

## AGREEMENT

THIS AGREEMENT is made and entered into as of this **23rd day of August, 2012**, by and between the **SUNRISE RECREATION AND PARK DISTRICT**, a special District of the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "DISTRICT," and **XXXXXX**, a California company, hereinafter referred to as "CONSULTANT."

The COUNTY OF SACRAMENTO is hereinafter referred to as "COUNTY."

As used in this Agreement, "DIRECTOR" shall mean the District Administrator of the Sunrise Recreation and Park District, or his/her designee.

### RECITALS

**WHEREAS**, The DISTRICT has worked with the community to develop a Master Plan for the Arcade Creek Park Preserve and

**WHEREAS**, The DISTRICT has been successful in obtaining a grant for the development of this park site and

**WHEREAS**, the DISTRICT on April 26, 2012, the Advisory Board of Directors directed staff to solicit Request for Qualifications (RFQ) for The development of construction drawings CEQA compliance and construction management of the Arcade Creek Park Preserve and

**WHEREAS**, The DISTRICT desires to obtain construction documents for the Arcade Creek Park Preserve and seeks assistance in applying for regulatory permits to develop this parcel, to obtain CEQA Compliance and;

**WHEREAS**, The District held a competitive bidding process to determine the "best qualified" firm to perform this work and;

**WHEREAS**, XXXXXXXX was deemed the best qualified out of eight firms that submitted a their design qualifications for this project and;

**WHEREAS**, on July 19, 2012 the Advisory Board approve XXXXXXXX for the preparation of the construction documents and authorized the District Administrator to seek the consent from the Sacramento County Board of Supervisors for the award of Contract; and

**WHEREAS**, on **August 23**, 2012 approval to enter into contract was received from the Sacramento County Board of Supervisors;

**WHEREAS**, DISTRICT AND CONSULTANT desire to enter into this Agreement on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises hereinafter set forth, DISTRICT and CONSULTANT agree as follows:

**I. SCOPE OF SERVICES**

CONSULTANT shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

**II. TERM**

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2019.

**III. NOTICE**

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO DISTRICT

TO CONSULTANT

**Dave Mitchell**  
Sunrise Recreation and Park  
District  
7801 Auburn Blvd.  
Citrus Heights, CA 95610

**XXXXXXXX**

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

**IV. COMPLIANCE WITH LAWS**

CONSULTANT shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

**V. GOVERNING LAWS AND JURISDICTION**

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

**VI. LICENSES, PERMITS AND CONTRACTUAL GOOD STANDING**

- A. CONSULTANT shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by DISTRICT.
- B. CONSULTANT further certifies to DISTRICT that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. CONSULTANT certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

**VII. PERFORMANCE STANDARDS**

CONSULTANT shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONSULTANT'S services.

**VIII. OWNERSHIP OF WORK PRODUCT**

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONSULTANT hereunder shall be the exclusive property of DISTRICT and shall be delivered to DISTRICT upon completion of the services authorized hereunder. CONSULTANT may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by DISTRICT. DISTRICT recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONSULTANT'S services and are not designed for use other than what is intended by this Agreement.

**IX. STATUS OF CONSULTANT**

- A. It is understood and agreed that CONSULTANT (including CONSULTANT'S employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT'S assigned personnel shall not be entitled to any benefits payable to employees of DISTRICT. DISTRICT is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of this agreement; and as an independent contractor, CONSULTANT hereby indemnifies and holds DISTRICT harmless from any and all claims that may be made against DISTRICT based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.

- B. It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligation hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONSULTANT for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and the DISTRICT shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent CONSULTANT and not an employee of District, neither the CONSULTANT nor CONSULTANT'S assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONSULTANT and CONSULTANT'S employees shall not be covered by DISTRICT'S worker's compensation; nor shall CONSULTANT or CONSULTANT'S employee's be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the DISTRICT to employees of the DISTRICT.
- E. It is further understood and agreed that CONSULTANT must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONSULTANT'S assigned personnel under the terms and conditions of this agreement.

**X. CONSULTANT IDENTIFICATION**

CONSULTANT shall provide the DISTRICT with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONSULTANT'S name, address, telephone number, social security number or employer identification number, and whether dependent health insurance coverage is available to CONSULTANT.

