

COUNTY OF MARIN
STANDARD SHORT FORM PERSONAL/PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into this 1st day of April, 2005 by and between the MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter referred to as "County" and John Wooley, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, County desires to retain a person or firm to provide the following services: guidance and advice on a range of professional Flood Control issues related to the work of the Marin County Flood Control and Water Conservation District; and

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by County, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit "A"** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

The County agrees to:

- A. Guarantee access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.
- B. Make available all pertinent data and records for review.
- C. Provide general bid and contract forms and special provisions format when needed.

3. FEES:

The fees for furnishing services under this Contract shall be based on the rate schedule, which is attached hereto as **Exhibit "B"** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the contract.

4. MAXIMUM COST TO COUNTY:

In no event will the cost to County for the services to be provided herein exceed the maximum sum of \$80,000 including direct non-salary expenses.

5. PAYMENT:

The fees for services under this Contract shall be due as set forth in Exhibit "B" within thirty (30) calendar days after receipt by County of an invoice covering the service(s) rendered.

The source of funding by the County for this work shall be: Various Flood Control Zones.

6. CONTRACT PERFORMANCE TIME:

All the work required by this Contract shall be completed and ready for acceptance no later than June 30, 2006.

7. INSURANCE:

The Contractor shall maintain a commercial general liability insurance policy in an amount of zero dollars (\$0). Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million (\$1,000,000.00). Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis only. The County shall be named as an additional insured on the commercial general liability policy. The insurer shall supply a certificate of insurance with endorsements signed by the insurer evidencing such insurance to County prior to commencement of work, and said certificate with endorsement shall provide for thirty (30) days advance notice to County of any cancellation in coverage.

By initialing in the space provided, Contractor warrants that the services to be provided under this Contract do not require the use of any type of vehicle by Contractor.

In addition, Contractor may be required to carry errors and omissions insurance or professional liability or malpractice insurance. If such insurance is required, it shall be set forth on Exhibit "C" attached hereto.

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify and hold the County harmless and defend the County against any and all claims, damages, losses and expense that may arise by reason of the Contractor's negligent actions or omissions. County agrees to timely notify Contractor of any negligence claim.

Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement. In addition to any other available remedies, County may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

8. WORKERS' COMPENSATION:

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California 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 it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. If Contractor has employees, a copy of the certificates evidencing such insurance shall be provided to County prior to commencement of work.

___By initialing in the space provided, Contractor warrants that no employees will be used in providing the services under this Contract.

9. NONDISCRIMINATORY EMPLOYMENT:

Contractor and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

10. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the County except for any subcontract work identified herein.

11. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be transferred or assigned without the express prior written consent of the County.

12. LICENSING AND PERMITS:

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

13. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged.

14. TIME OF AGREEMENT:

This Agreement shall commence on April 1, 2005, and shall terminate on June 30, 2006. Time is of the essence with respect to this Contract.

15. TITLE:

It is understood that any and all documents, information and reports concerning this project prepared by and/or submitted to the Contractor, shall be the property of the County. The Contractor may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatever, Contractor shall promptly turn over all information, writing and documents to County without exception or reservation.

16. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the County may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

17. RELATIONSHIP BETWEEN THE PARTIES:

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 the County. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and worker's compensation.

18. AMENDMENT:

This Contract may be amended or modified only by written agreement of all parties.

19. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to County, as is evidenced in writing.

20. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

21. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold County harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees which it may incur as a consequence of this Contract and from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's willful misconduct or negligent performance of this Contract.

22. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all federal, state and local laws (including, but not limited to the County of Marin Nuclear Free Zone and Living Wage Ordinance) affecting the services covered by this Contract.

23. NOTICES:

This contract shall be managed and administered on County's behalf by the Department set forth below. All invoices shall be submitted and approved by this Department and all notices shall be given to County at the following location:

Saaid Fakharzadeh, Assistant Director
Department of Public Works
3501 Civic Center Drive, Room 304
San Rafael, CA 94903-4112

Notices shall be given to Contractor at the following address:

John Wooley
710 Acorn Court
Sebastopol, CA 95472

IN WITNESS WHEREOF, the parties hereunto have executed this Contract on the date first above written.

APPROVED BY

**MARIN COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT**

By: _____
President

CONTRACTOR:

APPROVED AS TO FORM:
COUNTY COUNSEL

By _____

By: _____
Name: John Wooley
Federal Tax I.D.# _____
Telephone No. (707) 481-5224

EXHIBIT "A"
SERVICES TO BE PROVIDED
BY CONTRACTOR

Contractor shall report to the Senior Civil Engineer of the Flood Control District and shall perform the following work tasks:

- Conduct peer review of conceptual and construction documents for Phase 8 of the Novato Creek Flood Control Project
Deliverable: Provide written report of comments and recommendations
- Provide project development documents and plan review services to implement the Hamilton/Bel Marin Keys 5 Wetlands Restoration Project
Deliverable: Prepare report of project recommendations; provide marked up drawings with recommended changes and comments.
- Provide project development documents and plan review services to implement flood control improvements to at Seminary, Manzanita, Almonte and Miller Avenue
Deliverable: Prepare report of project recommendations; provide marked up drawings with recommended changes and comments.
- Provide project development documents and plan review services to implement the Almonte Marsh Restoration Project
Deliverable: Prepare report of project recommendations; provide marked up drawings with recommended changes and comments.
- Provide peer review of construction documents for Strawberry Circle Pump Station
Deliverable: Provide written report of comments and recommendations.
- Provide project development documents and plan review services to implement the Army Corps of Engineers Corte Madera Creek Flood Control Project
Deliverable: Prepare report of project recommendations; provide marked up drawings with recommended changes and comments.
- Provide written documentation as required for the development of the Local Hazard Mitigation Plan under preparation by the Office of Emergency Services
Deliverable: Provide written report of comments and recommendations.
- Assist the Senior Flood Control Engineer in representing the Flood Control District and the Department of Public Works in all aspects of the Redwood Creek/Pacific Way Project
Deliverable: Provide written report of comments and recommendations.
- Develop planned maintenance programs for all Flood Control zones
Deliverable: Provide written report of comments and recommendations.

EXHIBIT "B"
COMPENSATION OR FEES TO BE PAID
TO CONTRACTOR

Upon submittal and approval of invoice by the Flood Control District, Contractor shall be compensated at the rate of \$100.00 per hour in an amount not to exceed \$80,000.

TO BE COMPLETED BY COUNTY STAFF AND SUBMITTED TO THE COUNTY ADMINISTRATOR'S OFFICE FOR REDUCTION/WAIVER OF COMMERCIAL GENERAL LIABILITY INSURANCE:

Please set forth the reasons for the requested reduction/modification of general commercial liability insurance. You should explain why the reduced amount is reasonable to protect the County based upon the services to be provided under the contract.

Mr. Wooley will be reporting to the Senior Civil Engineer over the Flood Control District and will be working with licensed professional engineering staff within the Department of Public Works. His work will be subject to their review, oversight and approval, thereby providing only a minimum of exposure to liability.

Liability insurance is requested to be set at \$0.00.