

**PROFESSIONAL SERVICES AGREEMENT
FOR
BETWEEN
MARINA COAST WATER DISTRICT
AND
DESNISE DUFFY AND ASSOCIATES
FOR THE
ANNEXATION OF THE ORD COMMUNITY INTO
THE MARINA COAST WATER DISTRICT**

Some of the important terms of this Agreement are printed on Pages 2 and following. For your protection, make sure that you read and understand all provisions before signing. The terms on Page 2 are incorporated in this document and will constitute a part of the Agreement between the parties when signed.

TO: Marina Coast Water District DATE: May 15, 2017
11 Reservation Road Agreement No. 2017- _____
Marina, CA 93933

The undersigned Consultant offers to furnish the following:

Professional services to the Marina Coast Water District related to planning and environmental review services regarding Marina Coast Water District's (District) Annexation of the Ord Community.

Essentially, the Scope is to participate in meetings and provide updates and revisions to the Draft Initial Study and Negative Declaration based on comments and public review for environmental review. Prepare the Local Agency Formation Commission application and the final initial study and negative declaration.

See Attachment A for additional information and deliverables.

Contract price \$ Not to exceed \$30,649

Completion date June 2019

Instructions: Sign and return two (2) originals. Upon acceptance by the Marina Coast Water District, a copy will be signed by its authorized representative and promptly returned to you. Insert below, the names of your authorized representative(s).

Accepted: Marina Coast Water District

CONSULTANT:

By Keith Van Der Maaten

By 

Title General Manager

Title President

Other authorized representative(s):

Other authorized representative(s):

Consultant agrees with the Marina Coast Water District that:

1. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant will defend, indemnify and hold harmless the Marina Coast Water District, its directors, officers, employees, or authorized volunteers from all claims and demands of all persons that arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct in the performance (or actual or alleged non-performance) of the work under this agreement. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the work hereunder, and shall not tender such claims to District nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.

2. Other than in the performance of professional services, to the fullest extent permitted by law, Consultant will defend, indemnify and hold harmless the Marina Coast Water District, its directors, officers, employees, and authorized volunteers from all claims and demands of all persons arising out of the performance of the work or the furnishing of materials; including but not limited to claims by the Consultant or Consultant's employees for damages to persons or property except for the sole negligence or willful misconduct or active negligence of the Marina Coast Water District, its directors, officers, employees, or authorized volunteers.

3. By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of the professional services under this Agreement. Consultant and sub-consultants will keep workers' compensation insurance for their employees in effect during all work covered by this Agreement and shall file with the Marina Coast Water District the certificate required by Labor Code Section 3700.

4. This paragraph is part of the contract. Yes or (Circle One) Consultant acknowledges and understands that the area in and around which the work will be performed has been identified as a possible location of munitions and explosives of concern ("MEC"). All indemnification obligations of Consultant under this Agreement, including those specified in paragraph 1 shall specifically include claims and demands involving, arising out of or related to MEC.

5. This paragraph is part of the contract. or No (Circle One) [This section applies in most cases except for laboratory work.] Consultant will file with the Marina Coast Water District, before beginning professional services, a certificate of insurance satisfactory to the District evidencing professional liability coverage of not less than \$1,000,000 per claim and annual aggregate, requiring 30-day notice of cancellation (10 days for non-payment of premium) to the Marina Coast Water District. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-:VII, or equivalent, or as otherwise approved by the District. The retroactive date (if any) is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least Three years after the completion of the contract work. Consultant shall purchase a one-year extended reporting period i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement. In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

6. This paragraph is part of the contract. Yes or No (Circle One) Consultant will file with the Marina Coast Water District before beginning professional services, certificates of insurance satisfactory to the Marina Coast Water District evidencing general liability coverage of not less than \$1,000,000 per occurrence (\$2,000,000 general and products-completed operations aggregate (if used)) for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits) and employer's liability (\$1,000,000) (if applicable); requiring 30 days (10 days for non-payment of premium) notice of cancellation to the Marina Coast Water District. If the work involves MEC per paragraph 4, above, all insurance maintained by Consultant shall include coverage for services, work in or around MEC, and claims, demands and injuries related in any way to this Agreement which arise from MEC. The general liability coverage is to state or be endorsed to state "such insurance shall be primary and any insurance, self-insurance or other coverage maintained by the Marina Coast Water District, its officers, directors, employees, or authorized volunteers shall not contribute to it". The general liability insurance shall give Marina Coast Water District, its officers, directors, employees and its authorized representatives and volunteers insured status using ISO endorsement CG2010, CG2033 or equivalent. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A- :VII or as otherwise approved by the Marina Coast Water District. In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

7. If any of the required coverages expire during the term of this agreement, the Consultant shall deliver the renewal certificate(s) to the District at least ten (10) days prior to the expiration date.

