VENTURA PORT DISTRICT

REQUEST FOR PROPOSALS

GENERAL COUNSEL LEGAL SERVICES

Monday, October 12, 2026

Proposal Due Date: Monday, November 23, 2026

Ventura Port District
1603 Anchors Way Drive
Ventura, CA 93001

Attn: Brian D. Pendleton,
General Manager

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I. INTRODUCTION

The Ventura Port District (District) invites qualified attorneys or law firms to submit proposals and statements of qualifications to provide General Counsel Legal Services. The District seeks an experienced legal advisor with demonstrated expertise in California special districts, harbor and port law, public agency governance, and the California Harbors & Navigation Code.

This solicitation is issued pursuant to the authority granted to special districts under Government Code § 53060, allowing engagement of legal services as "special services" requiring specialized training, experience, and competence. The District is an independent special district formed under California Harbors & Navigation Code § 6200 et seq.

The purpose of this Request for Proposals (RFP) is to identify the most qualified legal counsel to advise and represent the District, its Board of Commissioners, and staff on a broad range of legal matters.

II. ABOUT THE VENTURA PORT DISTRICT

The District is a California independent special district, responsible for its own finances. It was established under Harbors & Navigation Code §6200 et seq. to manage, operate, and maintain the harbor, tidelands, beaches, piers, moorings, launch facilities, and related coastal infrastructure at the District. The District is governed by a publicly appointed Board of Port Commissioners that sets policy direction and provides oversight for all District activities. The Ventura City Council appoints the Commissioners. The Commissioners appoint a General Manager to manage the District.

Mission & Responsibilities

The District is responsible for ensuring safe, efficient, and sustainable harbor operations while preserving public access to coastal resources. Core service areas include:

- Harbor operations and facilities management
- Harbor Patrol and Beach Safety operations
- Commercial Fishing Facilities Management, including Marina, commercial fish pier, and landside offloading operations
- Shopping center property management and lease administration
- Master lease administration with privately managed marinas, boatyards, vessel fueling, apartments, mobile homes, hotels, and timeshare
- Coastal, environmental, and regulatory compliance
- Maintenance, repair, and improvement of critical harbor infrastructure
- Public access, beach management, visitor services, and community programs
- Tidelands leases, concessions, and other commercial agreements

In fulfilling its mission, the District collaborates with numerous partner agencies, including the California Coastal Commission, State Lands Commission, U.S. Army Corps of Engineers, the City of Ventura, and the County of Ventura.

Organizational Structure & Staffing
The District operates with professional, multi-disciplinary staff responsible for harbor patrol, maintenance, administration, concessions oversight, and public services. There are approximately 53 full-time and part-time employees, which will be supplemented beginning in 2027 by seasonal lifeguards. Staffing levels vary year-to-year based on operational and seasonal needs.

Financial Overview
The District maintains an annual operating and capital budget that supports harbor operations, public safety, environmental compliance, and long-term capital improvements.

For the FY 2026–27 Budget, the District anticipates:

- Operating revenue: approximately $13.4 million
- Non-operating revenue (including property taxes): approximately $2.6 million
- Operating expenditures: approximately $12.8 million
- Capital and major maintenance projects: approximately $8 Million

Revenue sources include master leases, shopping center leases, mooring fees, paid parking, dry storage fees, facility rental fees, and property tax allocations. The District currently maintains an unrestricted operational reserve fund, a restricted capital improvement reserve fund, and a restricted dredging reserve fund in accordance with Board-adopted financial policies to ensure operational stability and long-term sustainability.

III. SCOPE OF SERVICES

The selected General Counsel shall provide comprehensive legal services to the District, including but not limited to the following:

1. Governance, Board & General Manager Support, & General Counsel Duties

- Have a high level of familiarity with the government codes related to the operations of a California Independent Special District and the Harbors and Navigation Code related to the District.
- Provide legal representation and advice to the Board of Port Commissioners, General Manager and staff on all matters of law related to District operations.
- Attend in-person all regular and special Board meetings (typically 20 per year), workshops, and closed sessions, and advise on parliamentary procedure, the Ralph M. Brown Act, Public Records Act, conflict-of-interest laws, and ethics requirements.
- Prepare or review resolutions, ordinances, policies, contracts, deeds, leases, permits, licenses, prospective tenant financials, Memorandum of Understandings with outside agencies and other legal documents.
- Prepare legal opinions for the Board’s consideration of issues, as requested.

- Be readily available for consultation and provide timely written or verbal legal opinions as requested. Contacts and communications are generally made by email or telephone and next day response is typically expected; earlier or later response timeline will be communicated when the contact is made.
- Provide training to the Board annually on compliance with the Brown Act.
- Assist District staff in coordinating and managing services and costs of additional or special legal counsel within budgetary limits, as approved by the Board.
- Research and interpret laws, court decisions, and other legal authorities in order to advise the Board and District staff on legal matters pertaining to District operations.
- Perform other legal duties as may be required by the District as may be necessary to complete the performance and functions mentioned above.

2. Contracts, Real Property & Tidelands

- Draft, review, and negotiate commercial leases, concession agreements, tidelands permits, licenses, and other real-property transactions.
- Advise on compliance with the California Harbors & Navigation Code, State Lands Commission requirements, Coastal Commission permitting, and other applicable regulatory frameworks.

