

**AGREEMENT BETWEEN THE SAN LUIS OBISPO COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND  
THE UPPER SALINAS-LAS TABLAS  
RESOURCE CONSERVATION DISTRICT  
FOR IMPLEMENTATION OF TEMPLETON COMMUNITY CREEK  
STEWARDSHIP AND MAINTENANCE PROGRAM**

This AGREEMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, by and between the SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a political subdivision of the State of California, herein called "District," and the UPPER SALINAS-LAS TABLAS RESOURCE CONSERVATION DISTRICT, a California special local district whose address is 65 S. Main Street, Templeton, CA 93465, herein called "US-LTRCD."

**WHEREAS**, the community of Templeton has a need for creek restoration and maintenance; and

**WHEREAS**, the District desires to address this need by developing a Creek Stewardship and Maintenance Program in the community of Templeton (hereafter, the "Program"); and

**WHEREAS**, the District has need for special services and advice with respect to the services described herein for the Program (the "Project"); and

**WHEREAS**, US-LTRCD warrants that it is specially trained, experienced, expert and competent to perform such special services.

**NOW, THEREFORE**, the parties agree with the above recitals, and hereby further agree as follows:

**ARTICLE 1. Scope of Services.** District hereby engages US-LTRCD to perform, and US-LTRCD hereby agrees to perform for District, the services set forth on Exhibit A, attached hereto and incorporated herein by this reference (hereafter, the "Services"), all pursuant to the terms and conditions hereinafter set forth.

**ARTICLE 2. Compensation.** District shall pay to US-LTRCD as compensation in full for all Services required by this Agreement a sum not to exceed \$15,700. The US-LTRCD's compensation shall be based on actual services performed and costs incurred as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

**ARTICLE 3. Effective Date and Duration.** The effective date and duration of this Agreement shall be as specified on Exhibit C, attached hereto and incorporated herein by this reference.

**ARTICLE 4. Administration.** The San Luis Obispo County (hereafter, the "County") department responsible for administering this Agreement is the Department of Public Works, and all written communications hereunder with the District shall be addressed to the County Department of Public Works.

**ARTICLE 5. General Conditions.** District and US-LTRCD shall comply with the General Conditions, attached hereto as Exhibit D and incorporated herein by this reference.

**ARTICLE 6. Special Conditions.** District and US-LTRCD shall comply with the Special Conditions attached hereto as Exhibit E and incorporated herein by this reference. In the event of a conflict between the provisions of the General Conditions and the Special Conditions, the provisions of the Special Conditions shall be controlling.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the San Luis Obispo County Flood Control and Water Conservation District.

<p><b>SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</b></p> <p>By: _____          Chairperson of the Board          San Luis Obispo County Flood Control and Water Conservation District, State of California</p> <p>Date: _____, 20__</p>	<p><b>UPPER SALINAS-LAS TABLAS RESOURCE CONSERVATION DISTRICT</b></p> <p>By: <u>SS - Dent</u>          Executive Director          Upper Salinas-Las Tablas Resource Conservation District</p> <p>Date: <u>4/1</u>, 20<u>15</u></p>
<p><b>APPROVED AS TO FORM AND LEGAL EFFECT:</b>          RITA L. NEAL</p> <p>County Counsel</p> <p>By: <u>[Signature]</u>          Assistant County Counsel</p> <p>Date: <u>3-31</u>, 20<u>15</u></p>	<p><b>APPROVED AS TO FORM AND LEGAL EFFECT:</b>          RITA L. NEAL</p> <p>County Counsel</p> <p>By: <u>[Signature]</u>          Deputy County Counsel</p> <p>Date: <u>3-30</u>, 20<u>15</u></p>
<p><b>ATTEST:</b></p> <p>_____  <b>County Clerk and Ex-Officio Clerk of the Board of Supervisors, County of San Luis Obispo, State of California</b></p> <p>Date: _____, 20__</p>	