**XI. COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT REPORTING OBLIGATIONS**

- A. CONSULTANT'S failure to comply with state and federal child, family and spousal support reporting requirements regarding a CONSULTANT'S employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Agreement.
- B. CONSULTANT'S failure to cure such default within 90 days of notice by DISTRICT shall be grounds for termination of this Agreement.
- C. If CONSULTANT has a Principal Owner, CONSULTANT shall provide Principal Owner information to the DISTRICT upon request. Principal Owner is defined for purposes of this agreement as a person who owns an interest of 25% or more in the CONSULTANT. Information required may include the Principal Owner's name, address, and social security number. Failure to provide requested information about a Principal Owner within 60 days of request shall be deemed a material breach of this contract and may be grounds for termination.

**XII. BENEFITS WAIVER**

If CONSULTANT is unincorporated, CONSULTANT acknowledges and agrees that CONSULTANT is not entitled to receive the following benefits and/or compensation from DISTRICT: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between DISTRICT and its employee organizations. Should CONSULTANT or any employee or agent of CONSULTANT seek to obtain such benefits from DISTRICT, CONSULTANT agrees to indemnify and hold harmless DISTRICT from any and all claims that may be made against DISTRICT for such benefits.

**XIII. RETIREMENT BENEFITS/STATUS**

CONSULTANT acknowledges and agrees that DISTRICT has not made any representations regarding entitlement, eligibility for and/or right to receive ongoing Sacramento County Employee Retirement System (SCERS) retirement benefits during the term of this Agreement. By entering into this Agreement, CONSULTANT assumes sole and exclusive responsibility for any consequences, impacts or action relating to such retirement benefits that is or will be occasioned as a result of the services provided by CONSULTANT under this Agreement. CONSULTANT waives any rights to proceed against District should SCERS modify or terminate retirement benefits based on CONSULTANT'S provision of services under this Agreement.

#### **XIV. CONFLICT OF INTEREST**

CONSULTANT and CONSULTANT'S officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

#### **XV. LOBBYING AND UNION ORGANIZATION ACTIVITIES**

- A. CONSULTANT shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.
- B. If services under this Agreement are funded with state funds granted to DISTRICT, CONSULTANT shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.

#### **XVI. GOOD NEIGHBOR POLICY**

- A. CONSULTANT shall comply with COUNTY'S Good Neighbor Policy. CONSULTANT shall establish good neighbor practices for its facilities that include, but are not limited to, the following:
  - 1. Provision for control of loitering and management of crowds;
  - 2. Participation in area crime prevention and nuisance abatement efforts; and
  - 3. Undertake such other good neighbor practices as determined appropriate by COUNTY, based on COUNTY'S individualized assessment of CONSULTANT'S facility, services and actual impacts on the neighborhood in which such facility is located.
- B. CONSULTANT shall identify, either by sign or other method as approved by the DIRECTOR, a named representative who shall be responsible for responding to any complaints relating to CONSULTANT'S compliance with the required good neighbor practices specified in this Section. CONSULTANT shall post the name and telephone number of such contact person on the outside of the facility, unless otherwise advised by DIRECTOR.
- C. CONSULTANT shall comply with all applicable public nuisance ordinances.

- D. CONSULTANT shall establish an ongoing relationship with the surrounding businesses, law enforcement and neighborhood groups and shall be an active member of the neighborhood in which CONSULTANT'S site is located.
- E. If COUNTY finds that CONSULTANT has failed to comply with the Good Neighbor Policy, COUNTY shall notify CONSULTANT in writing that corrective action must be taken by CONSULTANT within a specified time frame. If CONSULTANT fails to take such corrective action, COUNTY shall take such actions as are necessary to implement the necessary corrective action. COUNTY shall deduct any actual costs incurred by COUNTY when implementing such corrective action from any amounts payable to CONSULTANT under this Agreement.
- F. CONSULTANT'S continued non-compliance with the Good Neighbor Policy shall be grounds for termination of this Agreement and may also result in ineligibility for additional or future contracts with COUNTY.

**XVII. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES**

- A. CONSULTANT agrees and assures DISTRICT that CONSULTANT and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of DISTRICT, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONSULTANT shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of DISTRICT employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONSULTANT represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONSULTANT agrees to compile data, maintain records and submit Reports to permit effective enforcement of all applicable antidiscrimination Laws and this provision.
- D. CONSULTANT shall include this nondiscrimination provision in all Subcontracts related to this Agreement.

