

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this _____th day of _____, 2010, by and between the COUNTY OF MARIN (Tax I.D. Number 94-6000519), a political subdivision of the State of California (hereinafter referred to as "COUNTY") acting by and through its Sheriff's Office (hereinafter referred to as "SHERIFF") and the MARIN COUNTY OPEN SPACE DISTRICT (hereinafter referred to as "DISTRICT").

WITNESSETH:

In consideration of the mutual promises set out below, COUNTY and DISTRICT agree as follows:

1. The Services to be performed; the schedule for provision of said Services; the compensation for said Services; and the schedule for payment of said compensation shall all be set forth in Exhibit B.

2. DESIGNATED REPRESENTATIVES. Sheriff Robert T. Doyle is the representative of COUNTY and will administer this Agreement. The duly appointed President of the Marin County Open Space District Board of Directors is the authorized representative for DISTRICT. Changes in designated representatives shall occur only by advance written notice to the other party.

3. EXHIBITS. The following Exhibits are attached hereto and incorporated herein by reference:

Exhibit "A" – General Terms and Conditions
Exhibit "B" – Financial Terms and Conditions

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

"COUNTY"
COUNTY OF MARIN

"DISTRICT"
MARIN COUNTY OPEN SPACE
DISTRICT

By: _____

By: _____

"SHERIFF"
MARIN COUNTY SHERIFF'S
OFFICE

By: _____



EXHIBIT – A

GENERAL TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE COUNTY OF MARIN AND THE MARIN COUNTY OPEN SPACE DISTRICT REGARDING THE DELIVERY OF LAW ENFORCEMENT SERVICES

The Board Directors of the Marin County Open Space District (hereinafter referred to as "DISTRICT"), and the Board of Supervisors of Marin County (hereinafter referred to as "COUNTY") have entered into a contract for the delivery of law enforcement services by the Marin County Sheriff's Office (hereinafter referred to as "SHERIFF").

This Exhibit to the Agreement fully describes the general terms and conditions agreed to by COUNTY and DISTRICT. EXHIBIT – B to this Agreement describes the financial terms and conditions of the Agreement.

Through this Agreement, and on behalf of DISTRICT, SHERIFF will provide normal and customary general law enforcement patrol services to DISTRICT, which is in addition to those already provided to DISTRICT, and/or persons visiting within the jurisdictional boundaries of DISTRICT.

I. PROVISION OF SERVICES / HOURS OF OPERATION

- A. COUNTY shall provide DISTRICT the services of one (1) duly qualified peace officer (hereinafter referred to as "DEPUTY"), within the meaning of the California Penal Code, for forty (40) hours per calendar week, less any paid holidays recognized by the Memorandum of Understanding entered into between COUNTY and the Marin County Deputy Sheriff's Association (hereinafter referred to as "MCDSA").

1. The holidays currently recognized by the Memorandum of Understanding entered into between COUNTY and MCDSA are described as:

Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day
New Year's Day
Martin Luther King, Jr. Day
Presidents Day
Memorial Day

2. In addition to the above, December 24th and 31st shall be observed as half-day holidays if those dates fall on a Monday, Tuesday, Wednesday, or Thursday, and providing that those days are not otherwise deemed holidays above.
3. In addition to the above, any other day appointed by the President of the United States or the Governor of the State of California, and approved by the Marin County Board of Supervisors, for a public fast, thanksgiving, or holiday, is a holiday for purposes of this Agreement.
4. When a holiday described in Section I, Paragraph A above falls on a Saturday or Sunday, the Friday preceding a Saturday holiday, or the Monday following a Sunday holiday, shall be deemed to be a holiday in lieu of the day observed.

- B. The specific hours of work for DEPUTY shall be determined by DISTRICT, although changes to previously established work hours shall be subject to the limitations set forth in the currently recognized Memorandum of Understanding entered into between

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COUNTY and MCDSA. Normal work hours may, however, be temporarily flexed to address the specific needs of DISTRICT. Either SHERIFF or DISTRICT may request the normal hours of work be flexed to meet a specific need(s).