3. Regulatory, Environmental & Coastal Law

- Provide legal guidance on CEQA, NEPA, Coastal Act compliance, environmental review, coastal permitting, and coordination with state and federal agencies.
- Advise on maritime, harbor operations, mooring, vessel, and public-access matters under the Harbors & Navigation Code.

4. Litigation, Claims & Risk Management

- Investigate and manage claims and complaints by or against the District.
- Represent the District, its Commissioners, officers, General Manager and employees in legal proceedings when required, or coordinate with outside litigation counsel when specialized expertise is needed. The District currently utilizes outside legal services: Libert Cassidy Whitmore (LCW), human resources; K&L Gates, coastal entitlements; California Joint Powers Insurance Authority (CJPIA), workers compensation; CPJIA and Alliant Insurance, claims.
- Support enforcement of District ordinances, including citations, infractions, and administrative actions.
- Provide risk management recommendations to reduce legal exposure of the District in various matters.

5. Legal Oversight & Specialized Advice

- Oversee and manage the District's legal affairs to ensure compliance with all applicable laws and protection of District interests.
- Provide complex or extended legal opinions as needed.

- Recommend and assist in the selection or management of outside counsel for specialized or complex matters.
- Provide periodic legal training or educational sessions for the Board and staff, as requested.

6. Availability & Administrative Requirements

- Maintain appropriate availability to support District operations, including prompt response to urgent legal matters.
- Provide temporary or backup counsel during any unavoidable absence of the lead attorney.
- Upon request, provide cost estimates for specific tasks or matters before work is initiated.
- Provide separated billing statements for portions of work that are reimbursable by District business partners (such as tenants for lease transactions).
- Submit detailed monthly invoices.

IV. MINIMUM QUALIFICATIONS

Respondents must demonstrate:

1. Active membership in good standing with the State Bar of California.
2. Minimum ten (10) years of experience advising public agencies, special districts, or harbor/port entities.
3. Working knowledge of:
    - California Harbors & Navigation Code
    - Brown Act, Public Records Act, Political Reform Act
    - Tidelands, leasing, and coastal regulatory frameworks
4. Experience attending public board meetings and advising governing bodies.
5. Ability to respond rapidly to urgent legal issues.
6. No conflicts of interest that would impair representation of the District.
7. Familiarity with Ventura County, City and / or Port District.

V. RFP PROCESS AND TIMELINE

RFP Timeline

October 12, 2026	Publication of RFP
October 26, 2026	Deadline to submit RFP Questions to District
November 3, 2026	District publishes answers to RFP Questions
November 23, 2026	Closing Date - Proposal submission deadline (5PM PDT)
December 7, 2026	Interviews with invited candidates
January 20, 2027	Commission meeting to consider recommended firm

Note: This schedule is subject to change. The District will endeavor to keep proposers apprised of changes as they occur.

Questions and Requests for Clarification

- Questions regarding this RFP shall be submitted in writing to the District Clerk (jrauch@venturaharbor.com) no later than the date and time identified in the RFP timeline above.

- To ensure a fair procurement process, proposers shall not communicate directly with District Commissioners, officers, employees, or consultants regarding this RFP, except through the District's Clerk and/or General Manager. Unauthorized communications may result in disqualification from further consideration.

- Responses to questions that materially affect the solicitation will be issued through a written addendum and provided to all known prospective proposers and posted on the District's procurement webpage. Oral statements, interpretations, or clarifications by District personnel shall not be binding upon the District.

- The District reserves the right to decline to respond to questions received after the deadline identified in the RFP Schedule.

- Proposers are responsible for reviewing all addenda issued by the District and incorporating such information into their proposals. Failure to acknowledge or comply with any addenda may result in the proposal being deemed non-responsive.

VI. SUBMISSION INSTRUCTIONS

Proposals must be responsive to all questions and requirements outlined in this RFP. All materials submitted may be incorporated into the final agreement with the District.

Proposals must be received by the Clerk of the Board, Jessica Rauch, electronically by 5:00PM PST Monday, November 23, 2026. Email: jrauch@venturaharbor.com Please address the cover letter Attn: Brian Pendleton, General Manager.

Responses to this RFP not received by the time and date specified and do not contain all the required information, may be deemed non-responsive and may be rejected without further consideration. The Board of Port Commissioners of the Ventura Port District reserves the right to reject any and all proposals at its sole discretion.

VII. PROPOSAL CONTENT REQUIREMENTS

Respondents shall submit a complete electronic proposal (PDF) organized using the section headings below. Proposals must provide specific, succinct responses and remain valid for 90 days.

1. Cover Letter

- Signed by an authorized representative.
- Include firm name, address, primary contact, phone number, and email.
- Identify the individual(s) authorized to represent the firm.

2. Summary

- Introduce the proposal and summarize the key provisions of the proposal.
- Based on your firm's expertise and qualifications, explain why your firm is best suited to provide the services described herein

3. Qualifications & Firm Background

- Overview of the firm's history, structure, and years of practice.
- Description of firm and/or staff experience representing public agencies, including any harbor, port, coastal, or special district clients.
- Summary of litigation, administrative hearing, and regulatory experience.
- Office location(s) that will serve the District.

