



## ARCHITECT/ENGINEER SERVICES CONTRACT

THIS CONTRACT for Architect/Engineer services is between Lakewood Water District ("District") and [Architect Name] ("A/E").

1. Scope of A/E Services. A/E will provide professional design services as authorized by the District related to [name of project] under the terms of this contract. A/E agrees to perform its services according to the best of its professional ability and skill. Nothing in this contract shall be interpreted to provide that A/E is the exclusive provider of architecture or engineering services to the District. A/E specifically acknowledges the District may, from time to time, retain the services of other architects or other professionals to perform professional services for District.

2. Compensation and Payment.

a. District will pay A/E for the services as indicated below (check one):

\_\_\_\_\_ a fixed fee, including all services, costs, and taxes, in the amount of \$ \_\_\_\_\_; or

\_\_\_\_\_ the time and materials devoted to the project based on the rates described on Exhibit B, not to exceed \$ \_\_\_\_\_; or

\_\_\_\_\_ other; see Exhibit B.

b. If included in Exhibit B, reimbursable costs shall only include the actual amount of bills for materials and services provided specifically for A/E services under this contract, without markup. Reimbursable costs shall not include charges for computer time, for computer assisted drafting or other computer system information services, or for travel expenses of staff of A/E unless previously approved by the District in writing. Mileage expense of A/E, when reimbursable, shall be reimbursed at the current Internal Revenue Service deductible rate.

c. A/E shall submit a detailed monthly billing for all services in a format reasonably satisfactory to the District. The billings for A/E's services shall identify at a minimum the following:

- The date on which the services are provided;
- The individual performing the services;
- The hourly rate of the individual performing the services;
- The time expended to perform the services; and
- A brief description of the services provided.

The District shall pay for satisfactory performance by A/E within thirty (30) days of the District's receipt of a properly completed invoice, except as to any disputed amounts or performance.

3. Schedule of Work. A/E shall commence work upon receipt of notice from the District to do so, beginning \_\_\_\_\_ and shall (check one):

\_\_\_\_\_ complete the work by \_\_\_\_\_; or

\_\_\_\_\_ perform the work in accordance with the schedule on Exhibit A.

4. Subcontractors. A/E shall not subcontract or assign any portion of the work covered by this contract without prior written approval of the District.

5. Changes. The District may, from time to time, require changes or modifications in the scope of work to be performed under this contract. The compensation for the changes or modifications, whether a decrease or increase, shall be in the same terms as stated previously in this contract, or in a manner mutually agreed to by the parties.

6. Insurance. A/E will maintain throughout the performance of this Contract the following types and amounts of insurance:

a. Comprehensive vehicle liability insurance covering personal injury and property damage claims arising from the A/E's use of motor vehicles with combined single limits of One Million Dollars (\$1,000,000).

b. Commercial General Liability Insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000)

combined single limit per occurrence and Two Million Dollars (\$2,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include, but not be limited to blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability if not separately insured; and

c. Professional liability insurance (Errors and Omissions insurance) with limits no less than One Million Dollars (\$1,000,000) per claim and in the aggregate.

The insurance policies shall: (1) state that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (2) be primary to any insurance maintained by the District, except as respects losses attributable to the sole negligence of the District; and (3) shall state that the District will be given 30 days' prior written notice of any cancellation, suspension, or material change in coverage.

The District shall be named as an additional insured on the Commercial General Liability Insurance policy with regard to work and services performed by or on behalf of A/E, and a copy of the endorsement naming the District as an additional insured shall be attached to the Certificate of Insurance.

Before commencing work and services, A/E shall provide to the District a Certificate of Insurance evidencing the insurance described above. The District reserves the right to request and receive relevant portions of all required insurance policies.

The above insurance limits do not constitute a limit on A/E's liability to the District. Any payment of deductible or self-insured retention under A/E's required policies, shall be the sole responsibility of A/E.