- C. DISTRICT shall provide DEPUTY with one (1) working marked patrol vehicle suitable for carrying out all of the duties described by this Agreement. Configuration of the assigned vehicle shall be determined through cooperative discussion between DISTRICT and SHERIFF. Maintenance and repair costs associated with said working patrol vehicle shall remain the sole responsibility of DISTRICT.
- D. SHERIFF shall furnish DISTRICT with one (1) working Mobile Data Computer System (hereinafter referred to as "MDC") for installation in DISTRICT vehicle assigned to DEPUTY. Installation costs associated with said MDC shall be the sole responsibility of DISTRICT. Maintenance and repair costs associated with said MDC shall remain the sole responsibility of SHERIFF.
- E. DISTRICT shall pay COUNTY for services provided by DEPUTY in accordance with EXHIBIT B to this Agreement.
- F. In the event DISTRICT wishes to attain additional patrol coverage for holidays, weekends, or for hours that are in addition to those provided under this Agreement, DISTRICT may request those additional services of SHERIFF, although SHERIFF retains sole discretion to provide said services. If said services are provided, DISTRICT shall pay COUNTY for those services in minimum one (1) hour increments at the rate described in EXHIBIT B of this Agreement.
- G. If requested, DEPUTY shall reasonably attend and report crime statistics during DISTRICT membership meetings, and if requested, provide reports to the Board of Directors of DISTRICT.

II. GENERAL PATROL DUTIES

- A. DEPUTY shall provide DISTRICT with dedicated patrol services that include, but are not limited to general preventative patrols intended to protect life and property, response to in-progress crimes, completion of field interviews and investigations, issuance of citations, preparation of a variety of different reports, and general traffic enforcement, however the California Highway Patrol and not SHERIFF shall continue to be responsible for the investigation of traffic collision related events occurring within DISTRICT boundaries.
- B. DEPUTY shall be required to complete incident reports for law enforcement contacts occurring within DISTRICT boundaries consistent with SHERIFF procedures. SHERIFF shall maintain complete computerized records of SHERIFF activities occurring within DISTRICT boundaries and will provide such records to DISTRICT upon request, consistent with all applicable rules, regulations, and statutes governing release of said records.
- C. COUNTY and DISTRICT make no warranties that entering into this Agreement will reduce crime or result in the greater likelihood of the apprehension of those perpetrating crimes within the jurisdictional boundaries governed by DISTRICT.
- D. SHERIFF shall maintain absolute discretion to order DEPUTY to another location outside the boundaries governed by DISTRICT if, in the opinion of the Sheriff and/or his/her designee, the health, safety, and/or welfare of the residents of Marin County require that transfer of resources.

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1. In the event the services provided by DEPUTY are not available to DISTRICT as contemplated within the meaning of this Agreement, there shall be a commensurate adjustment to the amount billed by SHERIFF to DISTRICT, however no adjustment shall be made until DISTRICT has been deprived of the services provided by DEPUTY for a minimum of one (1) hour.
 2. In the event DISTRICT has been deprived of the services provided by DEPUTY for a period of one (1) hour, DISTRICT shall receive a credit equal to the cost of one (1) hour of salary and benefits as described in Exhibit B to this Agreement. Additional credits shall be issued in increments of one (1) hour for each full one (1) hour period of time DISTRICT was deprived of the services provided by DEPUTY under this Agreement.
- E. SHERIFF shall maintain absolute discretion in determining which fully qualified DEPUTY, within the meaning of the California Penal Code, shall be assigned to provide services to DISTRICT, although DISTRICT may request an opportunity to participate in any interview/selection process offered by SHERIFF. In that event, DISTRICT may make a recommendation to SHERIFF with respect to a preferred candidate, and SHERIFF shall consider such recommendation, although the final selection decision of SHERIFF is final.
- F. Subsequent to the initial assignment of DEPUTY, and in the event DISTRICT wishes to have a different DEPUTY assigned to provide the services described by this Agreement, DISTRICT may direct a request for transfer in writing to SHERIFF describing the reasons why a change in staffing is in the best interest of DISTRICT or SHERIFF, although the final decision as to whether said transfer is granted shall rest solely with the Sheriff of the County of Marin, and/or his/her designee.
- G. SHERIFF and DISTRICT agree DEPUTY is an employee of COUNTY. SHERIFF and DISTRICT further agree DEPUTY is under the direction and control of SHERIFF, that DEPUTY does not act as an agent of DISTRICT, and that SHERIFF and COUNTY are solely responsible for maintaining all required worker's compensation insurance and for complying with all applicable rules regarding DEPUTY's salary, benefits, working conditions, etc.