4. Proposed Attorney Team

- Identification of proposed General Counsel and any Assistant/Deputy Counsel.
- Résumés for lead and key attorneys, including bar admission, education, professional background, areas of expertise, and relevant public-sector experience.
- Résumés for special assignment attorneys, such as litigation specialists, contract specialists, or other disciplines as deemed relevant to this RFP.
- Staffing plan and organizational chart, including other personnel expected to support District work.

5. Approach to Legal Services

- Description of the firm's service philosophy and approach to representing the District.
- Expected interaction with the Board, District Manager, and staff.
- Process for keeping the District informed on ongoing legal matters, including litigation.
- Typical response times and availability for Board meetings (in-person). The District will require that attorneys be available for consultation at short notice and possibly during off-hours. On occasion, the District may need materials produced within a short time frame (less than 24 hours).
- Methods for managing, tracking, and controlling legal fees and costs.
- Approach to identifying risks, emerging legal issues, or proactive advisories.
- If the proposed attorney team is not local to Ventura County, the strategy for consistent in-person attendance at Board meetings.
- Strategy for how to assume the responsibilities for legal services from the incumbent firm (if applicable).
- Describe firm's capability to use AI for research, reviews, etc. to improve productivity and efficiency while also balancing accuracy.

6. Understanding of Scope of Services

- Statement demonstrating understanding of the legal services required.
- Identification of any relevant services the firm cannot provide.
- Brief description of the firm's relevant experience with Harbors & Navigation Code, Brown Act and other public agency requirements, public contracting and procurement, employment law, real estate law and transactions, CEQA, NEPA and environmental law in general, and other specialized areas applicable to the District.

7. Representative Work Examples

- Three samples of written communication (e.g., legal memo to a governing body, recommendations regarding real estate transactions, recommendations on contracting, etc.) prepared within the last five years with privileged information redacted as needed.

8. References & Conflicts of Interest

- Contact information for at least three public-agency references, preferably including one or more special districts, if any, served within the last five years by proposed counsel. The District reserves the right to contact any of the references provided.
- Disclosure of any current public-agency clients that may present actual or potential conflicts of interest, and how such conflicts would be managed.
- List of private clients (e.g., developers, contractors) that could create potential conflicts.

- Disclosure of any contract terminations, adverse case outcomes, malpractice claims, or State Bar complaints, or similar matters involving your firm within the past (5) five years, if any.
- Disclosure of any pending litigation against your firm.

9. Fee Schedule

- Proposed billing rates for all personnel and/or any proposed retainer or fixed fee structure. **The District requires that a fixed fee structure be part of the proposal. Billing rates must be valid for no less than 12 months from approval of a professional services agreement.**
- Description of billing practices and reimbursable expenses.
- Confirmation that travel time to the District will not be billed.
- Description of how rate adjustments would be requested over time.

10. Agreement Acknowledgment

- Statement acknowledging the District's intent to enter into its standard legal services agreement, including termination provisions, billing standards, and requirement that each party bears its own attorney's fees in disputes.

11. Additional Information

- Optional section for any information that distinguishes the firm or supports its qualifications.
- Identify any other related qualifications and information not specified in this RFP which the firm may consider to be essential and relevant to the District.

VIII. EVALUATION CRITERIA

A selection panel will review all proposals, conduct interviews with top-ranked firms (if deemed necessary), and recommend the firm best qualified to provide General Counsel services. Final selection is subject to approval by the Ventura Port District Board of Port Commissioners.

Evaluation Criteria

The Evaluation Committee will review proposals based on the criteria identified below. The District reserves the right to determine the relative importance of each criterion, request clarifications, conduct interviews, verify references, and negotiate with the highest-ranked proposer(s). Selection will not be based solely on cost but on the proposal determined to provide the best overall value and qualifications to meet the District's legal service needs.

Proposals will be evaluated using the following factors:

1. **Public Agency, Special District & Port/Harbor District Experience**
   Includes experience with California Harbor or Port Districts and Authorities and local government agencies.

2. **Relevant Regulatory & Area of Law Expertise**
   Experience with the Harbors & Navigation Code, Coastal Act, CEQA, NEPA, relevant federal water resource law and regulation, public contracting and procurement, employment law, real estate law, environmental law, and other relevant statutes.
3. **Qualifications of Proposed Attorney(s)**
   Depth, breadth, and relevance of legal expertise; communication skills; and experience working with governing bodies and public agencies.
4. **Responsiveness, Approach, and Service Capacity**
   Quality and clarity of proposal; ability to meet District needs; availability for meetings; and demonstrated service philosophy.
5. **Cost of Services**
   Proposed fee schedule, billing structure, and overall value proposition to the District.
6. **References and Past Performance**
   Feedback from public-agency clients and demonstrated success in comparable representations.