## **EXHIBIT A SCOPE OF SERVICES**

The goal of the Program is to engage community members in a volunteer creek stewardship program that supports ecosystem services while providing greater ease of storm-water flow during peak season storms. To fulfill this goal, the US-LTRCD shall be responsible for completing the following tasks:

- A. Community Outreach
  - 1. Conduct outreach and assemble volunteer teams for specific areas
  - 2. Attend community meetings to make presentations about the Program and attract additional volunteer groups
  
- B. Provide Outreach Support to Community Groups
  - 1. Develop, print and distribute technical and promotional print materials to support outreach of volunteer groups (maps, flyers, instructions, etc.)
  - 2. Provide meeting space for team meetings
  - 3. Provide space on US-LTRCD website to track creek maintenance progress and goal achievements
  
- C. Volunteer Engagement & Leadership
  - 1. Continue outreach to identify volunteer leaders for creek stewardship groups
  - 2. Act as an information and support hub for team leaders
  - 3. Convene volunteer leaders and facilitate Program goals and objectives; facilitate stewardship task identification/specific goals for each stewardship group; and empower group leaders to amass more volunteers to support stream work in their priority areas (as applicable)
  
- D. Support leaders in creek improvement projects by helping them coordinate focused stream management events; support leaders with creek management oversight, offer technical advice and support, project maps, and biophysical information support
  
- E. Project Education & Leadership
  - 1. Educate new volunteer groups by coordinating a hands-on safety (and regulatory understanding) workshop prior to the first stream management day; oversee management effort to ensure proper safety and regulatory processes are followed and to support stewardship leaders
  
- F. Continue to Develop Adopt-A-Creek Stewardship Program
  - 1. Continue to develop a pilot Adopt-a-Creek Stewardship program that will be implemented in Templeton and can be utilized in communities throughout the County; the program will be based on other successful, Western U.S. Adopt-a-Creek programs
  - 2. Design, create and disperse marketing materials for the Adopt-a-Creek program including posters, flyers and brochures which will be used to promote the program
  
- G. Ongoing Stewardship Support
  - 1. Provide ongoing stream of creative outreach ideas to support teams and connect groups with additional volunteers and other facilitated sponsorship connections when applicable

2. Develop, print and distribute outreach material for landowners along Toad Creek to become "Creek Stewards"
- H. Stream Projects Tracking and Monitoring
1. Maintain a tracking system of all creek work being done on projects (# of volunteers, feet of creek management conducted, issues, permits, days conducted, etc.)
- I. Periodic Reporting
1. Report Adopt-A-Creek Stewardship program updates to County at regular intervals to inform the County about actions taken toward flood control matters

## **EXHIBIT B COMPENSATION**

### **1. COMPENSATION**

- A. The estimated cost for the Services is \$15,700.
- B. The rate of compensation for all Services performed hereunder shall be \$45 per hour for all US-LTRCD staff and \$85 per hour for all subcontractors.
- C. US-LTRCD shall remain an independent contractor and not an employee even though the rate of compensation is expressed in terms of hourly services.

### **2. BILLING**

- A. US-LTRCD shall submit monthly invoices on or before the 7<sup>th</sup> day following the month in which Services were rendered and the District shall pay all invoices by the 15<sup>th</sup> day of the following month.
- B. The invoices shall detail the number of hours worked during the previous calendar month, a brief description of the Services performed, the total amount invoiced for the current billing period and the total amount invoiced as of the date of the invoice.

**EXHIBIT C**  
**EFFECTIVE DATE AND DURATION**

1. **EFFECTIVE DATE.** This Agreement shall be effective as of the date this Agreement is signed by the District.
2. **SERVICE DATE.** Services shall commence after the Effective Date and the US-LTRCD has submitted any insurance and other documents that may be required under this Agreement, and shall end upon the Duration Date, as defined below.
3. **DURATION DATE.** This Contract shall remain in effect for two (2) years, commencing on the Effective Date.

