of coverage and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein

7. Contractor shall effectively protect and guard CMSA or its related agencies and its officials, employees and volunteers (hereafter collectively referred to as "CMSA"), from any liability as a consequence of any willful act, negligent act or non-negligent act or omission by the Contractor, any of the contractor's employees or agents, or any subcontractor, hereafter "CMSA", and shall be responsible for any and all damage, injury, or death to persons, or damage to property. Contractor shall indemnify, defend and hold CMSA harmless from any and all claims, suits, actions, costs, and liability ensuing in connection with the performance of the contract, or failure to protect the safety of workers or the general public, regardless of the existence of or degree of fault or negligence on the part of CMSA or the Contractor, subcontractor, or any employee of any of these, other than the active negligence of the CMSA, its officers, or employees.

8. Contractor shall maintain appropriate licenses throughout the life of this Agreement. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

9. Contractor and any permitted subcontractor shall not discriminate against any individual based on race, color, religion, nationality, sex, age or condition of disability.

10. If litigation or administrative hearings ensue which pertain to the subject matter of Contractor's services hereunder, Contractor upon request agrees to testify therein at a reasonable and customary fee.

11. All reports, information, data, work product, findings, and conclusions furnished to or collected, prepared, assembled, and/or made by Contractor and Contractor's agents under this Agreement ("Work Product") shall be the property of CMSA, shall be confidential until CMSA makes the Work Product available for public inspection, and shall not be made available by the Contractor to any person or entity or published by the Contractor without the prior written authorization of CMSA.

12. The parties to this Agreement recognize that certain rights to property may create a

"possessory interest", as those words are used in the California Revenue and Taxation Code (107). For all purposes of compliance by CMSA with a Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by CMSA. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of CMSA Assessor and the contracting parties hereto. A taxable possessory interest may be created by this Agreement, and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

13. Contractor warrants and covenants that Contractor presently has no interest in, nor shall any interest be hereinafter acquired in any matter which will render the services required under the provisions of this Agreement, a violation of any applicable state, local or federal law. Contractor further warrants that no officer or employee of CMSA has influenced or participated in a decision to award this contract which has or may confer on contractor a benefit in which such employee or officer may have an interest, pecuniary or otherwise. In the event that any conflict of interest or violation of this section should nevertheless hereafter arise, Contractor shall promptly notify CMSA of the existence of such conflict of interest or violation so that CMSA may determine whether to terminate this Agreement.

14. CMSA shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Contractor. In the event CMSA gives notice of termination, Contractor shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

(a) Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

(b) CMSA shall pay Contractor the reasonable value of services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed the amount documented by Contractor and approved by CMSA as work accomplished to date; provided, however, CMSA shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to CMSA such financial information as, in the judgment of CMSA, is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of CMSA shall be final. The foregoing is cumulative and does not affect any right or remedy which CMSA may have in law or equity.

Contractor may terminate its services under this Agreement upon thirty (30) working days written notice to CMSA, without liability for damages, if Contractor is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by CMSA, provided that Contractor has first provided CMSA with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within CMSA may cure the alleged breach.

15. This Agreement, together with its specific references, exhibits and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

16. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

17. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

18. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

19. In any action at law or in equity, including an action for declaratory relief, brought to enforce or interpret provisions of this Agreement, each party shall bear its own costs, including attorney's fees.

20. Unless otherwise expressly waived in writing by the parties hereto, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the County of Marin, State of California. This Agreement and all matters relating to it, shall be governed by the law of the State of California.

21. Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the Government Code, are not waived by CMSA and shall apply to any claim against CMSA arising out of any acts or conduct under the terms and conditions of this Agreement.

22. If Contractor is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation in accordance with its terms. If Contractor is a corporation, Contractor shall, within thirty (30) days after execution of this Agreement, deliver to CMSA a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

23. Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default. If the party in default does not cure the default within ten (10) days of the date of notice, then such party shall be in default. The time to cure may be extended in the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date in which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.

24. This Agreement, at the option of CMSA, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.

25. CMSA may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

26. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to CMSA:

Central Marin Sanitation Agency
1301 Andersen Drive
San Rafael, CA 94901

If to Contractor:

Each party shall provide the other with telephone and written notice of any change of address as soon as practicable.

Notices given by personal delivery or acknowledged shall be effective immediately.