IX. CONTRACT REQUIREMENTS

The selected Proposer will be required to enter into a Professional Services Agreement (see attached) that includes:

- Required insurance (general liability, professional liability, workers' compensation)
- Conflict-of-interest compliance (Gov. Code § 1090, § 87100 et seq.)
- Confidentiality provisions
- Term not to exceed 3 years

X. GENERAL CONDITIONS

1. Public Records

Proposals submitted in response to this RFP are subject to disclosure under the California Public Records Act (Government Code section 7920 et seq.). If a proposer believes any portion of its proposal contains confidential or proprietary information exempt from disclosure, the proposer shall clearly identify such information and provide the legal basis for the claimed exemption. The District will evaluate such requests in accordance with applicable law but cannot guarantee confidentiality.

2. Question and Request for Clarification

Questions regarding this RFP shall be submitted in writing to the District's Clerk and/or General Manager by the deadline identified in the RFP timeline.

3. Addenda

The District reserves the right to amend, revise, or clarify this RFP through written addenda. It is the responsibility of each proposer to monitor the District's procurement

website and acknowledge receipt of all addenda issued prior to the proposal submission deadline.

4. Request for Additional Information

The District reserves the right to request clarification, additional information, references, or interviews from any proposer during the evaluation process. Such requests shall not constitute negotiations or an obligation to award a contract.

5. Reservation of Rights

The District reserves the right to reject any or all proposals, waive minor irregularities or informalities, request additional information, cancel or modify the RFP process at any time, issue addenda, conduct interviews, negotiate with the highest-ranked proposer(s), and award a contract based solely on the written proposals or following interviews, whichever is determined to be in the District's best interest.

6. Prime Responsibility

The selected proposer assume full responsibility for the performance of all services described in its proposal and the resulting agreement, whether performed directly by the proposer or through approved subcontractors, consultants, or other third parties.

The selected proposer shall serve as the District's single point of contact for all contractual matters and shall be fully responsible for the management, coordination, quality, and timely completion of all services, including the payment of all subcontractors, consultants, and other parties engaged by the proposer.

The selected proposer shall not assign, transfer, or subcontract any material portion of the services without the District's prior written approval, except for specialized legal services or subject matter experts identified in the proposal or otherwise authorized in writing by the District.

7. No Obligation to Award

Issuance of this RFP does not obligate the District to award a contract or to reimburse any proposer for costs incurred in preparing or submitting a proposal.

8. Proposal Preparation Costs

All costs associated with the preparation, submission, interviews, presentations, and participation in the selection process shall be the sole responsibility of the proposer.

9. Proposal Validity

Proposals shall remain valid for a period of ninety (90) calendar days following the proposal submission deadline unless otherwise agreed to by the proposer.

10. Authorized Signature

Each proposal shall be signed by an individual authorized to legally bind the proposer and enter into contractual obligations on behalf of the firm.

11. Non-Exclusive Agreement

Any agreement resulting from this RFP shall be non-exclusive. The District reserves the right to obtain legal services from other attorneys or law firms when it determines such services are in the District's best interest, including, but not limited to, matters requiring specialized legal expertise, conflicts of interest, litigation, or other circumstances deemed appropriate by the District.

The District also reserves the right to award contracts to one or more qualified proposers, or to make no award, if it determines such action to be in the best interest of the District.

Selection of a proposer under this RFP shall not be construed as a guarantee of any minimum amount of work, compensation, or exclusive right to provide legal services to the District.

12. Ownership of Proposal Materials

All proposals, supporting documentation, and materials submitted in response to this RFP shall become the property of the District upon submission and will not be returned.

13. Exception to the RFP

Any exceptions, deviations, or requested modifications to the requirements of this RFP shall be clearly identified in the proposal. Failure to identify exceptions may be interpreted as acceptance of the requirements contained in this RFP.

14. Conflict of Interest

Proposers shall disclose any actual or potential conflicts of interest that may affect their ability to provide the requested services or represent the District. The District reserves the right to determine whether any disclosed conflict is material to the procurement or subsequent contract performance.

15. Communications During the Solicitation

From the date this RFP is issued until a contract is awarded, proposers shall direct all communications regarding this solicitation solely to the District's Clerk and/or General Manaager unless otherwise authorized by the District. Unauthorized communications with District Board Members or staff regarding this solicitation may result in disqualification.

16. Negotiation of Agreement

The District reserves the right to negotiate the final scope of services, compensation, and contract terms with the highest-ranked proposer prior to contract award. If negotiations are unsuccessful, the District may terminate negotiations and proceed with the next highest-ranked proposer.

17. Protest of Award

Any proposer who wishes to protest the District's recommended contract award shall submit a written protest to the District Clerk (jrauch@venturaharbor.com) within five (5) business days following the issuance of the Notice of Intent to Award.

ATTACHMENT 1 – Ventura Port District Professional Services Agreement

VENTURA PORT DISTRICT
PROFESSIONAL SERVICE AGREEMENT
WITH
[_____]

[NOTE: This Agreement applies to professional service consultants (e.g., arborists, real estate agents, general consultants, etc.). If the professional service consultant is a *design professional* (design professionals include licensed architects, licensed landscape architects, registered professional engineers, and licensed professional land surveyors), use the template for design professionals.] *Please remove after reading*.

This PROFESSIONAL SERVICE AGREEMENT (this "Agreement") is made and effective as of July 1, 2024 (the "Effective Date") by and between the VENTURA PORT District ("District"), an Independent Special District, and [Name] ("Consultant"), a [sole proprietorship, partnership, limited liability partnership, corporation].

