

Agreement No. ___ - ____

**MASTER COOPERATIVE SERVICES AGREEMENT
BETWEEN ESPARTO COMMUNITY SERVICES
DISTRICT AND COUNTY OF YOLO**

THIS MASTER COOPERATIVE SERVICES AGREEMENT ("Agreement") is made and entered into on July 1, 2022 by and between the Esparto Community Services District ("District"), an independent special district, and County of Yolo, a political subdivision of the State of California ("County").

RECITALS

WHEREAS, pursuant to California Government Code section 54981, the legislative body of any local agency may contract with any other local agency for the performance by the latter of municipal services or functions within the territory of the former; and

WHEREAS, such services or functions may include performance of such services as may be performed by County staff, including public projects in accordance with California Public Contract Code section 22032(a); and

WHEREAS, the purpose of this Agreement is to arrange for the District to perform repair, maintenance, and similar services at facilities described herein; and

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

I. SCOPE OF WORK

During the term of this Agreement, the District shall perform all services set forth in Exhibit A – Scope of Work, which is incorporated herein by this reference.

II. PERIOD OF PERFORMANCE

A. This Agreement shall be in effect from July 1, 2022 through June 30, 2023. Either party may terminate this Agreement in its sole discretion, for any reason or for no reason at all, upon at least 30 days advance written notice to the other party. If County terminates the Agreement, County will pay District in accordance with this Agreement for all services performed to the satisfaction of County before such termination and for which funds have been appropriated as required by law.

B. This Agreement can be amended only by mutual written agreement.

III. COMPENSATION

A. For services to be performed by District, County agrees to pay, and District agrees to accept, compensation as identified Exhibit A, Scope of Work. District shall invoice County monthly on a time and materials cost basis for services provided under this Agreement.

However, in no event shall the total compensation paid by County to District pursuant to this Agreement exceed \$ 215,000 for the Tuli Mem Park and Aquatic Center and \$ 33,000 for the Esparto Community Park per fiscal year, for a total Agreement lifetime maximum of two hundred forty-eight thousand (\$248,000).

B. The maximum value of services performed on a “public project,” as defined in Public Contract Code section 22002(c), shall not exceed the limits set forth in Public Contract Code section 22032(a) or \$60,000 per project, whichever is greater. For ease of reference, as of the preparation of this Agreement, Public Contract Code section 22002(c)-(d) state:

(c) “Public project” means any of the following:

- (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- (2) Painting or repainting of any publicly owned, leased, or operated facility.
- (3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(d) “Public project” does not include maintenance work. For purposes of this section, “maintenance work” includes all of the following:

- (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (2) Minor repainting.
- (3) Resurfacing of streets and highways at less than one inch.
- (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

IV. STATUS OF PARTIES

A. District is an independent contractor and not an agent, officer, or employee of County. The parties mutually understand that this Agreement is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

B. District shall have no claim against County for employee rights or benefits including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, retirement benefits, Social Security, disability, Workers' Compensation, unemployment insurance benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

C. District is solely obligated to pay all applicable taxes, deductions and other obligations including, but not limited to, federal and state income taxes, withholding, Social Security, unemployment, disability insurance, Workers' Compensation and Medicare payments.

D. District shall indemnify and hold County harmless from any liability which County

may incur because of District's failure to pay such obligations and for any claims that may be made against County based on any contention by a third party that an employer-employee relationship exists under this Agreement.

E. As an independent contractor, District is not subject to the direction and control of County except as to the final result contracted for under this Agreement. County may not require District to change District's manner of doing business but may require redirection of efforts to fulfill this Agreement.

F. District may provide services to others during the same period District provides service to County under this Agreement.

G. Any third persons employed by District shall be under District's exclusive direction, supervision and control. District shall determine all conditions of employment including hours, wages, working conditions, discipline, hiring and discharging or any other condition of employment.

H. District, with full knowledge and understanding of the foregoing, freely, knowingly, willingly, and voluntarily waives the right to assert any claim to any right or benefit or term or condition of employment insofar as they may be related to or arise from compensation paid under this Agreement.

V. INDEMNIFICATION

A. Each party shall indemnify, defend, protect, hold harmless, and release the other, their elected bodies, officers, agents, and employees, from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful misconduct of such indemnifying party. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

B. Responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

C. Government Code Section 895.2 imposes certain tort liability jointly upon public agencies solely by reason of such public agencies being parties to an agreement as defined in Government Code Section 895. Therefore, the Parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, each assume the full liability imposed upon it or any of its officers, agents, representatives or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve this purpose, each Party indemnifies and holds harmless the other Party for any loss, cost, or expense, including reasonable attorneys' fees that may be imposed upon or incurred by such other Party solely by virtue of Government Code Section 895.2.

D. In providing any defense under this Section, the indemnifying party shall use

counsel reasonably acceptable to the indemnified party.

VI. INSURANCE

A. During the term of this Agreement, District shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages (as applicable). Insurance coverage shall be with limits not less than the following:

- a. Comprehensive General Liability - \$1,000,000/occurrence and \$2,000,000/aggregate.
- b. Automobile Liability - \$1,000,000/occurrence (general) and \$500,000/occurrence (property) (include coverage for Hired and Non-owned vehicles).
- c. Professional Liability/Malpractice/Errors and Omissions - \$1,000,000/occurrence and \$2,000,000/aggregate (If any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, County must provide this insurance. If not, then this requirement automatically does not apply.)
- d. Workers' Compensation Statutory Limits/Employers' Liability
\$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)

2. County, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation and professional liability coverages. [NOTE: Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.] It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.

