

**COVINGTON WATER DISTRICT
AGREEMENT FOR PROFESSIONAL SERVICES
Type of services i.e. Survey, Engineering, etc. On-Call Services**

THIS AGREEMENT made and entered into by and between the **COVINGTON WATER DISTRICT**, a Municipal Corporation in King County, Washington, hereinafter referred to as "**DISTRICT**" and **CONSULTANT FIRM NAME**, whose address is **Consultant Address**, hereinafter referred to as "**CONSULTANT.**"

In consideration of the covenants and conditions of this Agreement, the parties hereby agree as follows:

1. SCOPE OF WORK.

See Exhibit A, which is attached hereto and by this reference made a part of this Agreement.

Work requested by the DISTRICT shall be issued in writing. The request by the DISTRICT should include the following information, which may be furnished in coordination with the CONSULTANT:

1. Task Order title (project name)
2. Technical approach to the task (if necessary)
3. Specific deliverables
4. Schedule with milestones and deliverables
5. Cost/hour estimate
6. Due date of work

All of the above items may be brief, but will be sufficiently detailed to understand the work being authorized and the amount it will cost. Written Task Orders (see Exhibit F) and Notice To Proceed may be issued as e-mail documents.

2. TERM.

The CONSULTANT shall not begin any work under this Agreement until an authorized Task Order is approved in writing by the DISTRICT. This Agreement shall expire on December 31, **Enter year of expiration**, unless extended by an amendment issued by the DISTRICT.

3. COMPENSATION.

This Agreement does not guarantee any amount of work for the CONSULTANT. Task Orders will be developed as determined by the DISTRICT and provided for in this Agreement.

The CONSULTANT shall be paid by the DISTRICT for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. The CONSULTANT shall submit an itemized bill to the DISTRICT prior to payment consistent with the itemized invoice list in Exhibit E.

The CONSULTANT shall be paid by the DISTRICT based upon the negotiated cost for each individual approved Task Order. This amount will be a "not to exceed" figure based on the Fee Schedule outlined in Exhibit B for work performed under this Agreement. Exhibit B is attached hereto and by this reference made part of this Agreement. Compensation shall include all approved consultant expenses including, but not limited to, overhead, profit, and direct non-salary costs and shall not exceed that amount shown on each approved individual Task Order for services under this contract.

The DISTRICT agrees to pay the CONSULTANT in accordance with the fee schedule outlined in Exhibit B for work performed under this Agreement. Exhibit B is attached hereto and by this reference made a part of this Agreement. The compensation to be paid to the CONSULTANT shall not exceed **Amount - words** dollars (**\$Amount - numbers**) **[ADD the following for Multi-year Contracts]** for the year **Enter current year**. **[ADD the next 2 sentences for Multi-year Contracts]** [Compensation to be paid to the CONSULTANT for authorized work in succeeding years will be contingent upon availability of funds. For the years **List additional year** and **List additional year(s), as necessary**, any modifications to the fee schedule (Exhibit B) must be submitted to the DISTRICT by the CONSULTANT by December 1st of the preceding year or the fee schedule will remain unchanged.] The CONSULTANT will not undertake any work or otherwise financially obligate the DISTRICT in excess of said not-to-exceed amount without a duly executed Addendum issued by the DISTRICT. The total compensation for this Agreement for the entire duration shall not exceed **Total Amount - words** dollars (**\$Total Amount - numbers**).