8. Consultant shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on Page 1 as "other authorized representative(s)."

9. Final Payment, unless otherwise specified on Page 1, is to be within 30-days after acceptance by the Marina Coast Water District.

10. Permits required by governmental authorities will be obtained at Consultant's expense, and Consultant will comply with local, state and federal regulations and statutes including Cal/OSHA requirements.

11. Any change in the scope of the professional services to be done, method of performance, nature of materials or price thereof, or to any other matter materially affecting the performance or nature of the professional services will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing by a supplemental agreement by the Marina Coast Water District. Consultant's "authorized representative(s)" has (have) the authority to execute such written change for Consultant.

12. The Consultant shall not assign, sell, mortgage, hypothecate, or otherwise transfer its interest or obligations in this agreement without written consent of the Marina Coast Water District. Further, none of the services covered by this agreement shall be subcontracted beyond that which is specifically noted in the Consultant's proposal unless approved by the Marina Coast Water District in writing.

13. This Agreement supercedes and integrates all prior writings and understandings between the parties concerning, is binding on the parties and their successors, and may be amended only by written agreement signed by the Marina Coast Water District and the Consultant. This

Agreement may be signed in counterparts, each of which when fully executed shall be considered a duplicate original document. Both parties have participated fully in the review and revision of this Agreement, and neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654.

14. The parties must submit any disputes arising under this Agreement to non-binding mediation before filing suit to enforce or interpret this Agreement. Upon request by either party, the parties will within ten days select a single mediator, or if the parties cannot agree, they shall ask the then presiding Judge of the Monterey County Superior Court to select a mediator to mediate the dispute within fifteen days of such selection.

EXHIBIT A

Proposal of Services dated _____ (see attached)



DENISE DUFFY & ASSOCIATES, INC.

947 Cass Street, Suite 5
Monterey, California 93940
(831) 373 - 4341 (phone)
(831) 373 - 1417 (fax)

Marina Coast Water District Annexation of Portion of the Ord Community

March 31, 2017

INTRODUCTION

As requested, Denise Duffy & Associates (DD&A) proposes to provide continued planning and environmental consulting services regarding Marina Coast Water District's (MCWD or the District) annexation of the Ord Community in accordance with relevant codes and ordinances of the District) and local jurisdictions, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and the California Environmental Quality Act (CEQA)¹

This provides a scope of work for completion of the environmental review and the District's next steps toward processing the service area annexation and sphere amendment.

PROJECT UNDERSTANDING

MCWD has requested DD&A to assist with the upcoming Monterey County Local Agency Formation Commission (LAFCO) annexation of the "Ord Community," specifically, the FORA "development parcels" within the former Fort Ord, into their service area and amending their Sphere of Influence to include the Ord Community and certain other areas outside their direct area of providing water and wastewater service.

The District currently provides water, wastewater and recycled water service to the former Fort Ord (Ord Community) under the Water/Wastewater Facilities Agreement with the Fort Ord Reuse Authority (FORA), dated March 13, 1998. The District's current service area boundary, sphere of influence and Ord Community service area are in need of updating. DD&A's previous work on this project resulted in a Draft Initial Study/Mitigated Negative Declaration in October 2011.

¹ The Draft Initial Study and boundary maps are available online at:

http://www.mcwd.org/docs/engr/annexation/Final%20Draft_ISND_10-28-11%20complete.pdf

Annexation of a part of the Ord Community into the District service area and/or sphere of influence will require approval of the Local Agency Formation Commission of Monterey County (LAFCO). The LAFCO application must be accompanied by an appropriate CEQA document, in this case, an Initial Study leading to adoption of a Negative Declaration (IS/ND). The application should also be endorsed by the affected land use jurisdictions.

