

Professional Services Agreement

This Professional Services Agreement (the "Agreement") is offered 9/19/2022 (the "Effective Date"), by and between:

Pacific County ("Client"),
Phone Number: 360-642-9300
Address: 7013 Sandridge Rd
City, State, Zip: Long Beach, WA 98631

and **A+ Design & Consulting, LLC** ("Contractor"),
(360) 244-5843
PO Box 751
Long Beach, WA 98631

The project location or locations are described as follows:

Facility Contact: Darian Johnson
Phone Number: 360-642-9300 ext. 2649
Facility Name: Pacific County Health and Human Services
Street Address: 7013 Sandridge Rd
City, State, Zip: Long Beach, WA 98631
Township 10, Range 11, Section 15, Tax Lot(s) or Tax Serial Number(s): 10111523085

Each of Contractor and the Client are referred to as a "party," and both are collectively referred to as the "parties."

RECITALS

WHEREAS, A+ Design & Consulting, LLC is in the business of providing Environmental Consulting and Design Services.

WHEREAS, Client desires A+ Design & Consulting, LLC services, and A+ Design & Consulting, LLC desires to provide such services to Client all as set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SERVICES.

1.1 Project Specification. Contractor shall provide services to Client in accordance with the following "Project Specification":

a. Perform wetland delineation on Pacific County parcel 10111523085

1.2 Performance Without Project Specification. Contractor's performance of any services mutually agreed upon with Client but not then set forth in a Project Specification or otherwise provided for herein shall be governed by the terms and conditions hereof. Services may include additional research, consulting, training and requested meetings. Any such work will be billed in increments of ½ hour at the rate of \$120.00 per hour.

2. PAYMENT AND INVOICING TERMS.

2.1 Payment for Services within the scope of the Project Specification. Contractor shall be paid a total of **\$4200.00** as follows:

\$840.00 Invoice 1 (Retainer, due prior to starting work)

\$3360.00 Invoice 2 (Final Payment due upon release of wetland delineation)

Invoices may also include any Reimbursable Costs per Section 2.3 and/or applicable Taxes per Section 2.5.

Make checks payable to A+ Design & Consulting, LLC.

2.2 Invoicing for services outside the scope of the Project Specification. Contractor will invoice bi-monthly on or around the first and fifteenth of each month for services provided since the last invoice.

2.3 Reimbursable Costs. Client shall reimburse the Contractor costs when incurred in connection with the Services rendered, including but not limited to: copies, scanning, postage, office supplies, and taxes (as outlined in section 2.5).

Expenditures not set forth above, including but not limited to travel costs, supplies, and laboratory analyses, must be set forth in the Project Specification or pre-approved by the Client to qualify for reimbursement.

2.4 Invoicing.

(a) Invoices will be submitted per the schedule in Section 2.1 for the Project and on a bi-monthly basis for other Services per Section 2.2 by Contractor for payment by Client. Payment is due upon receipt and is past due seven (7) business days from receipt of invoice. If Client has any valid reason for disputing any portion of an invoice, Client will so notify Contractor within seven (7) calendar days of receipt of invoice by Client, and if no such notification is given, the invoice will be deemed valid. The portion of Contractor's invoice which is not in dispute shall be paid in accordance with the procedures set forth herein.

(b) A finance charge of 1.5% per month on the unpaid amount of an invoice will be charged on past due accounts. Any costs incurred by Contractor in collection of delinquent accounts shall be paid by Client, including reasonable attorney fees and costs, whether such fees are incurred without filing a suit or action connected to a trial and any appeal. If an account is delinquent, Contractor reserves the right to suspend work until invoiced amount is paid in full. Additionally, any project work, including but not limited to design documents and reports, may be withheld by Contractor until invoiced amount is paid in full.

2.5 Taxes. All amounts payable pursuant to this Agreement are exclusive of taxes. Accordingly, Client will be responsible for paying any and all current and future applicable taxes (other than taxes based on Contractor's net income). Invoices may be amended to reflect tax charges, or Client may pay taxing party directly, as appropriate.

3. AMENDMENTS AND CHANGE ORDERS:

3.1 Amendment to the Professional Services Agreement Client and Contractor may, with the approval of both parties, amend the Professional Services Agreement or the Scope of Services. An amendment may be for additional work or Contractor may be directed to change the direction of the work covered by the Scope of Services, but no change will be allowed unless agreed to by Contractor in writing in the form of an Amendment.