The CONSULTANT shall be paid by the DISTRICT for direct non-salary cost, per attached Exhibit C, at the actual cost to the CONSULTANT. **[ADD the next sentence if a mark-up will be allowed due to the CONSULTANTS requirement to pay B&O taxes and/or other documented taxes or fees on these items]** [An additional mark-up of **Negotiated mark-up percentage**% will be allowed to cover the Business & Occupancy tax and other taxes/fees that the CONSULTANT would incur in association with these direct, non-salary costs.] Exhibit C is attached hereto and by this reference made a part of this Agreement. These charges may include, but are not limited to the following items: outside reproduction fees, courier fees, subconsultant fees, and materials and supplies. The billing for non-salary cost, directly identifiable with the project, shall be submitted as an itemized listing of charges supported by copies of the original bills, invoices, expense accounts and miscellaneous supporting data retained by the CONSULTANT. Copies of the original supporting documents shall be supplied to the DISTRICT upon request. All charges must be reasonable and necessary for the services provided under the Agreement.

In the event services are required beyond those specified in the Scope of Work, and not included in the compensation listed in this Agreement, a written contract modification shall be negotiated and approved by the DISTRICT prior to any effort being expended on such services.

4. SUBCONSULTANTS.

The DISTRICT does not permit subconsultants for those items of work necessary for the completion of the project. The CONSULTANT shall not subcontract with subconsultants for the performance of any work under this AGREEMENT without prior written permission of the DISTRICT. No permission for subconsulting shall create, between the DISTRICT and subconsultant, any contract or any other relationship.

5. RESPONSIBILITY OF CONSULTANT.

The CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all studies, analysis, designs, drawings, specifications, reports and other services performed by the CONSULTANT under this Agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in its plans, designs, drawings, specifications, reports and other services required. The CONSULTANT shall perform its services to conform to generally-accepted professional engineering standards practiced by members of the same profession currently practicing under similar circumstances and the requirements of the DISTRICT.

6. INDEMNIFICATION/HOLD HARMLESS.

The CONSULTANT agrees to indemnify, defend and hold harmless the DISTRICT, its elected officials, officers, employees and agents against any damages, losses, expenses, judgments, or liabilities, including but not limited to reasonable attorney's fees and costs (collectively referred to as "Damages"), caused directly or indirectly by CONSULTANT'S negligent acts, errors or omissions, but only for that portion of such Damages which reflect the percentage of negligence of the CONSULTANT, and/or its employees, agents, and subcontractors compared to the total negligence of all persons, firms, or corporations which result in such Damages. The parties agree that CONSULTANT'S duty to defend shall not arise unless the Damages at issue involve a specific claim or allegation of negligent acts, errors or omissions by CONSULTANT and/or its employees, agents, and subcontractors. For the purposes of this indemnification, CONSULTANT specifically and expressly waives any immunity granted under the Washington Industrial Insurance Act, Title 51 RCW. This waiver has been mutually negotiated and agreed to by the parties. If a court of competent jurisdiction determines that this Agreement is subject to RCW 4.24.115, CONSULTANT'S obligation to defend, indemnify and hold harmless the DISTRICT, its elected officials, officers, employees, agents and volunteers shall be limited to the extent of the CONSULTANT'S negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

7. INDEPENDENT CONTRACTOR/ASSIGNMENT.

The parties agree and understand that the CONSULTANT is an independent contractor and not the agent or employee of the DISTRICT and that no liability shall attach to the DISTRICT by reason of entering into this Agreement except as otherwise provided herein. The parties agree that this Agreement may not be assigned in whole or in part without the written consent of the DISTRICT.

8. INSURANCE.

The CONSULTANT hereby agrees to maintain insurance policies in accordance with provisions in Exhibit D. The DISTRICT shall be named as additional insured for Commercial General Liability and Automobile Liability, excepting Professional Liability or Workers' Compensation as provided in Exhibit D. CONSULTANT waives subrogation against DISTRICT as to Commercial General Liability policies. CONSULTANT shall provide DISTRICT with certificates of insurance showing compliance with requirements prior to commencing work and at such other times as DISTRICT requests. The CONSULTANT will also declare the deductible(s) carried on the various policies at the time of submittal of their Certificate of Insurance.