RECITALS

A. The District desires to retain the services of an experienced and qualified consultant to provide [describe services].

B. Consultant represents and warrants that it is specially trained, experienced, and qualified to perform the special services which will be required by this Agreement.

Accordingly, in consideration of the mutual covenants and conditions set forth herein, and incorporating the representations in the recitals above, the parties therefore agree as follows:

AGREEMENT

1. SERVICES

Consultant shall perform the tasks and services described in **Exhibit A** according to the schedule of performance which is also set forth in Exhibit A. Consultant warrants that all work and services set forth in Exhibit A will be performed in a competent, professional, and satisfactory manner. To the extent that Exhibit A is a proposal from Consultant, such proposal is incorporated only for the description of the scope of services and no other terms and conditions from any such proposal shall apply to this Agreement unless specifically agreed to by the parties in writing.

2. TERM

Unless terminated earlier in accordance with this Agreement's terms, this Agreement will continue in full force and effect from the Effective Date through June 30, 2029. Vendor shall not perform any work under this Agreement until Vendor furnishes proof of insurance as required under Section 13 (Insurance) of this Agreement.

3. PERFORMANCE

Consultant shall at all times faithfully, competently, and to the best of its ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. USE OF TERM "DISTRICT"

Reference to "District" in this Agreement includes the General Manager or any authorized representative acting on behalf of District.

5. DISTRICT REPRESENTATIVE

DISTRICT's [Title] ("Representative") shall (i) represent the District in all matters pertaining to the administration of this Agreement; (ii) review and approve all decisions, requests, and proposals submitted by Consultant; and (iii) be authorized to act on District's behalf and to execute all necessary documents which enlarge the work and services to be performed under this Agreement, including changing Consultant's compensation, subject to any necessary approvals from the District's governing board. Whenever approval, directions, or other actions are required by the District under this Agreement, those actions will be taken by Representative, unless otherwise stated. The District's General Manager has the right to designate another District representative at any time by providing notice to Consultant.

6. CONSULTANT REPRESENTATIVE(S)

Consultant's [Name(s)] are/is designated as being the principal(s) and representative(s) of Consultant authorized to act on its behalf with respect to the services specified in this Agreement and make all decisions in connection with this Agreement. Consultant shall not change the designated representatives without prior written consent of the District.

7. PAYMENT

A. District agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in **Exhibit B**, based upon actual time spent on the above tasks and services. This amount shall not exceed [Amount] dollars ($__.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by Representative. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by Representative and Consultant at the time District's written authorization is given to Consultant for the performance of said services.

C. Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the District disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within forty-five (45) days of receipt of an invoice therefore.

8. TERMINATION OF AGREEMENT

A. Except as otherwise provided in this Agreement, either party may terminate this Agreement, or any portion hereof, by serving written notice of termination pursuant to Section 19 (Notices) upon the other party at least fifteen (15) days prior to the date of termination. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the District terminates a portion of this Agreement, such termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this section, the District shall pay to Consultant the actual value of the work performed up to the time of termination, less any disputed amounts. Upon termination of the Agreement pursuant to this section, the Consultant will submit an invoice to the District as provided herein within 30 days of receiving the notice to terminate.

9. FORCE MAJEURE

If either party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

10. DEFAULT

A. Either party's failure to comply with the provisions of this Agreement shall constitute a default. If either party is in default for cause under the terms of this Agreement, the affected party shall promptly notify the deficient party of such default and, following such notice, shall have no obligation or duty to continue compensating or providing any work after the date of default and can terminate this Agreement immediately by written notice to the other party. If such failure hereunder arises out of causes beyond either party's control, and without fault or negligence, it shall not be considered a default.

B. If the District's Representative determines the Consultant is in default in the performance of any of the terms or conditions of this Agreement, District shall cause to be served upon the Consultant a written notice of the default pursuant to Section 19 (Notices). The Consultant shall have ten (10) days after receipt of the default notice to cure the default as directed by the District in the notice of default. In the event the Consultant fails to cure its default within such period, the District shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

11. OWNERSHIP OF DOCUMENTS

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by District that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall (i) provide free access to the District at reasonable times to such books and records; (ii) give District the right to examine and audit said books and records; (iii) permit District to make transcripts or copies therefrom as necessary; and (iv) allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained and made available to District if requested for a period of three (3) years after receipt of final payment for the services provided under this Agreement.

B. Upon completion of, or in the event of termination of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed under this Agreement shall become the sole property of the District and may be used, reused, or otherwise disposed of by the District without the permission of the Consultant. With respect to computer files, Consultant shall make available to the District, at the Consultant's office and upon reasonable written request by the District, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to District all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement.

12. INDEMNIFICATION AND DEFENSE

A. Indemnification

To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the District and any and all of its officials, employees, agents, and/or volunteers (collectively, "Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs, caused in whole or in part by the negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of services under this Agreement. Consultant's duty to indemnify and hold harmless the District shall not extend to the District's sole or active negligence or willful misconduct.