3.2 Change Orders (Changes to the Project Specification) The Project Specification shall define the entire contractual responsibility of Contractor. Any changes to the contractual responsibility of Contractor must take the form of written change orders to the Project Specification and subject to the agreement of both Contractor and Client. Unforeseen or unexpected requests for changes in requirements for project deliverables will require a Change Order. Unforeseen changes may be required or requested by a permitting authority, Client, Client's installation contractor, or other entity. Installation contractor error, including but not limited to the need for redesign or reinspection services may also require a Change Order at the discretion of the Contractor. Change Orders may also include modifications to the invoicing terms (Section 2) including a net increase in the total project cost.

3.3 Change of Address In the event that the addresses stated at the top of this document are no longer valid for contact of the respective party via U.S. Postal Mail, new and correct address information must be provided to the other party in writing within 5 working days.

4. STANDARD OF CARE.

Contractor warrants that Services shall be performed by personnel possessing competency consistent with applicable industry standards. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any services performed or design developed. THIS SECTION SETS FORTH THE ONLY WARRANTIES PROVIDED BY CONTRACTOR CONCERNING THE SERVICES AND RELATED WORK PRODUCT. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR OTHERWISE.

LIMITATION OF REMEDIES AND LIABILITY. CONTRACTOR SHALL NOT BE LIABLE TO CLIENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST SAVINGS, OR LOSS OF ANTICIPATED BENEFITS, ARISING OUT OF THE USE OF THE SERVICES OF CONTRACTOR WHETHER ARISING OUT OF CONTRACT, NEGLIGENCE, TORT, OR UNDER ANY WARRANTY, OR OTHERWISE.

5. MISCELLANEOUS.

5.1 Severability. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect.

5.2 Modification and Waiver. Waiver of breach of this Agreement by either party shall not be considered a waiver of any other subsequent breach.

5.3 Independent Contractor. Contractor is an independent contractor of Client.

5.4 Notices. Client shall give Contractor written notice within one hundred eighty (180) days of obtaining knowledge of the occurrence of any claim or cause of action which Client believes that it has, or may seek to assert or allege, against Contractor. If Client fails to give such notice to Contractor with regard to any such claim or cause of action and shall not have brought legal action for such claim or cause of action within said time period, Client shall be deemed to have waived, and shall be forever barred from bringing or asserting such claim or cause of action in any suit, action or proceeding in any court or before any governmental agency or authority or any arbitrator. All notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within 48 hours, and shall be deemed given when delivered to the address specified at the beginning of this document or such other address as may be specified in a written notice in accordance with Section 3.3.

5.5 Assignment. The Agreement is not assignable or transferable by either party without the written consent of the both parties.

5.6 Disputes. Contractor and Client recognize that disputes arising under this Agreement are best resolved at the working level by the parties directly involved. Both parties are encouraged to be imaginative in designing mechanisms and procedures to resolve disputes at this level. Such efforts shall include the referral of any remaining issues in dispute to higher authority within each participating party's organization for resolution.

5.7 Contractor's Right to Repair. In the event of a dispute, Client may not initiate arbitration or commence court action until Contractor is given a period of 90 days in which to review the alleged defect(s) and decide whether to offer to take corrective action.

5.8 Section Headings. Title and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

5.9 Representations; Counterparts. Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed (by original or telecopied signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

5.10 Residuals. Nothing in this Agreement or elsewhere will prohibit or limit Contractor's ownership and use of ideas, concepts, know-how, methods, models, data, techniques, skill

knowledge and experience that were used, developed or gained in connection with this Agreement. Contractor and Client shall each have the right to use all data collected or generated under this Agreement.

5.11 Cooperation. Client will cooperate with Contractor in taking actions and executing documents, as appropriate, to achieve the objectives of this Agreement. Client agrees that Contractor's performance is dependent on Client's, regulatory agencies, and other involved professionals or other parties' timely and effective cooperation with Contractor. Accordingly, Client acknowledges that any delay by Client may result in Contractor being released from an obligation or scheduled deadline or in Client having to pay extra fees for Contractor's agreement to meet a specific obligation or deadline despite the delay.

5.12 Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Washington.

5.13 Entire Agreement. This Agreement, including any Exhibits, states the entire Agreement between the parties and supersedes all previous contracts, proposals, oral or written, and all other communications between the parties respecting the subject matter hereof, and supersedes any and all prior understandings, representations, warranties, agreements or contracts (whether oral or written) between Client and Contractor respecting the subject matter hereof. This Agreement may only be amended by an agreement in writing executed by the parties hereto.