## **XVIII. INDEMNIFICATION**

CONSULTANT shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder.

## **XIX. INSURANCE**

Without limiting CONSULTANT'S indemnification, CONSULTANT shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit B. It is the responsibility of CONSULTANT to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit B. It is understood and agreed that DISTRICT shall not pay any sum to CONSULTANT under this Agreement unless and until DISTRICT is satisfied that all insurance required by this Agreement is in force at the time services hereunder are rendered. Failure to maintain insurance as required in this agreement may be grounds for material breach of contract.

## **XX. INFORMATION TECHNOLOGY ASSURANCES**

CONSULTANT shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONSULTANT in the performance of services under this Agreement, other than those owned or provided by DISTRICT, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY or DISTRICT under this Agreement.

## **XXI. WEB ACCESSIBILITY**

CONSULTANT shall ensure that all web sites and web applications provided by CONSULTANT pursuant to this Agreement shall comply with COUNTY'S Web Accessibility Policy adopted by the Board of Supervisors on February 18, 2003 as well as any approved amendment thereto.

## **XXII. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS**

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit C, or Exhibit C as modified by COUNTY in accordance with express provisions in this Agreement.
- B. CONSULTANT shall submit an invoice on the forms and in accordance with the procedures prescribed by DISTRICT on a monthly basis. Invoices shall be



submitted to DISTRICT no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY on behalf of DISTRICT shall pay CONSULTANT within thirty (30) days after receipt of an appropriate and correct invoice.

- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than June 30, on the last day of the end of the fiscal year.
- D. CONSULTANT shall maintain for five years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONSULTANT fails to comply with any provisions of this Agreement, DISTRICT may withhold payment until such non-compliance has been corrected.

**XXIII. RESERVED.**

**XXIV. RESERVED**

**XXV. SUBCONTRACTS, ASSIGNMENT**

- A. CONSULTANT shall obtain prior written approval from DISTRICT before Subcontracting any of the services delivered under this Agreement. CONSULTANT remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONSULTANT shall be held responsible by DISTRICT for the performance of any subcontractor whether approved by DISTRICT or not.
- B. This Agreement is not assignable by CONSULTANT in whole or in part, without the prior written consent of DISTRICT.

## **XXVI. AMENDMENT AND WAIVER**

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon DISTRICT unless agreed in writing by DIRECTOR and counsel for DISTRICT.

This Agreement may be amended to increase the maximum payment amount; provided, however, that such increase shall not exceed the lesser of ten percent (10%) of the annual payment amount under this Agreement or \$20,000.

## **XXVII. SUCCESSORS**

This Agreement shall bind the successors of DISTRICT and CONSULTANT in the same manner as if they were expressly named.

## **XXVIII. TIME**

Time is of the essence of this Agreement.

## **XXIX. INTERPRETATION**

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

## **XXX. DIRECTOR**

As used herein, "DIRECTOR" shall refer to the Director of the Sunrise Recreation and Park District, or his/her designees.

## **XXXI. DISPUTES**

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. Pending resolution of any such dispute, CONSULTANT shall continue without delay to carry out all its responsibilities under this Agreement unless the Agreement is otherwise terminated in accordance with the Termination provisions herein. DISTRICT shall not be required to make payments for any services that are the subject of this dispute resolution process until such dispute has been mutually resolved by the parties. If the dispute cannot be resolved within 15 calendar days of initiating such negotiations or such

other time period as may be mutually agreed to by the parties in writing, either party may pursue its available legal and equitable remedies, pursuant to the laws of the State of California. Nothing in this Agreement or provision shall constitute a waiver of any of the government claim filing requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, state and federal law.

## **XXXII. TERMINATION**

- A. DISTRICT may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by DISTRICT to CONSULTANT and it is later determined that CONSULTANT was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).
- B. DISTRICT may terminate this Agreement for cause immediately upon giving written notice to CONSULTANT should CONSULTANT materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, DISTRICT may proceed with the work in any manner deemed proper by DISTRICT. If notice of termination for cause is given by DISTRICT to CONSULTANT and it is later determined that CONSULTANT was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. DISTRICT may terminate or amend this Agreement immediately upon giving written notice to CONSULTANT, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof, including if distribution of such funds to the County or DISTRICT is suspended or delayed; 2) if funds for the services and/or programs provided pursuant to this Agreement are not appropriated by the State; 3) if funds in DISTRICT's yearly proposed and/or final budget are not appropriated by DISTRICT for this Agreement or any portion thereof.
- D. If this Agreement is terminated under paragraph A or C above, CONSULTANT shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONSULTANT shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONSULTANT covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay CONSULTANT an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.