7. Indemnification. A/E agrees to indemnify, hold harmless, and defend the District, its officers, agents and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of A/E, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of A/E, its officers, agents, consultants, subconsultants or employees, in connection with the services required by this contract, provided however, that:

a. A/E's obligations to indemnify, defend, and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting

from the sole willful misconduct or sole negligence of the District, its officers, agents or employees; and

b. A/E's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of A/E and the District, or of the District and a third party other than an officer, agent, consultant, subconsultant or employee of the A/E, shall apply only to the extent of the negligence or willful misconduct of the A/E; and

c. With respect to the performance of the services required by this contract and as to claims against the District, its officers, agents and employees, A/E expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for herein extends to any claim brought by or on behalf of any employee of A/E and includes any judgment, award or costs thereof, including attorney fees.

A/E agrees that its obligation and agreement to indemnify, defend, and hold harmless pursuant to this provision, includes the agreement of A/E to reimburse the District for all of the District's costs and reasonable attorney fees incurred as a result of any action of the District to enforce this provision.

**THIS WAIVER IS MUTUALLY NEGOTIATED BY AND BETWEEN THE DISTRICT AND A/E.**

8. A/E Work Product. All documents, drawings, specifications, and other materials originally produced by A/E in connection with the services rendered under this contract shall be the property of the District. A/E agrees that its services under this contract are performed as a "Work for Hire" as that term is defined under U.S. Copyright law, and that as a result, the District owns all copyrights to the materials A/E produces for the District under this contract. To the extent the services do not qualify as a Work for Hire under applicable law, and to the extent the services include material subject to copyright protection, A/E hereby assigns all right, title, and interest in and to the copyright to the District.

9. Independent Contractor. A/E and the District agree that A/E is an independent contractor with respect to the services provided pursuant to this contract. Nothing in this contract shall be considered to create the relationship of employer and employee between the parties. Neither A/E nor any of its employees shall be entitled to any benefits afforded District employees by virtue of the services provided under this contract. The District shall not be responsible for

withholding or otherwise deducting federal income tax or Social Security or for contributing to the State Industrial Insurance program, or otherwise assuming the duties of an employer with respect to A/E, or any employees of A/E.

10. Termination. This contract may be terminated by either party upon fifteen (15) days written notice if the other party fails to substantially perform in accordance with the contract and fails to cure its failure to perform within that fifteen (15) day period.

11. Dispute Resolution.

a. Mediation. If any dispute, controversy, or claim arises out of or relates to this contract, the parties agree first to try to settle the dispute by non-binding mediation with the assistance of a recognized professional mediation service. The parties shall bear equally all expenses, exclusive of a party's attorneys' fees, associated with the mediation process.

b. Litigation. Thereafter, any dispute, controversy, or claim not resolved by mediation shall be resolved by litigation with venue in Pierce County, Washington, and each party waives its right to a jury trial with respect thereto, to the extent permitted under applicable law. The laws of the State of Washington shall govern this contract.

12. Severability. In the event any provisions of this contract are held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.

13. Non-Assignment. A/E shall not assign or transfer any interest in this contract without the prior written consent of the District.

14. Waiver of Breach. The waiver by either party of the breach of any provision of this contract by the other party must be in writing and shall not operate or be construed as a waiver of any subsequent breach by the other party.

15. Compliance with Laws. A/E shall comply with all applicable laws, ordinances, and codes of the federal, state, and local governments.

16. Entire Agreement. This contract represents the entire and integrated agreement between A/E and the District and supersedes all prior negotiations, representations or agreements, either written or oral. This contract may be amended only by written instrument signed by both A/E and the District.

17. Counterparts and Photocopies. This contract may be executed in one or more counterparts, and each counterpart is deemed to be an original. Signature pages may be transmitted by Portable Document Format (.pdf) via email, which shall be deemed an original and shall be admissible in evidence. Fully executed photocopies of this contract shall be considered the same as an original of this contract for all purposes.

18. Effective Date. The effective date of this contract shall be the date that the contract is signed by an authorized representative of the District.

LAKWOOD WATER DISTRICT  
(District)

[A/E Name]  
(A/E)

By: \_\_\_\_\_  
Typed Name: Marshall Meyer  
Its: General Manager

By: \_\_\_\_\_  
Typed Name:  
Its:

Address:  
11900 Gravelly Lake Drive SW  
Lakewood WA 98499

Address:

Telephone: 253-588-4423  
Fax: 253-588-7150  
Email:

Telephone:  
Fax:  
Email:

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

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