B. Duty to Defend

In the event the Indemnified Parties, individually or collectively, are made a party to any action, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by the District, Consultant shall defend the District at Consultant's cost or at the District's option, to reimburse District for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters to the extent the matters arise from, relate to or are caused by Consultant's negligent acts, errors or omissions. Payment by Agency is not a condition precedent to enforcement of this provision. In the event of any dispute between Consultant and the District, as to whether liability arises from the sole or active negligence of the District or its officers, employees, or agents, Consultant will be obligated to pay for District's defense until such time as a final judgment has been entered adjudicating the District as solely or actively negligent or to have acted with willful misconduct. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees, and costs of litigation.

13. INSURANCE

Consultant shall not perform any work or services under this Agreement until Consultant provides proof of all insurance coverage specified in **Exhibit C** to the District.

14. INDEPENDENT CONTRACTOR

A. Consultant will act as an independent contractor and is not an employee, officer, agent, partner, or joint venture of the District by virtue of this Agreement. Consultant agrees that its employees, agents, and representatives performing any services in connection with this Agreement meet all of the following three requirements: (a) they are free from the control and direction of the District; (b) they perform work that is outside the usual course

of the District's business; and (c) they are customarily engaged in Consultant's independently established trade, occupation or business, or they are themselves customarily engaged in an independently established trade, occupation or business relating to the services performed. To the fullest extent provided by law, Consultant agrees to defend, indemnify and hold the District harmless from any and all liability, including but not limited to compensation, benefits, taxes, assessment, penalties, or interest, arising out of any challenge to the independent contractor relationship. Consultant agrees that its employees, agents, and representatives performing any services in connection with this Agreement is not eligible for any compensation or benefits provided to District employees, including but not limited to State Unemployment Compensation or Worker's Compensation coverage. The provisions of this section shall survive the termination or expiration of this Agreement.

B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, District shall not pay salaries, wages, or other compensation to Consultant and/or its employees for performing services hereunder for District. District shall not be liable for compensation or indemnification to Consultant for injury or sickness to its employee(s) arising out of performing services hereunder.

15. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of local, state, and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The District, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

16. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the District in connection with the award, terms, or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the District has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee, or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this section shall be a material breach of this Agreement entitling the District to any and all remedies at law, in equity, or under this Agreement.

17. NO BENEFIT TO ARISE TO DISTRICT EMPLOYEES

During their tenure and for one year thereafter, no member, officer, or employee of District, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the services under this Agreement shall have any interest, direct or indirect, in any Agreement or sub-Agreement, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement.

18. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without the District's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from Representative, or unless requested by the District, voluntarily provide declarations, letters of support, testimony at depositions, response to

interrogatories, or other information concerning the work or services performed under this Agreement or relating to any project or property located within the District. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives the District notice of such court order or subpoena.

B. Consultant shall promptly notify District if Consultant, its officers, employees, agents, or subconsultants are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request (collectively, “Discovery”), court order, or subpoena from any person or party regarding this Agreement and the services performed thereunder or with respect to any project or property located within the District, unless the District is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless Consultant is prohibited by law from informing the District of such Discovery. The District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless District is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the District and to provide the opportunity to review any response to Discovery requests provided by Consultant. However, District's right to review any such response does not imply or mean the right by District to control, direct, or rewrite said response.

[Note: The following paragraph is only to be used when the District will be taking in a fee or deposit from an applicant and use that fund to retain the Consultant to prepare an EIR, specific plan, or some other specific document or where the District is funding a similar development-type study.]

C. Consultant covenants that neither Consultant nor any officer or principal of its firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the District or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any Agreement or Agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the District or the study area prior to the completion of the work under this Agreement.

19. NOTICES

All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

A. **Personal delivery**. When personally delivered to the recipient; notice is effective on delivery.

B. **First Class mail**. When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.

C. **Certified mail**. When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

D. **Overnight delivery**. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account; notice is effective on delivery, if delivery is confirmed by the delivery service. Addresses for purpose of giving notice are as follows:

To District: **VENTURA PORT District**
1603 Anchors Way Drive
Ventura, CA 93001
Attention: DISTRICT CLERK

To Consultant: [NAME]

_____

_____

Attention: [NAME]

E. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

F. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement. Any change in address or fax number that is not provided to the other party will not void delivery of any notice under this Agreement, and delivery to the last known address or fax number shall be deemed sufficient for notice under this Agreement.

20. ASSIGNMENT AND SUBCONSULTANTS

A. Due to the personal nature of the services to be rendered pursuant to this Agreement, only Consultant shall perform the services described in this Agreement, and Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the District.

B. Before Consultant retains or hires a subcontractor, subconsultant, subconsultant, or any other party who is brought into or involved in the services by Consultant (collectively, "Subconsultant") to provide any work, labor, or services relative to this Agreement, Consultant must: (i) present the name and identifying information of the subconsultant that will provide any work, labor, or services to District; (ii) present to the District the subcontract or form of subcontract that will be used with the subconsultant if asked by District. Such subcontract Agreement must include an indemnity Agreement that is generally in accord with the indemnity obligations contained herein of this Agreement and must specifically name the District as an indemnified party; (iii) secure from the subconsultant evidence of insurance coverage that meets with this Agreement including naming the District as an additional insured as required by this Agreement, unless such requirement is waived in writing by the District as provided herein below.