This scope of work proposes updating and recirculating the Draft Initial Study/Negative Declaration to comply with the required CEQA review process.

SCOPE OF WORK

This scope of work is presented in two phases to allow for early coordination with MCWD, MCWD's project engineer, and key stakeholders. Depending upon the results of Phase I, Phase II scope of work may be revised. Currently, the proposed Phase II scope of work assumes that revisions to the Draft Initial Study/Negative Declaration will be adequate to evaluate the impacts of the MCWD service area annexation and Sphere of Influence amendments. Phase II budget is not provided at this time; it is assumed that the budget refinement will occur after approval of the proposed Project and confirmation of the project description by the MCWD Board.

PHASE I – DEFINITION OF PROJECT AND CEQA REVIEW

Task I.1: Project Initiation/Kick-Off Meeting

The DD&A team will attend a kick-off meeting with MCWD and the project engineer to finalize the scope of work for the project, identify data needs, confirm deliverables, and establish schedules and protocols for communication. It will also be important to develop early in the environmental documentation process a clear and comprehensive project description that includes any alternatives MCWD may implement as part of the proposed Project. Based upon previous discussions and meetings with MCWD staff, various refined options for the project area have been presented.

Task I.2: Research and Review Updated Documentation

In order to fully understand available background materials for the project and ultimately to efficiently satisfy the environmental processing for the project, DD&A will research the following background materials and focus on those materials that may have been updated since the 2011 Draft Initial Study:

- Draft Initial Study public comments
- MCWD Urban Water Management Plan;
- Fort Ord Reuse Plan and EIR;
- Fort Ord Habitat Conservation Plan and Habitat Management Plan documentation;
- U.S. Army FOSET, ROD, and other related ESCA documents;
- LAFCO Municipal Service Review; and

- Existing City and County planning, engineering and environmental documents for the potential service areas.

Task I.3: Revise Annexation Boundaries/Revise Draft Project Description

DD&A will prepare a revised Project Description for the CEQA document and provide to the MCWD for presentation and consideration by the District Board. Upon confirmation of the proposed Project, DD&A will prepare a Preliminary Draft CEQA Project Description to be used for discussions in Task 3. This scope of work assumes DD&A will prepare one round of revisions to the preliminary Draft Project Description based upon comments from MCWD's project engineer, staff, and/or attorney.

Task I.4: Confirm LAFCO and CEQA Review Processes/MCWD Board Meeting(s)

DD&A will report to MCWD staff and project engineer regarding the recommended description for the LAFCO application and the appropriate level of CEQA Review. The scope of work assumes attendance by DD&A at one LAFCO staff meeting and one MCWD Board hearing.

Task I.5: Prepare Revised Administrative Draft IS/MND

DD&A proposes to prepare an updated and revised IS/MND in accordance with CEQA. DD&A will submit an electronic copy of the Administrative Draft IS/MND to MCWD, LAFCO, project engineer, and FORA for review and comment. Per Section 15063 of CEQA Guidelines, the IS/MND will include the following:

- a brief description of the project, including its location, purpose of, and need for;
- an identification of the environmental setting in the vicinity of the project site, as it exists before commencement of the project from both a local and regional perspective;
- an identification of the environmental effects of the project using an environmental checklist, including a brief narrative supporting the conclusions identified in the checklist. The explanations may reference another information source through citation to the document where the information may be found;
- recommended feasible mitigation measures or project design changes, as necessary;
- Mitigated Negative Declaration determination/signature page for MCWD;
- determination of consistency with local plans and zoning; and
- list of report preparers and bibliography.

Key environmental topics are discussed individually below; these topics will be specifically addressed in the IS in addition to all other elements required by CEQA Guidelines Appendix G.

- Land Use and Planning (including LAFCO Considerations/Policy Analysis)
- Air Quality
- Biological Resources
- Cultural Resources
- Geotechnical/Soil Considerations

- Hydrology/Drainage/Water Quality
- Public Services/Utilities
- Traffic & Circulation
- Water Supply

For each environmental topic, the IS will include a discussion of existing conditions and will identify potential environmental impacts of the project using significance criteria (i.e., thresholds of significance) to determine the level of impact for each identified issue. The project impact section will present potentially significant impacts and identify mitigation that avoids, eliminates, or reduces impacts to a less-than-significant level. This scope assumes that mitigation measures or project design changes will be available and feasible to successfully reduce impacts to a less-than-significant level.