## EXHIBIT D GENERAL CONDITIONS

1. **NON-ASSIGNMENT OF AGREEMENT.** Inasmuch as this Agreement is intended to secure the specialized services of US-LTRCD, US-LTRCD may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of District and any such assignment, transfer, delegation, or sublease without the District's prior written consent shall be considered null and void.
2. **INSURANCE.** US-LTRCD shall procure the following required insurance coverages at its sole cost and expense and maintain in full force and effect for the period covered by this Agreement such insurance. All insurance coverages are to be placed with insurers which 1) have a Best's rating of no less than B+VIII, and 2) are admitted insurance companies in the State of California.
  - A. **Comprehensive General Liability (CGL):** US-LTRCD shall maintain in full force and effect, for the period covered by this Agreement, Comprehensive General Liability insurance with limits of liability of not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, property damage, and automobile coverage in the total amount of \$1,000,000; and include the following coverages:
    1. Personal Injury and Bodily Injury, including death resulting therefrom.
    2. Property Damage.
    3. Automobile coverage which shall include owned and non-owned vehicles.
    4. The following endorsements must be provided in the CGL policy:
      - a. If the insurance policy covers on an accident basis, it must be changed to occurrence.
      - b. The policy must cover personal injury as well as bodily injury.
      - c. Blanket contractual liability must be afforded and the policy must contain a cross liability or severability of interest endorsement.
      - d. The District and the County, their officers, employees, and agents shall be named insureds under the policy, and the policy shall provide that the insurance will operate as primary insurance. No other insurance effected by the District or County, whether commercial or self-insurance, will be called upon to contribute to a loss hereunder. Nothing contained in this Agreement shall be construed to require US-LTRCD's insurance to indemnify District or County in contravention of Insurance Code 11580.04.
  - B. **Worker's Compensation Insurance:** In accordance with the provisions of Section 3700 of the Labor Code, US-LTRCD, if US-LTRCD has any employees, is required to be insured against liability for Worker's Compensation or to undertake self-insurance. US-LTRCD agrees to comply with such provisions before commencing the performance of any of the Services described hereunder.
  - C. The following requirements apply to all insurance to be provided by US-LTRCD:
    1. A certificate of insurance shall be furnished to District prior to commencement of work. Upon request by the District, US-LTRCD shall provide a certified copy of any insurance policy to the District within ten (10) working days.
    2. Certificates and policies shall state that the policies shall not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to District.
    3. Approval of the insurance by District shall not relieve or decrease the extent to which the US-LTRCD may be held responsible for payment of damages resulting from US-LTRCD's services or operations pursuant to this Agreement.
    4. The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation

stated in this Agreement includes compensation for the risks transferred to US-LTRCD by the indemnification and insurance clauses.

**3. INDEMNIFICATION.** US-LTRCD shall defend, indemnify and hold harmless the District and County, their officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities or other losses that may be asserted by any person or entity, and that arise out of or are made in connection with the acts or omissions relating to the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the District or County, their officers and employees. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the District or County, their officers and employees.

The preceding paragraph applies to any theory of recovery relating to said act or omission, by US-LTRCD, or its agents, employees, or other independent contractors directly responsible to US-LTRCD including, but not limited to the following:

1. Violation of statute, ordinance, or regulation.
2. Professional malpractice.
3. Willful, intentional or other wrongful acts, or failures to act.
4. Negligence or recklessness.
5. Furnishing of defective or dangerous products.
6. Premises liability.
7. Strict Liability.
8. Violation of civil rights.
9. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when the US-LTRCD is not an independent contractor.

It is the intent of the parties to provide the District and County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Agreement and the remaining language shall be given full force and effect.