C. If an approved Subconsultant is retained by Consultant during the Agreement's term, Consultant shall provide District fourteen (14) days' notice prior to the departure of that Subconsultant from Consultant's employ. Should any Subconsultant leave Consultant's employ, the District shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement under this section, Consultant's sole compensation shall be payment for actual services

performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the District's governing board and Consultant.

D. This Agreement and its exhibits are binding on the heirs, successors, and assigns of the parties.

21. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

22. GOVERNING LAW; JURISDICTION

This Agreement shall be governed by, and any dispute arising hereunder, shall be determined in accordance with, the laws of the State of California, without giving effect to conflict of law principles. Subject to Section 23 (Binding Arbitration), the parties hereto irrevocably submit to the jurisdiction and venue of the state and federal courts sitting in Ventura, California.

23. BINDING ARBITRATION

In the event of any dispute arising out of or related to this Agreement, the parties agree to submit any such dispute to final and **binding** arbitration under the Commercial Rules of the American Arbitration Association. To the fullest extent permitted by law, all disputes between the parties that concern, arise out of or relate to this Agreement, including, but not limited to its enforcement and interpretation (collectively, "Arbitrable Claims"), shall be resolved by arbitration. The laws of the state of California shall govern the arbitration. This provision shall survive termination of this Agreement and is perpetual.

Exclusive Remedy. Arbitration shall be the exclusive remedy for all Arbitrable Claims and shall be final and binding upon the parties subject to the right of any party to appeal to the Superior Court of Ventura County, State of California, to confirm that the arbitration award or decision is consistent with California law. Either party may bring an action in court to compel arbitration under this Agreement and to enforce an arbitration award. Such an action shall be brought in the Superior Court of California for the County of Ventura, which shall have exclusive jurisdiction over such action. Otherwise, neither party shall initiate or prosecute any lawsuit or administrative action in any way related to any Arbitrable Claims. All arbitration hearings under this Agreement shall be conducted at Ventura County, California, unless all parties mutually agree on another location. The interpretation and enforcement of this Agreement to arbitrate shall be governed by the California Arbitration Act, if applicable.

THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY IN REGARD TO ARBITRABLE CLAIMS, INCLUDING WITHOUT LIMITATION, ANY RIGHT TO TRIAL BY JURY AS TO THE MAKING, EXISTENCE, VALIDITY, OR ENFORCEABILITY OF THIS AGREEMENT TO ARBITRATE.

Arbitrator Selection. A single arbitrator shall decide all disputes involving Arbitrable Claims. The arbitrator shall be selected by mutual agreement of the parties within thirty (30) days of the effective date of the notice initiating the arbitration. If the parties cannot agree on an arbitrator, then the complaining party shall notify the American Arbitration Association and request selection of an arbitrator in accordance with the Commercial Arbitration Rules and Mediation Procedures.

Authority of Arbitrator, Discovery and Arbitration Fees. The arbitrator shall have exclusive authority to resolve all Arbitrable Claims, including, but not limited to, any claim that all or any part of this Agreement is void or unenforceable. Parties to arbitration proceedings under this Agreement shall have the right to conduct discovery utilizing all discovery procedures available in civil actions brought in the Superior Court of California. The arbitrator shall issue a written decision and shall have authority to award any remedy or relief available in a civil action. The parties shall equally pay the arbitrator's compensation and administrative fees charged by American Arbitration Association.

24. ATTORNEY'S FEES

Except as provided for herein above, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment, including post-judgment attorney's fees costs and expenses and any attorneys' fees or costs incurred on appeal of any judgment.

25. ENTIRE AGREEMENT; EXHIBITS; AMENDMENTS

This Agreement, and its exhibits, which are incorporated by this reference, represent the entire understanding of the District and Consultant as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

26. INTERPRETATION

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply. The parties each waive all rights they may have or claim under California Civil Code section 1654 on behalf of (i) themselves individually and (ii) their successors and assigns. To the extent there is any conflict or inconsistency between the terms of this Agreement and any exhibit attached to this Agreement, the terms and provisions of this Agreement shall govern and control.

27. COVENANTS AND CONDITIONS

Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

28. TAXPAYER IDENTIFICATION NUMBER

Consultant shall provide District with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. October 2018), as issued by the Internal Revenue Service.

29. NON-APPROPRIATION OF FUNDS

Payments due and payable to Consultant for current services are within the current budget and within an available, unexhausted, and unencumbered appropriation of the District. In the event the District has not appropriated sufficient funds for payment of Consultant services beyond the current fiscal year, this Agreement shall cover only those payments for services incurred up to the conclusion of the current fiscal year.

30. WAIVER OF BREACH

No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

31. CUMULATIVE REMEDIES

All rights and remedies of either party hereto are cumulative of each other and of every other right or remedy such party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent of subsequent exercise of other rights or remedies.

32. SEVERABILITY

If any part of this Agreement is found to be in conflict with applicable laws by an arbitrator or court of competent jurisdiction, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

33. WORK SCHEDULED/TIME OF COMPLETION/LIQUIDATED DAMAGES

District and Consultant agree that time is of the essence in this Agreement. District and Consultant further agree that Consultant's failure to perform on or at the times set forth in this Agreement will constitute default by the Consultant under this Agreement.

