

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2021, by the **GARDEN GROVE SANITARY DISTRICT**, a California special district, ("DISTRICT") and **HF&H CONSULTANTS, LLC**, herein after referred to as "CONSULTANT".

RECITALS

The following recitals are a substantive part of this Agreement:

1. DISTRICT is a subsidiary district of the City of Garden Grove. This Agreement is entered into pursuant to Board approval on March 23, 2021.
2. DISTRICT desires to utilize the services of CONSULTANT to provide for contract negotiation assistance to ensure Senate Bill (SB) 1383 compliance (Attachment "A").
3. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination** This Agreement shall cover services rendered from date of this Agreement until the services described in CONSULTANT's proposal have been completed. This agreement may be terminated by the DISTRICT without cause. In such event, the DISTRICT will compensate CONSULTANT for work performed to date in accordance with proposal which is attached as Attachment A and is hereby incorporated by reference. CONSULTANT is required to present evidence to support performed work.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of tasks as set forth in CONSULTANT's Proposal. The Proposal is attached as Attachment A, and is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONSULTANT shall be compensated as follows:
 - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Seventy Five Thousand Dollars (\$75,000.00), payable in arrears and in accordance with CONSULTANT's Proposal in Attachment "A".
 - 3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by DISTRICT will be required, and payment shall be based on schedule included in Proposal (Attachment A).

- 3.3 Records of Expenses. CONSULTANT shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to DISTRICT.
- 3.4 Termination. DISTRICT and CONSULTANT shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by DISTRICT, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. Insurance requirements.

- 4.1 COMMENCEMENT OF WORK. CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the DISTRICT. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the DISTRICT of any material change, cancellation, or termination at least thirty (30) days in advance and provide a Waiver of Subrogation in favor of the DISTRICT.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONSULTANT shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.
 - (b) Automobile liability in an amount of \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.
 - (c) Professional liability in an amount not less than \$1,000,000. Insurance companies must be admitted and licensed In California and have a Best's Guide Rating of A-, Class VII or better, as approved by the District. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be

evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier.

- 4.4 An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate DISTRICT, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT’s requirements, as approved by the DISTRICT.
- 4.5 An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate DISTRICT, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT’s requirements, as approved by the DISTRICT.
- 4.6 For any claims related to this Agreement, CONSULTANT’s insurance coverage shall be primary insurance as respects DISTRICT, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents, and volunteers shall be excess of the CONSULTANT’s insurance and shall not contribute with it.
- 4.7 *If CONSULTANT maintains higher insurance limits than the minimums shown above, CONSULTANT shall provide coverage for the higher insurance limits otherwise maintained by the CONSULTANT.*
5. **Non-Liability of Officials and Employees of the DISTRICT.** No official or employee of DISTRICT shall be personally liable to CONSULTANT in the event of any default or breach by DISTRICT, or for any amount which may become due to CONSULTANT.
6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of the DISTRICT, and shall obtain no rights to any benefits which accrue to DISTRICT’S employees.
8. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government. CONSULTANT shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The District makes no

warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(Address of CONSULTANT)
HF&H CONSULTANTS, LLC
19200 Von Karman Avenue, Suite 360
Irvine, CA 92612
Attention: Laith Ezzet, Senior Vice President

(Address of DISTRICT)	(with a copy to):
City of Garden Grove	Garden Grove City Attorney
11222 Acacia Parkway	11222 Acacia Parkway
Garden Grove, CA 92840	Garden Grove, CA 92840

10. **CONSULTANT'S PROPOSAL.** This Agreement shall include CONSULTANT'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONSULTANT shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by DISTRICT, it shall immediately inform DISTRICT of this and shall not proceed, except at CONSULTANT's risk, until written instructions are received from DISTRICT.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT, its principals and employees were a substantial inducement for DISTRICT to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the DISTRICT. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of DISTRICT. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to DISTRICT for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any

contractual relationship between any subcontractor and DISTRICT. All persons engaged in the work will be considered employees of CONSULTANT. DISTRICT will deal directly with and will make all payments to CONSULTANT.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** To the fullest extent permitted by law, CONSULTANT shall defend, and hold harmless DISTRICT and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT's agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT's responsibility to protect, defend, and hold harmless DISTRICT, is due to the sole negligence, recklessness and/or wrongful conduct of DISTRICT, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

17. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove Sanitary Board for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the DISTRICT.

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(Agreement Signature Block on Next Page)

IN WITNESS THEREOF, the parties have executed this Agreement on the day and year shown below.

GARDEN GROVE SANITARY DISTRICT

Date: _____

By: _____

Scott C. Stiles
General Manager

ATTEST:

By: _____

Teresa Pomeroy
Secretary

HF&H CONSULTANTS, LLC

Date: _____

By: _____

By: _____

APPROVED AS TO FORM:

By: _____

Omar Sandoval
General Counsel

If CONSULTANT is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a Partnership, Statement of Partnership must be submitted to DISTRICT.