4. **INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS.** The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated in this Agreement includes compensation for the risks transferred to US-LTRCD by the indemnification and insurance clauses.
5. **TERMINATION OF AGREEMENT WITHOUT CAUSE.** Either party may terminate this Agreement at any time by giving to the other party thirty (30) days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, US-LTRCD shall be entitled to no further compensation or payment of any type from the District.
6. **TERMINATION OF AGREEMENT FOR CAUSE.** If US-LTRCD fails to perform its duties to the satisfaction of the District, or if US-LTRCD fails to fulfill in a timely and professional manner US-LTRCD's obligations under this Agreement or if US-LTRCD shall violate any of the terms or provisions of this Agreement or if US-LTRCD, US-LTRCD's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the District, then District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to US-LTRCD. Termination

shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. US-LTRCD shall be paid for all work satisfactorily completed prior to the effective date of such termination. If District's termination of the Agreement for cause is defective for any reason, including but not limited to District's reliance on erroneous facts concerning US-LTRCD's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the District's written notice of termination for cause to US-LTRCD, and the District's maximum liability shall not exceed the amount payable to US-LTRCD under Article 2 above.

7. **COMPLIANCE WITH LAWS.** US-LTRCD shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the work of this Agreement.
8. **COVENANT AGAINST CONTINGENT FEES.** US-LTRCD warrants that it has not employed or retained any company or person, other than a bona fide employee working for US-LTRCD, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, District shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
9. **NONDISCRIMINATION.** US-LTRCD shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Agriculture, Title 7, Code of Federal Regulations, Part 15, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement. US-LTRCD's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the US-LTRCD has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
10. **DISPUTES & CLAIMS.**
  - A. **Notice of Potential Claim.** US-LTRCD shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the District, or for the happening of any event, thing, occurrence, or other cause, unless US-LTRCD has provided the District with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which US-LTRCD believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the District prior to the time that US-LTRCD shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the District, or in all other cases within fifteen (15) calendar days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the District at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. US-LTRCD hereby agrees that it shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the County Director of Public Works.
  - B. **Processing of Actual Claim.** In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the District on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in sections 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring

to any claim relating to this Agreement. US-LTRCD shall not be entitled to any additional compensation unless US-LTRCD has (1) provided the District with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code sections 20104.2 and 20104.4.

- C. Claim is No Excuse. Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the District, shall excuse the US-LTRCD from full and timely performance in accordance with the terms of this Agreement.

**11. US-LTRCD IS AN INDEPENDENT CONTRACTOR.** It is expressly understood that in the performance of the Services herein provided, US-LTRCD shall be, and is, an independent contractor, and is not an agent or employee of District. US-LTRCD has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting US-LTRCD in the performance of the services rendered hereunder. US-LTRCD shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

**12. ENTIRE AGREEMENT AND MODIFICATION.** This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. US-LTRCD shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both parties. Any changes increasing US-LTRCD's compensation and/or benefits must be approved by the District's Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the District. US-LTRCD specifically acknowledges that in entering into and executing this Agreement, US-LTRCD relies solely upon the provisions contained in this Agreement and no others. If there is any conflict between the language in the body of this Agreement and any exhibits attached hereto, the body of this Agreement shall take precedence.

**13. ENFORCEABILITY.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

**14. WARRANTY OF US-LTRCD.** US-LTRCD warrants that US-LTRCD and each of the personnel employed or otherwise retained by US-LTRCD for work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

**15. SUBCONTRACTORS.**

- A. Other than work designated in this Agreement to be performed by other persons or entities, US-LTRCD shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the District. In the event the District provides written authorization for work to be performed by a subcontractor, the use of the words "subcontractor" and "subcontract" in this Article shall refer to such authorized subcontracting to a subcontractor of the first tier or any other tier.
- B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the District and any subcontractors, and no subcontract shall relieve US-LTRCD of his/her responsibilities and obligations hereunder. US-LTRCD agrees to be as fully responsible to the District for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by US-LTRCD. US-LTRCD's obligation to pay its subcontractors is an independent obligation from the District's obligation to make payments to US-LTRCD.
- C. Any subcontract entered into by US-LTRCD relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article

in any such subcontract, and substituting the name of the subcontractor in place of the words "US-LTRCD" where it appears in this Article.