34. NON-DEFAMATION AND MUTUAL RESPECT

Each Party agrees to take reasonable steps to refrain from either directly or indirectly, hereafter making any defaming, disparaging, derogatory, misleading or false statement to anyone about the other party (and in the case of Consultant, its employees, officers, directors, agents, Consultants, affiliates, investors or business partners) in any private or public forum.

35. CONFLICT

Consultant hereby certifies that it has no business or contractual relationship with any current member of the District's Board of Port Commissioners (the "Governing Board"):

Michael Blumenberg, Chair
Elizabeth Howell, Vice-Chair
Anthony Rainey, Secretary
Chris Stephens, Commissioner
William Anderson, Commissioner

36. CONSULTANT'S AUTHORITY TO EXECUTE THIS AGREEMENT

Each person executing this Agreement on behalf of the Consultant warrants and represents: (i) the Consultant is duly organized and existing under the appropriate state laws; (ii) they are duly authorized to execute this Agreement on behalf of the Consultant; (iii) by so executing this Agreement, the Consultant is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Consultant is bound.

ATTACHMENT 1

District:	**Consultant:**
VENTURA PORT DISTRICT	[Name of Consultant, LLC, Inc., etc.]
By: _____ Brian D. Pendleton, General Manager	By: _____ Owner's/Officer's Name & Title
Date: _____	Date: _____

Attachments:

Exhibit A	Tasks to Be Performed
Exhibit B	Payment Schedule
Exhibit C	Insurance Requirements

ATTACHMENT 1

EXHIBIT A

TASKS TO BE PERFORMED

ATTACHMENT 1

EXHIBIT B

PAYMENT SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of the District, and prior to commencement of work and/or services under this Agreement, Consultant shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the District.

General liability insurance. Consultant 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. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned, or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the services to be performed in connection with this Agreement, 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 Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (statutory limits) and Employer's Liability insurance (with limits of at least $1,000,000).

Consultant shall submit to The District, along with the certificates of insurance, a Waiver of Subrogation endorsement in favor of The District, its officers, agents, employees, and volunteers.

Umbrella or excess liability insurance. [If required to meet higher limits] Consultant shall obtain and maintain an umbrella liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason, other than bankruptcy or insolvency of said primary insurer;
- "Pay on behalf of" wording as opposed to "reimbursement";
- Concurrency of effective dates with primary policies.

Should Consultant obtain and maintain an excess liability policy, such policy shall be excess over commercial general liability, automobile liability, and employer's liability policies. Such policy or policies shall include wording that the excess liability policy follows the terms and conditions of the underlying policies.

Other provisions or requirements

Proof of insurance. Consultant shall provide certificates of insurance and required endorsements to The District as evidence of the insurance coverage required herein. Insurance certificates and endorsements must be approved by The District's Risk Manager prior to commencement of performance of the work or services to be provided under the Agreement. Current certification of insurance shall be kept on file with The District for the contract period and any additional length of time required thereafter. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the contract period, and any additional length of time required thereafter, insurance against claims for injuries to persons or damages to property, or financial loss which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, employees, or Subconsultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by The District shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of The District before the District's own insurance or self- insurance shall be called upon to protect it as a named insured.

The District's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, The District has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by The District will be promptly reimbursed by Consultant or The District will withhold amounts sufficient to pay premium from Consultant's payments. In the alternative, The District may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the District's Risk Manager.

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

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the District to inform Consultant of non-compliance with any requirement imposes no additional obligations on the District nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver

of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide the District with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage. If any of the Consultant's insurers are unwilling to provide such notice, then Consultant shall have the responsibility of notifying the District immediately in the event of Consultant's failure to renew any of the required insurance coverages, or insurer's cancellation or non-renewal.

Additional insured status. General liability, automobile liability, and umbrella/excess liability insurance policies shall provide or be endorsed to provide that The District and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to The District and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. Consultant agrees to ensure that its Subconsultants, subcontractors, and any other party who is brought onto or involved in the work of services to be performed by Consultant (collectively, "Subcontractors"), provide the same minimum insurance coverage and endorsements required of Consultant under this Agreement. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. However, in the event Consultant's Subcontractors cannot comply with this requirement, which proof must be submitted to the District, Consultant may still be able to utilize the Subcontractors provided Consultant shall be required to ensure that its Subcontractors provide and maintain insurance coverage and endorsements sufficient to the specific risk of exposure involved with Subcontractors' scope of work and services, with limits less than required of the Consultant, but in all other terms consistent with the Consultant's requirements under this Agreement. This provision does not relieve the Consultant of its contractual obligations under the Agreement and/or limit its liability to the amount of insurance coverage provided by its Subcontractors. This provision is intended solely to provide Consultant with the ability to utilize Subcontractors who may be otherwise qualified to perform the work or services but may not carry the same insurance limits as required of the Consultant under this Agreement given the limited scope of work or services provided by the Subcontractors. Consultant agrees that upon request, all Agreements with Subcontractors, and others engaged in the project and/or services, will be submitted to the District for review.

The District's right to revise specifications. The District reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in

substantial additional cost to the Consultant, the District and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by the District. The District reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible, or require proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention through confirmation from the underwriter.

Timely notice of claims. Consultant shall give the District prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.