- E. CONSULTANT shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONSULTANT can legally cancel.

### **XXXIII. REPORTS**

CONSULTANT shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by DIRECTOR concerning CONSULTANT'S activities as they affect the contract duties and purposes herein. DISTRICT shall explain procedures for reporting the required information.

### **XXXIV. AUDITS AND RECORDS**

Upon DISTRICT's request, DISTRICT or its designee shall have the right at reasonable times and intervals to audit, at CONSULTANT'S premises, CONSULTANT'S financial and program records as DISTRICT deems necessary to determine CONSULTANT'S compliance with legal and contractual requirements and the correctness of claims submitted by CONSULTANT. CONSULTANT shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon DISTRICT's request at DISTRICT's expense. DISTRICT shall have the right to withhold any payment under this Agreement until CONSULTANT has provided access to CONSULTANT'S financial and program records related to this Agreement.

### **XXXV. PRIOR AGREEMENTS**

This Agreement constitutes the entire contract between DISTRICT and CONSULTANT regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between DISTRICT and CONSULTANT regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement. "Terms and Conditions" outlined in Appendix 1 to this Agreement are hereby considered null, void, and superseded by this Agreement.

### **XXXVI. SEVERABILITY**

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

### **XXXVII. FORCE MAJEURE**

Neither CONSULTANT nor DISTRICT shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

### **XXXVIII. SURVIVAL OF TERMS**

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

### **XXXVIX. DUPLICATE COUNTERPARTS**

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

**XXXX. AUTHORITY TO EXECUTE**

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

**SUNRISE RECREATION AND PARK  
DISTRICT, a political subdivision of  
The State of California**

**XXXXXXXX**

By \_\_\_\_\_  
Dave Mitchell, District Administrator  
Sunrise Recreation and Park District

By \_\_\_\_\_  
XXXXXXXX

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACT AND CONSULTANT TAX STATUS**  
**REVIEWED AND APPROVED BY COUNTY COUNSEL**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT A**  
**to Agreement between the**  
**SUNRISE RECREATION AND PARK DISTRICT,**  
**hereinafter referred to as "DISTRICT," and**  
**XXXXXXX, hereinafter referred to as "CONSULTANT"**

**SCOPE OF SERVICES**

**I. SERVICE LOCATION(S)**

**Facility Name(s):** Arcade Creek Park Preserve  
**Street Address:** Bonham Circle  
**City and Zip Code:** Citrus Heights, CA

**II. DESCRIPTION OF SERVICES**

**Perform Landscape Design, Landscape Architectural Services, CEQA Compliance and Environmental Permitting for Arcade Creek Park Preserve.**

The CONSULTANT will be performing the following services and deliverables for the Arcade Creek Park Preserve:

- Provide landscape architectural design services – deliverables will be:
  - Site Surveys
  - Wetland Delineation
  - Regulatory Permitting
  - Construction Documents
  - Bidding Assistance
  - Construction Assistance
  - Project Management

CONSULTANT will:

- Secure regulatory permits from CA Fish and Game, US Bureau of Reclamation and other appropriate regulatory agencies as needed for successful implementation of the features found in the master plan.
- Ensure CEQA Compliance
- Perform Grant Administration
- Perform Biological & SWPPP Monitoring
- Perform Geotechnical Construction Monitoring
- Hold Public Meetings as deemed necessary by DISTRICT

**Further definition of the Scope of Work is attached to this Agreement in Appendix 1, "Scope of Work."**

**EXHIBIT B**  
**to Agreement between the**  
**SUNRISE RECREATION AND PARK DISTRICT,**  
**hereinafter referred to as "DISTRICT," and**  
**XXXXXXX, hereinafter referred to as "CONSULTANT**

**INSURANCE REQUIREMENTS FOR CONSTRUCTION OR DESIGN FIRMS**

**I. INSURANCE**

Without limiting CONSULTANT'S indemnification, CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by CONSULTANT, its agents, representatives or employees. DISTRICT shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of DISTRICT Risk Manager, insurance provisions in these requirements do not provide adequate protection for DISTRICT and for members of the public, DISTRICT may require CONSULTANT to obtain insurance sufficient in coverage, form and amount to provide adequate protection. DISTRICT'S requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

**II. VERIFICATION OF COVERAGE**

CONSULTANT shall furnish DISTRICT with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. DISTRICT Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of DISTRICT and the general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by DISTRICT before performance commences. DISTRICT reserves the right to require that CONSULTANT provide complete, certified copies of any policy of insurance including endorsements offered in compliance with these specifications.