9. RESOLUTION OF DISPUTES AND GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court located in Kent, King County, Washington, unless the parties agree in writing to an alternative dispute resolution process. In the event of a legal action, attorney's fees, court costs, arbitration costs and other related expenses shall be paid to the prevailing party by the other party.

10. NONDISCRIMINATION.

The CONSULTANT may not discriminate regarding any services or activities to which this Agreement may apply directly or through contractual, hiring, or other arrangements on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, or where there is the presence of any sensory, mental or physical handicap.

11. OWNERSHIP OF RECORDS AND DOCUMENTS.

The CONSULTANT agrees that any and all drawings, computer discs, documents, records, books, specifications, reports, estimates, summaries and such other information and materials as the CONSULTANT may have accumulated, prepared or obtained as part of providing services under the terms of this Agreement by the CONSULTANT, shall belong to and shall remain the property of the COVINGTON WATER DISTRICT. Any re-use or adaptation of this information or material for other than the specific purpose intended, without written verification by the CONSULTANT, will be at the sole risk of the DISTRICT and without liability for the CONSULTANT. In addition, the CONSULTANT agrees to maintain all books and records relating to its operation and concerning this Agreement for a period of three (3) years following the date that this Agreement is expired or otherwise terminated. The CONSULTANT further agrees that the DISTRICT may inspect any and all documents held by the CONSULTANT and relating to this Agreement upon good cause at any reasonable time within the three (3) year period. The CONSULTANT also agrees to provide to the DISTRICT, at the DISTRICT'S request, the originals of all drawings, documents, and items specified in this Section and information compiled in providing services to the DISTRICT under the terms of this Agreement.

12. TERMINATION OF AGREEMENT.

This Agreement may be terminated by either party upon thirty (30) days written notice to the other party, and based upon any cause or without cause. In the event of termination due to the fault of other(s) than the CONSULTANT, the CONSULTANT shall be paid by the DISTRICT for services performed to the date of termination.

Upon receipt of a termination notice under the above paragraph, the CONSULTANT shall (1) promptly discontinue all services affected as directed by the written notice, and (2) deliver to the DISTRICT all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as the CONSULTANT may have accumulated, prepared or obtained in performing this Agreement, whether completed or in process.

13. GENERAL PROVISIONS.

- a. The DISTRICT and the CONSULTANT respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement with respect to all covenants to this Agreement. Waiver of any provisions shall not constitute future waiver or estoppel and strict compliance may be required at any time.
- b. This Agreement represents the entire and integrated Agreement between the DISTRICT and the CONSULTANT and supersedes all prior negotiations, representations or agreements either oral or written. This Agreement may be amended only by written instrument signed by both the DISTRICT and the CONSULTANT. All such amendments must be signed either by the General Manager of the DISTRICT or by resolution of the Board of Commissioners.
- c. The CONSULTANT agrees to comply with all local, state and federal laws applicable to its performance as of the date of this Agreement.
- d. If any provision of this Agreement is invalid or unenforceable, the remaining provisions shall remain in force and effect.
- e. This Agreement shall be administered by **Consultant Representative's Name** on behalf of the CONSULTANT, and by the General Manager of the DISTRICT, or designee, on behalf of the DISTRICT. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

Consultant Firm Name
Attn: **Project Manager's Name**
Consultant Firm
Address
Phone: **xxx.xxx.xxxx**
Fax: **xxx.xxx.xxxx**
e-mail address

Covington Water District
Attn: **Project Manager's Name**
18631 SE 300th Place
Covington, WA 98042
Phone: 253.631.0565
Fax: 253.631.5823
e-mail@covingtonwater.com

- f. All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be delivered in person or deposited in the United States mail, postage prepaid. Any such delivery shall be deemed to have been duly given if mailed by certified mail, return receipt requested, and addressed to the address for the party set forth in 13e. or if to such other person designated by a party to receive such notice. It is provided, however, that mailing such notices or communications by certified mail, return receipt requested is an option, not a requirement, unless specifically demanded or otherwise agreed.