In evaluating the significance of the environmental effect, the IS/MND will consider direct physical changes in the environment and reasonably foreseeable indirect physical changes in the environment [15064(d)]. The decision as to whether a project may have one or more significant effects shall be “based on substantial evidence in the record of the lead agency” [15064(f)]. In the case of this proposed annexation/reorganization, the discussion will evidence that there is no potential for a significant impact on the environment and, there is limited opportunity for physical impacts to be associated with this boundary change application due to the nature of the project.

Task I.6: Prepare Screen-Check Draft IS/MND

After review of the Administrative Draft IS/MND by MCWD, LAFCO, the project engineer, and FORA, DD&A will revise the document based on the comments received. DD&A assumes that MCWD, the project engineer, and FORA will provide one set of written comments each on the Administrative Draft IS/MND, either in letter form or on a single copy of the document. DD&A will then submit an electronic, Screen-Check Draft for final review by MCWD, LAFCO, project engineer, and FORA.

Task I.7: Prepare Public Review Draft IS/MND

After review of the Screen-Check Draft IS/MND, DD&A will revise the document based on the comments received. DD&A will then submit 15 hardcopies of the Draft IS/MND to the State Clearinghouse for distribution of a 30-day public review period (per CEQA requirements) as well as the Notice of Intent to Adopt (NOI), Notice of Completion (NOC), and 15 hardcopies to MCWD for local distribution. DD&A will also provide the document in Adobe Acrobat (pdf) format on CD for posting on MCWD or LAFCO websites. This scope assumes that all public mailings and publication (of documentation, notices, etc.) will be conducted and paid for by MCWD (or, alternatively, DD&A could conduct and pay for these items as reimbursable expenses).

Task I.8: Respond to Comments; Prepare Administrative Draft Final IS/MND

DD&A will respond to public comments received on the Public Draft IS/MND received during the 30-day public review period. DD&A, in consultation with MCWD, LAFCO, the project engineer, and FORA, will prepare formal responses to these comments. The

comment letters and responses, as well as any necessary changes to the text of the Draft IS, will be incorporated into the Administrative Draft Final IS/MND and submitted to MCWD, the project engineer, and FORA for review and comment.

Task I.9: Prepare Final IS/MND

After receiving and incorporating comments from MCWD, LAFCO, the project engineer, and FORA, DD&A will prepare the Final IS/MND. DD&A will provide up to 10 hard copies of the Final IS/MND, and will also provide the document in Adobe Acrobat (pdf) format on CD for posting on MCWD and/or LAFCO website.

Task I.10: Prepare Mitigation Monitoring and Reporting Program

DD&A will prepare a project-specific Mitigation Monitoring and Reporting Program (MMRP), in accordance with CEQA Guidelines Section 21081.6. The MMRP will identify responsibility, timing, and reporting for each mitigation measure identified in the IS. A Draft MMRP will be submitted to MCWD, LAFCO, project engineer, and FORA for review and comment prior to preparation of the final MMRP. DD&A will provide the MCWD and LAFCO with 10 hardcopies of the Final MMRP, which will be a separately bound document so that it may be used for field verification to ensure implementation of mitigation measures and remedial actions, and also provide the document in Adobe Acrobat (pdf) format on CD for posting on MCWD's website.

Task I.11: LAFCO and CEQA Review Processes/MCWD Board Meeting(s)

DD&A will prepare a draft Findings of Fact and a Board Resolution that adopts the Final IS/MND and MMRP, authorizes filing the Notice of Determination (NOD), and approves the project. After MCWD and LAFCO review and comment, DD&A will submit the final document. The scope of work assumes attendance by DD&A at two MCWD Board hearings and two additional staff meetings to strategize and initiate Phase II of this work plan.

Task I.12: Project Management/Meetings with MCWD

The nature of the analyses, high level of agency review, potential challenges and unforeseen issues require considerable coordination and liaison effort. DD&A will provide project management services that include client and agency communication, subconsultant management, scheduling, contract management, and administration. This task also includes efforts to assist the project engineer in management of the project.

