

**AGREEMENT BETWEEN
TEMPLETON COMMUNITY SERVICES DISTRICT
AND _____ TO PERFORM WATER AND
WASTEWATER MASTER PLAN UPDATES**

THIS AGREEMENT is made as of this _____ day of _____, 2011, in Templeton, California, between Templeton Community Services District ("District") and _____ ("Consultant"), concerning Water and Wastewater Master Plan updates.

WITNESSETH:

WHEREAS, the District desires to retain the services of Consultant to perform Water and Wastewater Master Plan updates; and

WHEREAS, Consultant desires to perform the Water and Wastewater Master Plan updates as requested by the District, on the terms and conditions set forth below;

NOW, THEREFORE, the parties agree as follows:

1. Description of Work.

The work requested of the Consultant by the District shall be performed as described on Attachment A. Upon written approval by the District to proceed, the Consultant shall proceed with completion of the work as described in Attachment A. The work shall be completed by _____.

Consultant shall provide all labor, equipment, material and supplies required or necessary to properly, competently, and completely perform the work or render the services under this Agreement. Consultant shall determine the method, details and means of doing the work or rendering the services, in cooperation with District staff.

2. Compensation.

The total cost of the work and expenses shall not exceed _____, unless amended by the District in writing. Compensation shall be on a time and materials basis consistent with Attachment B.

3. Term of Agreement.

This Agreement shall become effective on the date above-stated and will continue in effect until _____, unless sooner terminated as provided in paragraph 9.

4. Payment for Services.

Consultant shall submit to the District itemized bills for the services rendered. If the work is satisfactorily performed, the District shall pay such bill within thirty (30) days after its receipt. Should the District dispute any portion of any bill, the District shall pay the undisputed portion within the time stated above, and at the same time, advise the Consultant in writing of the disputed portion.

5. Compliance with Laws.

Consultant agrees that it shall conduct its work and perform its services in compliance with all laws and regulations of the County of San Luis Obispo, State of California, and any officer, department, or agency thereof, as well as other laws and regulations as may be applicable thereto.

6. Errors and Omissions Insurance.

Consultant shall have such errors and omissions insurance to protect against claims based on alleged errors or negligent acts or omissions which may arise from Consultant's operations or performance of professional services under this Agreement, whether claims be made during or subsequent to the term of this Agreement, and whether such operations or performance be by Consultant or its employees, consultants, agents or anyone else directly or indirectly employed by any of the foregoing. The amount of this insurance shall not be less than \$1,000,000.

Said policy shall be continued in full force and effect during the term of this Agreement and for a period of three (3) years following the completion of the services provided for in this Agreement. In the event of termination of said policy, new coverage shall be obtained for the required period to insure for the prior acts of Consultant during the course of performing services under the terms of this Agreement.

Consultant shall provide to the District a certificate of insurance on a form acceptable to the District indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates within ten (10) days after expiration of each policy term.

7. General Insurance.

Consultant, at its sole cost and expense, shall procure and maintain for the duration of this Agreement the following types and limits of insurance:

<u>Type</u>	<u>Limits</u>	<u>Scope</u>
General liability	\$1,000,000 per occurrence	at least as broad as ISO CG00 01
Automobile liability	\$1,000,000 per occurrence	at least as broad as ISO CG00 01
Excess/Umbrella liability	\$1,000,000	

Workers' compensation Statutory limits

The general and automobile policies shall be endorsed to name the District, its directors, officers, employees and agents as additional insureds regarding liability arising out of the services rendered pursuant to this Agreement. Consultant shall provide the District with ISO CG 2010 endorsement form or equivalent. The coverage shall contain no special limitations on the scope of protection afforded to the District, its directors, officers, employees or agents. Consultant's coverage shall be primary and shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. District's insurance, if any, shall be excess and shall not contribute with Consultant's insurance. The workers' compensation policy shall be endorsed to include a waiver of subrogation against the District, its directors, officers, employees and agents.

The insurance is to be placed with insurers with a current A.M. Best's rating of A:VII or better, unless otherwise acceptable to District. Prior to commencing the services provided for herein, Consultant shall provide to District original endorsements evidencing this insurance signed by a person authorized to bind coverage on behalf the insurer(s). The certificates and policies shall provide that thirty (30) days' written notice of any material change, reduction of coverage or cancellation of the insurance policies will be provided to the District. The requirements as to the types, limits, and the District's approval of insurance coverage to be maintained by the Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Consultant under the Agreement. In addition, in the event any change is made in the insurance carrier, policies or nature of coverage required under this Agreement, Consultant shall notify the District prior to making such changes.