**III. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- A. GENERAL LIABILITY: Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by DISTRICT Risk Manager.



- B. AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 000.
  - 1. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.
  - 2. Personal Lines automobile insurance shall apply if vehicles are individually owned.
- C. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.
- D. PROFESSIONAL LIABILITY: Professional Liability or Errors and Omissions Liability insurance appropriate to CONSULTANT'S profession.
- E. UMBRELLA: Umbrella or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.

**IV. MINIMUM LIMITS OF INSURANCE**

CONSULTANT shall maintain limits no less than:

A. GENERAL LIABILITY:

General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$2,000,000
Products Comp/Op Aggregate:	\$2,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$1,000,000
Fire Damage:	\$ 50,000
Errors & Omission	\$1,000,000

Building Trades Contractors and other Contractors engaged in other projects of construction shall have their general liability Aggregate Limit of Insurance endorsed to apply separately to each job site or project, as provided for by Insurance Services Office form CG-2503 Amendment-Aggregate Limits of Insurance (Per Project).

- B. AUTOMOBILE LIABILITY:
  - 1. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit.
  - 2. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.
- C. WORKERS' COMPENSATION: Statutory.
- D. EMPLOYER'S LIABILITY: \$1,000,000 per accident for bodily injury or disease.
- E. PROFESSIONAL LIABILITY: Professional Liability or Errors and Omissions Liability: \$1,000,000 per claim and aggregate.

**V. DEDUCTIBLES AND SELF-INSURED RETENTION**

Any deductibles or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by DISTRICT.

**VI. CLAIMS MADE PROFESSIONAL LIABILITY INSURANCE**

If professional liability coverage is written on a Claims Made form:

- A. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by CONSULTANT.
- B. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
- C. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, CONSULTANT must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

**VII. OTHER INSURANCE PROVISIONS**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

- A. ALL POLICIES:

ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-: VII. DISTRICT Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk

Manager, the interests of DISTRICT and the general public are adequately protected.

**MAINTENANCE OF INSURANCE COVERAGE:** The CONSULTANT shall maintain all insurance coverages and limits in place at all times and provide the DISTRICT with evidence of each policy's renewal ten (10) days in advance of its anniversary date.

CONSULTANT is required by this Agreement to immediately notify DISTRICT if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. CONSULTANT shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

- B. COMMERCIAL GENERAL LIABILITY AND/OR COMMERCIAL AUTOMOBILE LIABILITY:**
1. **ADDITIONAL INSURED STATUS:** DISTRICT, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insured's as respects: liability arising out of activities performed by or on behalf of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no endorsed limitations on the scope of protection afforded to DISTRICT, its officers, directors, officials, employees, or volunteers.
  2. **CIVIL CODE PROVISION:** Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
  3. **PRIMARY INSURANCE:** For any claims related to this agreement, CONSULTANT'S insurance coverage shall be endorsed to be primary insurance as respects DISTRICT, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by DISTRICT, its officers, directors, officials, employees, or volunteers shall be excess of CONSULTANT'S insurance and shall not contribute with it.
  4. **SEVERABILITY OF INTEREST:** CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. SUBCONTRACTORS: CONSULTANT shall be responsible for the acts and omissions of all its subcontractors and additional insured endorsements as provided by CONSULTANT'S subcontractor.
6. PROFESSIONAL LIABILITY:
7. PROFESSIONAL LIABILITY PROVISION: Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands and actions arising out of or resulting from professional services provided under this Agreement.

C. WORKERS' COMPENSATION:

WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against DISTRICT, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by CONSULTANT.