Any party may change his, her, or its address by giving notice in writing, stating his, her, or its new address, to any other party, all pursuant to the procedure set forth in this section of the Agreement.

NAME OF CONSULTANT FIRM

COVINGTON WATER DISTRICT

BY: _____
Signature

Gwenn Maxfield, General Manager

Print Name

Date: _____

Title: _____

Federal Tax ID # _____

(Attach completed Form W-9 "Request for Taxpayer Identification Number and Certification")

EXHIBIT A
SCOPE OF WORK

Insert Scope of Work here

EXHIBIT B
FEE SCHEDULE

Insert Fee Schedule here

EXHIBIT C

DIRECT NON-SALARY REIMBURSABLE EXPENSES

- Outside Reproduction Fees
- Courier Fees
- Subconsultant Fees
- Materials and Supplies
- Mileage at \$0.50/mile or the current approved IRS rate.

It is understood that all reimbursements are at cost. Any mark-up to cover Business & Occupancy taxes or other associated taxes or fees that the CONSULTANT may incur will be negotiated and will not exceed 10%.

Subcontracts: The CONSULTANT, at the DISTRICT'S request shall enter into subcontracts with other consultants, such as appraisers and/or environmental consultants, etc. If approved, the DISTRICT shall reimburse the CONSULTANT for the actual cost of the subcontracts plus a markup, if warranted, to cover the CONSULTANT'S additional taxes or fees as described above, associated with the Subcontract.

Note to user: Check with insurance / legal support to obtain the correct insurance information on Exhibit D

EXHIBIT D

Insurance / Industrial Insurance Waiver
General and Professional Services:

1. The Consultant / Contractor shall not commence work under this Contract until the Project Manager for Covington Water District has obtained all insurance required under this paragraph and such insurance has been approved by Covington Water District.
2. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Washington and have a Best's rating of at least A-VII. All insurance, other than Professional Liability and Workmen's Compensation, to be maintained by the Consultant / Contractor shall specifically include the District as an "Additional Insured" and shall not be reduced or canceled without Thirty (30) days written prior notice to the District. The Consultant / Contractor's insurance coverage shall be primary insurance as respect to the District, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees or volunteers shall be excess of the Consultant / Contractor's insurance and shall not contribute to it.
3. The Consultant / Contractor shall maintain during the life of the Contract, Industry Standard Occurrence Commercial General Liability Policy Form (CG0001) or equivalent, including Premises / Operations, Products / Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect the Contracting Agency from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by the Consultant / Contractor or by anyone directly employed by or contracting with the Contracting Agency.

Specific limits required:

General Aggregate	\$ 2,000,000
Products / Completed Operations	\$ 1,000,000
Personal Injury and Advertising injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000

The commercial General Liability Policy will contain an endorsement naming the District as Additional Insured (CG2010) and an endorsement that specifically states the Consultant / Contractor's General Liability shall be primary, and not contributory, with any other insurance maintained by the District.

The policy shall be endorsed to include stop gap employer's liability coverage with minimum limits as follows:

Each accident	\$ 1,000,000
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4. Commercial General Liabilities Insurance shall be endorsed to include a "cross liability", indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought."