- a. The Additional Insured coverage under District's policy shall be "primary and non-contributory" and will not seek contribution from County's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

The limits of Insurance required in this Agreement 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 County (if agreed to in a written contract or agreement) before County's own Insurance or self-insurance shall be called upon to protect it as a named insured.

3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall be payable on a "per occurrence" basis unless the County specifically consents in writing to a "claims made" basis. For all "claims made" coverage, in the event that District changes insurance carriers District shall purchase "tail" coverage covering the term of this Agreement and not less than three years thereafter. Proof of such "tail" coverage shall be required at any time that District changes to a new carrier prior to receipt of any payments due.
 4. District shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and County reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.
 5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of County. All self-insured retentions (SIR) must be disclosed to County for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named insured or County.
 6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to County 10 days for delinquent insurance premium payments.
 7. Insurance is to be placed with insurers with a current **A.M.** Best's rating of no less than A:VII, unless otherwise approved by County.
 8. The policies shall cover all activities of District, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.
 9. For any claims relating to this Agreement, District's insurance coverage shall be primary, including as respects County, its officers, agents, employees and volunteers. Any insurance maintained by County shall apply in excess of, and not contribute with, insurance provided by District's liability insurance policy.
 10. District shall waive all rights of subrogation against County, its officers, employees, agents and volunteers.
- B. Prior to commencing services pursuant to this Agreement, District shall furnish County with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, County before work commences. Upon County's request, District shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.
- C. During the term of this Agreement, District shall furnish County with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon District's request, County shall provide complete, certified

copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications. County reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

- D. District agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by District must agree to be bound to District and County in the same manner and to the same extent as District is bound to County under this Agreement. Subcontractors must further agree to include these same provisions with any sub-subcontractor. District shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the Agreement prior to commencement of any work and District will provide proof of compliance to County.
- E. District shall maintain insurance as required by this Agreement to the fullest amount allowed by law. In the event District fails to obtain or maintain completed operations coverage as required by this Agreement, County at its sole discretion may purchase the coverage required and the cost will be paid by District.

VII. NONDISCRIMINATION

- A. In rendering services under this Agreement, District shall comply with all applicable federal, state and local laws, rules and regulations and shall not discriminate based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation or other protected status.
- B. Further, District shall not discriminate against its employees, which includes, but is not limited to, employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

VIII. ASSIGNMENT

This Agreement may not be assigned by either County or District without the prior written consent of the other.

IX. JURISDICTION

The parties have executed and delivered this Agreement in the County of Yolo, State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Agreement. Yolo County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Agreement.

X. INTEGRATION

This Agreement represents the entire understanding of County and District as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

XI. SUBCONTRACTS

District may not subcontract or assign any portion of the work required by this Agreement without prior written approval of County. If District hires a subcontractor for any portion of the work required under this Agreement, District shall require the subcontractor to provide and maintain insurance coverage(s) identical to what is required of District under this Agreement and shall require the subcontractor to name County as additional insured under this Agreement. It shall be District's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to County evidence of same.

XII. EXECUTION IN COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. In the event that any signature is delivered by facsimile or electronic transmission (e.g., by e-mail delivery of a ".pdf" format data file), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original signature.

XIII. COMPLIANCE WITH LAWS

County shall comply with all applicable laws and regulations including, but not limited to, any which are promulgated to protect the public health, welfare and safety or prevent conflicts of interest. County shall defend District and reimburse it for any fines, damages or costs (including attorneys' fees) that might be incurred or assessed based upon a claim or determination that County has violated any applicable law or regulation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CONTRACTOR

COUNTY OF YOLO,

By: Jose Quintana
General Manager, Esparto, CSD

By _____
Angel Barajas, Chair
Board of Supervisors

Attest:
Julie Dachtler, Senior Deputy Clerk
Yolo County Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form:

By: 
Philip J. Pogledich, County Counsel

EXHIBIT A

SCOPE OF WORK

In accordance with PCC § and consistent with this Exhibit, services or functions pursuant to this Agreement are limited to “public projects” as defined in Public Contract Code section 22002(c) and “maintenance” as defined section 22002(d). In addition, services or functions to be rendered by the District shall include the specific janitorial or custodial services set forth below.

District will provide various services for County such as, but not limited to, the following for the two facilities below:

- 1) Tuli Mem Park and Aquatic Center; and
- 2) Esparto Community Park
 - a) All services and utilities necessary to fully operate and maintain the Esparto Community Park
 - b) All services and utilities necessary to fully operate and maintain the Tuli Mem Park & Aquatic Center
 - c) Maintain both facilities in a clean and safe condition for public use **daily**
 - d) Ensure the provision of irrigation and drinking water
 - e) Perform basic, routine landscaping services
 - f) Clean and fully stock public restrooms **daily**
 - g) Regular removal of trash and recyclables **daily**
 - h) Maintenance of park equipment and facilities and daily pool maintenance.

DISTRICT shall be responsible for all costs and services associated with daily operations, as well as maintenance and repairs arising from ordinary use and wear and tear.

COUNTY shall be responsible for all costs associated with repair and replacement costs arising from damages beyond ordinary wear and tear or to capital assets.

Any task not specifically described in this Exhibit shall be performed by District only following the issuance of a written task order by County, the terms of which shall be mutually acceptable. Requirements and terms for each specific task order to be performed under this Agreement will be set forth in writing and executed by District and County's authorized representatives. Each task order shall include a start date and end date, scope of work, deliverables, estimated costs (including labor and expenses, and a "not to exceed" amount) and any other pertinent information.

The terms of this Agreement are incorporated by reference into each task order.