8. Indemnification and Hold Harmless.

Consultant shall protect, indemnify, hold harmless and defend the District, its directors, officials, officers, employees, volunteers and agents, from and against any and all suits, actions, judgments, legal or administrative proceedings, arbitrations, claims, demands, causes of action, damages, liabilities, interest, attorney's fees, fines, penalties, losses, costs and expenses of whatsoever kind or nature, including but not limited to those arising out of injury to or death of Consultant's employees, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its employees, agents or sub-consultants (hereinafter collectively referred to as "Claims" or singularly referred to as a "Claim").

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Consultant from its obligations to indemnify, as to any Claims, so long as the event upon which such Claim is predicated shall have occurred prior to the effective date of any such termination or completion and arose out of, pertained to, or related to performance or operations under this Agreement by Consultant, its employees, agents or consultants, or the employee, agent or consultant of any one of them.

Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. The obligations of this indemnity article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

The District may withhold from payment due Consultant hereunder, with 30 days written notice to Consultant, such amounts as, in the District's opinion, are sufficient to provide security against all loss, damage, expense, penalty, fine, cost, claim, demand, suit, cause of action, judgment, or liability covered by the foregoing indemnity provision.

In any and all claims against the District, or its directors, officers, officials, directors, employees, volunteers or agents, by any employee of the Consultant, any subconsultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subconsultant under Worker's Compensation acts, disability benefit acts or other employee benefit acts.

9. Termination.

This Agreement may be terminated at any time and for any reason by the District upon five (5) days advance written notice to Consultant. In the event of such termination, Consultant is to be fairly compensated for all work performed to the date of termination as calculated by the District based on paragraph 2 hereof; provided that such compensation shall not in any case exceed the maximum sum set forth in paragraph 2 hereof. Compensation under this paragraph shall not include costs related to lost profit associated with the expected completion of the work or other such payments relating to the benefit of the bargain.

10. Attorney's Fees.

In the event that any arbitration, litigation or other action or proceeding of any nature between the District and Consultant becomes necessary to enforce or interpret all or any portion of this Agreement or because of an alleged breach by either party of any of the terms hereof, it is mutually agreed that the losing or defaulting party shall pay the prevailing party's reasonable attorney's fees, costs, and expenses incurred in connection with the prosecution or defense of such action or proceeding.

11. Entire Agreement.

This writing constitutes the entire Agreement between the parties relative to the services specified herein, and no modifications hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Agreement. There are no understandings, agreements, conditions, representations, warranties, or promises with respect to the subject matter of this Agreement except those contained in or referred to in this writing.

12. Independent Contractor.

It is expressly understood and agreed by the parties hereto that Consultant's relationship to the District is that of an independent contractor. All persons hired by Consultant and performing the work shall be Consultant's employees or agents. The District shall not be obligated in any way to pay any wages or other claims by any such employees or agents or any other person by reason of this Agreement. Consultant shall be solely liable to such employees and agents for losses, costs, damages, or injuries by said employees or agents during the course of the work.

13. Successors and Assignment.

This Agreement shall be binding on the heirs, successors, executors, administrators, and assigns of the parties; however, Consultant agrees that it will not assign, transfer, convey, or otherwise dispose of this Agreement or any part thereof, or its rights, title or interest therein, or its power to execute the same without the prior written consent of the District.

14. Severability.

If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

15. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

16. Remedies not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

17. Notices.

All notices, statements, reports, approvals, or requests or other communications that are required either expressly or by implication to be given by either party to the other under this Agreement shall be in writing and signed for each party by such officers as each may, from time to time, authorize in writing to so act. All such notices shall be deemed to have been received on the date of delivery if delivered personally or three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States post office for delivery. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses shown below:

Templeton Community Services District
P.O. Box 780
420 Crocker Street
Templeton, CA 93465

18. Subconsultants.

No subcontract shall be awarded or an outside consultant engaged by Consultant unless prior written approval is obtained from the District. Any approved subconsultant shall comply with the insurance requirements of paragraphs 6 and 7 hereof or be covered by Consultant's insurance.

19. Ownership of Documents.

Every document prepared by Consultant under this Agreement and provided to the District shall be the exclusive property of the District. By this Agreement, Consultant transfers all of its rights, title and interest in such documents to the District. To the extent any document provided to the District constitutes a copyrightable work, the work under this Agreement shall be considered a work for hire and by this Agreement Consultant shall be deemed to transfer all rights, title and interest in the copyrightable work to the District, including the exclusive copyright. Consultant shall not provide any documents prepared under this Agreement to any other person without the District's prior written approval. District agrees that the documents shall be used for the intended purpose stated in such documents only. Any other uses shall be at the sole risk of District without liability to Consultant.

IN WITNESS WHEREOF, the parties execute this Agreement on the day and year first above written.

TEMPLETON COMMUNITY SERVICES DISTRICT

By: _____
President, Board of Directors

Attest:

By: _____
Secretary, Board of Directors

3730/A083111sak

By: _____

Position: _____