D. PROPERTY:

1. COURSE OF CONSTRUCTION (COC) WAIVER OF SUBROGATION: Any Course of Construction (COC) policies maintained by CONSULTANT in performance of the Agreement shall contain the following provisions:
  - A. DISTRICT shall be named as loss payee.
  - B. The insurer shall waive all rights of subrogation against COUNTY and District.
2. INLAND MARINE WAIVER OF SUBROGATION: Any Inland Marine insurance policies maintained by CONSULTANT in performance of the Agreement shall be endorsed to state that the insurer shall waive all rights of subrogation against DISTRICT.

E. NOTIFICATION OF CLAIM

If any claim for damages is filed with CONSULTANT or if any lawsuit is instituted against CONSULTANT, that arise out of or are in any way connected with CONSULTANT'S performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect DISTRICT, CONSULTANT shall give prompt and timely notice thereof to DISTRICT. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

**EXHIBIT C**  
**to Agreement between the**  
**SUNRISE RECREATION AND PARK DISTRICT,**  
**hereinafter referred to as "DISTRICT," and**  
**XXXXXXX, hereinafter referred to as "CONSULTANT**

**BUDGET REQUIREMENTS**

**I. MAXIMUM PAYMENT TO CONSULTANT**

The Maximum Total Payment Amount under this Agreement is: **\$377,810**  
(Three Hundred Seventy-Seven Thousand Eight Hundred Ten Dollars and No Cents)

**II. TIME AND EXPENSES**

Compensation for services rendered shall be paid on a time and expenses basis at the usual and customary rates for the services actually rendered, as defined in Appendix 2 to this Agreement, "Labor Rates," and shall not exceed **\$377,810**. The rates stated in the Proposal shall supply for all services provided throughout the term of this Agreement. Total compensation, including fees, expenses, and profit for services rendered by CONSULTANT shall not exceed the Maximum Total Payment Amount under this Agreement listed above.

**III. ITEMIZED TASK AND SUBTASK**

CONSULTANT'S proposal contains a schedule of task or subtask with identified levels of effort such as estimated hours and or estimated cost, or identifiable work products, milestones or other events, then compensation for these individual tasks or activities shall not exceed the identified estimate or other limiting factors without the written approval of DISTRICT'S Project Manager. Compensation for work performed shall be on a time and materials basis with total not to exceed the amount shown on the "Schedule of Task" and "Labor Rates" and invoiced monthly. CONSULTANT shall promptly notify DISTRICT'S Project Manager in writing of any task, subtask, work products, or milestones that need to be reevaluated and indicate the reason and or justification for such reevaluation. DISTRICT'S Project Manager is authorized to negotiate adjustments of individual task so long as the work is within the general scope of the project and the total compensation does not exceed the Maximum Total Payment Amount under this Agreement listed above.

**IV. WORK NOT IN SCOPE OF SERVICES**

CONSULTANT Shall immediately notify the DISTRICT'S Project Manager in writing of any work that the District request to be performed that the CONSULTANT believes is outside of the Scope of Services as defined in Exhibit A. Any work outside of the the

Scope of Services as defined in Exhibit A shall not be performed unless and until the Director approves such request in writing and authorizes the use of any contingency funds for such work, or an amendment providing for an adjustment in CONSULTANT'S compensation is approved and executed by both parties.

**V. NOTIFICATION OF 75% EXPENDITURE OF COMPENSATION**

CONSULTANT shall notify DISTRICT Project Manager in writing upon expenditure of seventy-five percent (75%) of the authorized Agreement Amount. Such notice shall identify the percentage of the funds expended, the percentage of the work completed, an explanation of any variation between these two (2) percentages, and an assessment of the cost of the remaining work to be performed.

**VI. SUBMISSION OF INVOICES**

CONSULTANT shall address and submit all invoices associated with this Agreement by U.S. mail or personal delivery to DISTRICT at the address in the Notice provision of this Agreement. CONSULTANT shall include the following information on all invoices:

1. Contract Number 2012-4202-11
2. Project Name ARCADE CREEK PARK PRESERVE DESIGN SERVICES
3. Date of Invoice Submission
4. Time Period Invoice Covers
5. Services Provided and Respective Compensation Requested
6. Any other information deemed necessary by CONSULTANT and/or COUNTY.

**VII. PAYMENTS**

In accordance with the Compensation and Payment of Invoices Limitations provision of this Agreement, DISTRICT shall address and submit payments to CONSULTANT at address in the Notice provision of this Agreement.

CONSULTANT may change the address to which subsequent payments shall be sent by giving written notice designating a change of address to COUNTY, which shall be effective upon receipt.