5. The Consultant / Contractor shall maintain, during the life of this Contract, Business Automobile Liability Insurance (CA0001) or equivalent in the amount of \$1,000,000 Bodily Injury and Property Damage per Accident to protect the Contracting Agency from claims which may arise from this performance of this Contract, whether such operations be by the Consultant / Contractor or by anyone directly or indirectly employed by the Contracting Agency. Covered auto shall be designated as "Symbol 1" any auto.
6. All Liability coverage, except Professional Liability, shall be written on an Occurrence policy form. If coverage is Claims Made form, the Retroactive Date shall be prior to or coincident with the date of this contract, and the policy shall state that coverage is Claims Made, and state the Retroactive Date.
7. The Consultant / Contractor shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Consultant / Contractor shall submit a copy of its certificate of coverage to the Department of Labor and Industries prior to the commencement of work.
8. Industrial Insurance Waiver – With respect to the performance of this Contract and as to claims against the District, its officers, agents and employees, the Consultant / Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Consultant / Contractor against the District. This waiver is mutually negotiated by the parties to this Agreement.
9. Professional Liability Insurance – Prior to the start of work, the Consultant / Contractor will secure and maintain at its own expense Professional Liability Insurance in the amount of not less than \$2,000,000 per claim and in the aggregate. Such insurance will be provided by an insurance carrier with a Best's rating of not less than A-VII. If coverage is Claims Made, the retroactive date shall be prior to or coincident with the date of this contract. The policy shall state that coverage is Claims Made, and state the retroactive date. Claims Made form coverage shall be maintained by the Consultant / Contractor for a minimum of three (3) years following the termination of this Contract and the Consultant / Contractor shall annually provide the District with proof of renewal.
10. Sub-consultants / sub-contractors: Sub-contractors shall include all sub-contractors as insureds under its policies or shall furnish separate certificates and endorsements for each sub-contractor. All coverages for sub-contractors shall be subject to all of the requirements stated herein.
11. The Consultant/Contractor shall declare the deductible(s) on their policies at the time of submittal of the Certificate of Insurance.

NOTE TO PROJECT MANAGERS: Limits of insurance may vary depending on individual contracts.

Consultant / Contractor _____

Date: _____

Exhibit D

EXHIBIT E

CONSULTANT INVOICES

CONSULTANT invoices should contain the following information:

- On CONSULTANT letterhead.
- A cover letter stating the status of each task. This should include items completed, percent completed during the billing period and completion along with funding status.
- Internal invoice number and/or sequential numeric number (i.e.: progress payment # 10).
- Invoice date.
- Period of time invoice covers.
- Project number(s) listed (i.e.: MR-6).
- DISTRICT'S project manager listed.
- The hour(s) per person broken down by task(s) (attach timesheets, spreadsheet detailing timesheets, or some other form of proof) along with type of work done (i.e.: design, right-of-way, or construction) or task order number.
- Hourly costs per person (per Exhibit B)
- Direct non-salary (i.e.: mileage, reproduction fees (i.e.: printing, copying), communication fees (i.e.: telephone), supplies, computer charges, subconsultants), indirect non-salary (overhead). These costs are to be broken down and backup information is to be attached to invoice. Project managers are to inform CONSULTANT as to what is required for break down information and if backup information is to be attached. Break out the same for subconsultant charges.
- Previous and remaining base contract amounts left in each task and total contract – total authorized amount (bottom line figure). Add amendments to this base contract amount for total authorized amount.
- Percentage of work completed to date compared to total amount of work (if required by the project manager).
- Invoices for previous year are due by January 15th.

EXHIBIT F

On-Call Agreement for Professional Services
TASK ORDER ##

This Task Order pertains to the On-Call Agreement by and between Covington Water District ("DISTRICT"), and **CONSULTANT FIRM NAME** ("CONSULTANT"), dated **On-Call Contract Execution Date** ("the Agreement"). Task Order **##** is generally described as:

- 1. **Sub-task 1.**
- 2. **Sub-task 2.**
- 3. **Sub-task 3, etc.**

Consultant shall perform services on the project described below as provided herein and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

TASK ORDER NUMBER: **##**
PROJECT NAME: **Project Name**

Budget: \$ **Amount - numbers**

Scope: See attached.

This Task Order is executed this _____ day of _____, **YEAR.**

COVINGTON WATER DISTRICT

Recommended: _____ Date: _____
Name Title

CONSULTANT FIRM NAME

Approved: _____ Date: _____
Name Title

COVINGTON WATER DISTRICT

Approved: _____ Date: _____
Gwenn Maxfield, General Manager