

**PROFESSIONAL SERVICES AGREEMENT  
ENVIRONMENTAL CONSULTING**

This Professional Services Agreement ("Agreement") is made and entered into as of \_\_\_\_\_, 2024 ("Effective Date"), by and between Bear Valley Community Healthcare District ("District") and \_\_\_\_\_ ("Consultant"), (together, "Parties").

Whereas District will be constructing a new hospital facility to comply with state seismic requirements that will include local and federal public funding (the "Project");

Whereas District issued a Request for Proposal for environmental consulting services under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA); and

Whereas Consultant submitted the proposal the District determined to be in the District's best interest for the Project; and

Whereas Consultant is specially trained and experienced and competent to perform the services required by the District;

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall provide services to assure that the Project will comply with the requirements of CEQA and NEPA as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on of the Effective Date and will diligently perform and complete performance unless and until this Agreement is terminated and/or otherwise cancelled.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

- Signed Agreement
- Workers' Compensation Certification
- Insurance Certificates and Endorsements
- W-9 Form
- Other: \_\_\_\_\_

3. **Compensation.** District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement as follows: *[insert payment method]*. District shall pay Consultant according to the following terms and conditions:

3.1. **Fees.** Payment for the Services shall be made for all undisputed amounts

based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after the Consultant submits an invoice to the District for Services actually rendered and after the District's approval of the Services, or the portion of the Services for which payment is to be made.

- 3.2. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, unless otherwise approved by District in writing prior to being incurred.

**4. Independent Contractor.** Consultant shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security, and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.

**5. Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies, and other items necessary to complete the services to be provided pursuant to this Agreement.

**6. Performance of Services.**

- 6.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of District. Consultant's services will be performed, findings obtained, reports, and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California healthcare facilities.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

- 6.2. **Meetings.** Consultant agrees to participate in regular meetings with District and its other consultants to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

**6.3. District Approval.** The Services completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

**7. Intellectual Property.** Consultant understands and agrees that all matters and documents ("Work Product") produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title, and interest in said Work Product, including the right to secure and maintain the Work Product in the name of the District. District shall not distribute to or allow any third party to use the Work Product for any purpose other than the Project.

**8. Audit.** Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

**9. Termination.**

**9.1. For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

**9.2. With Cause.** Either party may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

**9.2.1.** material violation of this Agreement; or

**9.2.2.** any act exposing the other party to liability for personal injury or property damage; or

**9.2.3.** a party is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of the party's insolvency.

The written notice of termination shall contain the reason(s) for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate.

In the event of this termination, the District may secure the required services from another consultant. If the Agreement is terminated due to a breach by Consultant and the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

**10. Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold harmless the District, its directors, officers, employees, and agents (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Consultant. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

**11. Insurance.**

**11.1.** The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
<b>Automobile Liability Insurance - Any Auto</b> Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
<b>Professional Liability</b>	\$ 1,000,000
<b>Workers Compensation</b>	Statutory Limits
<b>Employer's Liability</b>	\$ 1,000,000

**11.2. Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and any Automobile Liability Insurance that shall protect the Consultant and District from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

**11.3. Workers' Compensation and Employers' Liability Insurance.** Workers'

Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

**11.4. Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to the Consultant's profession.

**11.5. Proof of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

**11.5.1** A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

**11.5.2** Language stating those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

**11.5.3** An endorsement stating that the District and its Board of Directors, agents, representatives, employees, trustees, officers, and consultants are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

**11.5.4** All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.

**11.6. Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

**12. Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

- 13. Compliance with Laws.** Consultant shall observe and comply with all federal, state, and local laws, ordinances, and regulations. Consultant shall give all notices required by any law, ordinance, rule, and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules, or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.
- 14. Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
- 15. Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Agreements there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by its subcontractor(s).
- 16. No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 17. Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect, or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 18. Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all confidential information, if any, received in the course of performing the Services. Consultant understands that patient records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of patient records Consultant may see or receive intentionally or inadvertently. This

requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

- 19. Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered, or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service addressed as follows:

District:

Bear Valley Community  
Healthcare District  
Attn:Evan Rayner -CEO  
41870 Garstin Dr.  
Big Bear Lake, CA 92315

Consultant:

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 20. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- 21. California Law.** This Agreement shall be governed by, and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the Project is located.
- 22. Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 23. Severability.** If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 24. Provisions Required By Law Deemed Inserted.** Each and every provision of law

and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

25. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
26. **Attorney Fees/Costs.** In any legal action or proceeding, the prevailing party shall be entitled to recover its costs, expenses, and fees, including reasonable attorney and consultant fees, including those incurred on appeal or in the enforcement of a judgment.
27. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
28. **Calculation of Time.** For the purposes of this Agreement, “days” refers to calendar days unless otherwise specified.
29. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
30. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
31. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Bear Valley Community Healthcare District

[consultant]

By \_\_\_\_\_  
President, Board of Directors

By \_\_\_\_\_  
[name, title]



**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
  
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

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

Name of Consultant: \_\_\_\_\_

\_\_\_\_\_ Signature:

\_\_\_\_\_ Print Name and Title: \_\_\_\_\_

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

**EXHIBIT "A"**  
**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

DRAFT