- D. US-LTRCD shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to US-LTRCD by the District.
- E. Any substitution of subcontractors must be approved in writing by the County Director of Public Works in advance of assigning work to a substitute subcontractor.
- F. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- G. For purposes of this Agreement, the term "subcontractor" includes subconsultants.

**16. EQUIPMENT PURCHASE.**

- A. Prior authorization in writing, by the County Director of Public Works, shall be required before US-LTRCD enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for equipment. US-LTRCD shall provide an evaluation of the necessity or desirability of incurring such costs and three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- B. Any equipment purchased as a result of this Agreement is subject to the following: "US-LTRCD shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the District shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, US-LTRCD may either keep the equipment and credit the District in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established District procedures; and credit the District in an amount equal to the sales price. If US-LTRCD elects to keep the equipment, fair market value shall be determined at US-LTRCD's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to the District and US-LTRCD, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the District."
- C. All subcontracts in excess of \$25,000 shall contain the above provisions.

**17. APPLICABLE LAW AND VENUE.** This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

**18. NOTICES.** Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the District at:

Mr. Wade Horton, Director  
San Luis Obispo County  
Department of Public Works  
County Government Center, Room 207  
San Luis Obispo, CA 93408

and to US-LTRCD:

Mr. Devin Best, Executive Director  
US-LTRCD  
65 S. Main Street, Suite 107  
Templeton, CA 93401

**19. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS.** Pursuant to Government Code section 7550, if the total cost of this Agreement is over \$5,000, US-LTRCD shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

**20. CONFIDENTIALITY OF DATA.**

- A. All financial, statistical, personal, technical, or other data and information relative to the District's operations, which are designated confidential by the District and made available to US-LTRCD in order to carry out this Agreement, shall be protected by the US-LTRCD from unauthorized use and disclosure, and shall not be made available to any individual or organization by US-LTRCD without the prior written approval of District.
- B. Permission to disclose information on one occasion, or public hearing held by the District relating to this Agreement, shall not authorize US-LTRCD to further disclose such information, or disseminate the same on any other occasion.
- C. All information related to any construction estimate is confidential, and shall not be disclosed by US-LTRCD to any entity other than the District.
- D. Any subcontract entered into by US-LTRCD relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the words "US-LTRCD" where it appears in this Article.

**20. RESTRICTIVE COVENANT.** US-LTRCD agrees that it will not, during the continuance of this Agreement, perform or otherwise exercise the Services described in Exhibit A for anyone except for the District, unless and until said District waives this restriction.

**21. CONFLICT OF INTEREST.**

- A. US-LTRCD shall disclose any financial, business, or other relationship with District that may be affected by the outcome of this Agreement, or any ensuing District project. US-LTRCD shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing District construction project, which will follow.
- B. US-LTRCD hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.
- C. Any subcontract entered into by US-LTRCD relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the words "US-LTRCD" where it appears in this Article.
- D. US-LTRCD hereby certifies that neither US-LTRCD, nor any firm affiliated with US-LTRCD will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of one or more of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to

provide construction inspection for any construction project resulting from this Agreement.

**22. REBATES, KICKBACK, OR OTHER UNLAWFULL CONSIDERATION.** US-LTRCD warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any District or County employee. For breach or violation of this warranty, District shall have the right in its discretion: to terminate the Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**23. NONLOBBYING CERTIFICATION.**

- A. US-LTRCD certifies to the best of its knowledge and belief that:
1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of US-LTRCD to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; US-LTRCD shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. US-LTRCD also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**EXHIBIT E  
SPECIAL CONDITIONS**

1. There are no special conditions.