PHASE II –LAFCO APPLICATION

DD&A proposes to assist MCWD with preparation of the applications for LAFCO service area annexation and sphere of influence amendment in Phase II. The following tasks assume MCWD and LAFCO can rely upon an Initial Study/Mitigated Negative Declaration to process the annexation and Sphere of Influence amendments.

Task II.1: Confirm LAFCO Application Requirements

DD&A will report to MCWD staff and project engineer regarding LAFCO application requirements. The scope of work assumes attendance by DD&A at one LAFCO meeting and one MCWD staff meeting to initiate Phase II of this work plan.

Task II.2: Project Coordination during Application Phase/Management/Meetings with MCWD

The nature of the analyses, high level of agency review, potential challenges and unforeseen issues require considerable coordination and liaison effort. DD&A will provide project management services that include client and agency communication, scheduling, contract management, and administration. This task also includes efforts to assist the project engineer in management of the project.

Task II.3: Draft LAFCO Application Package

LAFCO has a specific set of requirements and protocol for annexation requests for service boundary adjustments. DD&A proposes to prepare application forms and planning documentation, including preparation of GIS based mapping and coordination of engineering mapping requirements, and to assist in the processing of this request through LAFCO.

This task assumes that DD&A will also prepare and assist in the processing of the project application materials through LAFCO. DD&A will meet with LAFCO staff regarding the application processing requirements. DD&A will provide drafts of the required application forms and materials. This task assumes that all engineering materials such as survey maps, and engineering information specific to the boundary annexation and Sphere of Influence amendment areas as required by the application process, will be provided by MCWD for incorporation into the application as needed.

Task II.4: Prepare Resolution, Findings, and Notices for Board approval of filing of LAFCO application

DD&A will prepare a draft Findings of Fact and a Board Resolution that approves submittal of the application package to the LAFCO. After MCWD and LAFCO review and comment, DD&A will submit the final document. This scope assumes attendance at two LAFCO Board meeting/public hearing for the proposed Project.

Task II.5: Meeting/Hearing Attendance

DD&A would be available to attend the following meetings to focus on the environmental documentation and related issues:

- LAFCO Meeting
- MCWD staff meeting on application contents
- Discuss comments on Administrative Draft and Draft IS/MNDs
- Two (2) Board Meeting/Public Hearing for IS/MND and Project Approval
- Two (2) LAFCO Board or MCWD Meetings for Application

DD&A, Inc. Cost Estimate
for MARINA COAST WATER DISTRICT
Annexation of Portion of the Ord Community Project

Task	PHASE I	Hours Per Task	Cost Per Task	Cost Per Phase
1.1	Project Initiation/Kick-Off Meeting	5	\$ 798	\$ 29,556
1.2	Research and Review Updated Documentation	9	\$ 1,177	
1.3	Revise Annexation Boundaries/Revise Draft Project Description	9	\$ 1,097	
1.4	Confirm LAFCO and CEQA Review Processes/MCWD Board Meeting(s)	8	\$ 1,202	
1.5	Prepare Revised Administrative Draft IS/MND	71	\$ 9,499	
1.6	Prepare Screen-Check Draft IS/MND	22	\$ 2,682	
1.7	Prepare Public Review Draft IS/MND	12	\$ 1,427	
1.8	Respond to Comments; Prepare Administrative Draft Final IS/MND ⁽¹⁾	40	\$ 5,046	
1.9	Prepare Final IS/MND	11	\$ 1,216	
1.10	Prepare Mitigation Monitoring and Reporting Program	7	\$ 1,013	
1.11	LAFCO and CEQA Review Processes/MCWD Board Meeting(s)	15	\$ 2,435	
1.12	Project Management/Meetings with MCWD	11	\$ 1,964	
	<i>PHASE II - Please note, budget detail is not provided at this time. See Optional Item below (2)</i>			\$ -
II.1	Confirm LAFCO and CEQA Review Processes/MCWD Board Meeting(s)	-	\$ -	
II.2	Project Management/Meetings with MCWD	-	\$ -	
II.3	Draft LAFCO Application Package	-	\$ -	
II.4	Prepare Resolution, Findings, and Notices (Application)	-	\$ -	
II.5	Meeting/Hearing Attendance	-	\$ -	
	Total Hours	220		
	Hourly Rate			
	Total Labor			\$ 29,556
Expenses				\$ -
				\$ 950
				\$ 143
				\$ 30,649