5.14 Force Majeure. Contractor shall not be responsible for delays or failures (including any delay by Contractor to make progress in the prosecution of any Services) if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, and severe weather, and acts or omissions of subcontractors or third parties.

5.15 Use By Third Parties. Work performed by Contractor pursuant to this Agreement are only for the purpose intended and may be misleading if used in another context. Client agrees not to use any documents produced under this Agreement for anything other than the intended purpose without Contractor's written permission. This Agreement shall, therefore, not create any rights or benefits to parties other than to Client and Contractor.

6. INDEMNIFICATION/HOLD HARMLESS

6.1 Indemnification by Contractor. To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property, including the loss of use resulting therefrom. The indemnity includes but is not limited to: 1) liability arising in whole or in part by any action or omission, negligent or otherwise, of the CONTRACTOR, its employees, agents or volunteers or CONTRACTOR's subcontractors and their employees, agents or volunteers; or 2) liability directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) liability based upon the CONTRACTOR'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the CONTRACTOR shall

not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the CONTRACTOR shall not be limited in any way by the Washington State Industrial Insurance Act RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the CONTRACTOR hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTY to enter into the Contract, are reflected in the CONTRACTOR's compensation, and have been mutually negotiated by the parties.

Participation County – No Waiver. The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of CONTRACTOR's indemnity obligations under the Contract.

Survival of Contractor's Indemnity Obligations. The CONTRACTOR agrees all CONTRACTOR's indemnity obligations shall survive the completion, expiration or termination of this Contract.

7. INSURANCE

Without limiting the CONTRACTOR'S indemnification of COUNTY, and prior to commencement of this Contract, CONTRACTOR shall obtain, provide and maintain during the term of this Contract, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.

7.1 General Liability Insurance. CONTRACTOR shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

7.2 Professional Liability (Errors & Omissions) Insurance. CONTRACTOR shall maintain professional liability insurance that covers the services to be performed in connection with this Contract, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and CONTRACTOR agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Contract.

7.3 Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Contract shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONTRACTOR or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONTRACTOR hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

The CONTRACTOR shall provide the COUNTY with properly executed certificate of insurance and provide a policy endorsement naming the COUNTY as an

additional insured. CONTRACTOR agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that CONTRACTOR's liability insurance policy shall so state.

8. ATTORNEY'S FEES/COST OF SUIT AND VENUE

If either party files suit to enforce this Contract, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.

8.1 Disputes. Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due CONTRACTOR shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.

8.2 Choice of Law, Jurisdiction and Venue. This Contract has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

8.3 Severability. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

9. PUBLIC RECORDS ACT

This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records

then in the custody of the CONTRACTOR are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the CONTRACTOR agrees to make them promptly available to the COUNTY. If the CONTRACTOR considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the CONTRACTOR shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the CONTRACTOR and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify the CONTRACTOR (a) of the request and (b) of the date that such information will be released to the requester unless the CONTRACTOR obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the CONTRACTOR fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of the CONTRACTOR to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the CONTRACTOR for releasing records not clearly identified by the CONTRACTOR as confidential or proprietary. The COUNTY shall not be liable to the CONTRACTOR for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

CONTRACTOR agrees to indemnify and, to the greatest extent legally possible, to hold harmless the COUNTY in any action by a third party due to the negligence, recklessness or intentional actions by the CONTRACTOR relating to its performance of this contract. This includes any lawsuit filed by a third party for the COUNTY's allegedly improper release of confidential or proprietary information pursuant to a public records request.

CONTRACT PROVISIONS

Payments due to the Provider/Contractor under this Agreement are expressly conditioned upon the Provider's/Contractor's strict compliance with all insurance requirements under this Agreement. Payment to the Provider/Contractor shall be suspended in the event of non-compliance. Upon receipt of evidence of full compliance, payments not otherwise subject to withholding or set-off will be released to the Provider/Contractor."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year as signed below. Contract offering is valid for a period of 90 days from date first above written.

Agreed to and accepted by:

The Contractor

Leonard Taylor

Leonard Taylor, Manager
A+ Design & Consulting, LLC

The Client

(print) _____

on behalf of _____

Dated: 9/22/2022

Dated: _____