III. OTHER GENERAL PROVISIONS

- A. This Agreement shall commence on the date of initial contract execution, the term of which shall continue through June 30, 2011. Thereafter, the Agreement will automatically renew for a one (1) year period each and every year, unless terminated by COUNTY or DISTRICT, as described below.

COUNTY and DISTRICT shall have the right to terminate this Agreement, by giving sixty (60) calendar days written notice of that intent to the other party. Once the required notice of intent to terminate has been provided to all parties, the Agreement, along with all rights and obligations attached thereto, shall terminate on the 61st day following receipt of the written termination notice.

On the date of termination, COUNTY shall immediately cease rendering the services required by this Agreement, and the following shall apply:

1. DISTRICT shall pay COUNTY at the termination of the Agreement any and all bills outstanding for the services rendered by COUNTY to the date of termination pursuant to this Agreement. COUNTY shall furnish to DISTRICT such financial information as, in the judgment of DISTRICT, is necessary to determine the amount due for the services rendered by COUNTY. The foregoing is cumulative and does not affect any right or remedy which DISTRICT or COUNTY may have in law or equity.

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- B. COUNTY may terminate its services under this Agreement upon sixty (60) calendar days written notice to the DISTRICT, without liability for damages, if COUNTY is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by DISTRICT, provided that COUNTY has first provided DISTRICT with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than twenty (20) working days within which time DISTRICT may cure the alleged breach.
- C. DISTRICT may terminate its services under this Agreement upon sixty (60) calendar days advance written notice to COUNTY, upon any material breach of the Agreement by COUNTY, provided that DISTRICT has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than twenty (20) working days within which time the COUNTY may cure the alleged breach.
- D. This Agreement, together with its specific references, exhibits and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto.
- E. No substantial modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given. Minor modifications to this Agreement may be made between both parties if agreed upon in writing, signed by the duly appointed President of DISTRICT and the Sheriff, or their authorized representatives.
- F. 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 provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- G. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
- H. Prior to initiating any litigation arising out of this Agreement, the parties shall meet and confer in a good faith effort to resolve the issues in dispute. In any action at law or in equity, including an action for declaratory relief, brought to enforce or interpret provisions of this Agreement, each party shall bear its own costs, including attorney's fees.
- I. Unless otherwise expressly waived in writing by the parties hereto, any action brought to enforce any of the provisions hereof, or for declaratory relief hereafter, shall be filed and remain in a Court of competent jurisdiction in the County of Marin, State of California. The laws of the State of California shall govern this Agreement and all matters relating to it.
- J. Each individual executing this Agreement on behalf of DISTRICT represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of DISTRICT in accordance with a duly adopted resolution or minute order of the Governing body of said DISTRICT in accordance with the laws of the State of California. DISTRICT shall deliver to COUNTY a certified copy of a resolution or minute order of DISTRICT'S governing body authorizing and ratifying the execution of this Agreement. COUNTY shall within thirty (30) days of the receipt of the DISTRICT'S governing body resolution or minute order deliver to DISTRICT a certified copy of a resolution of the Board of Supervisors authorizing or ratifying the execution of this Agreement.
- K. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal

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service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail with postage thereon fully prepaid, and addressed to the party to be served as follows:

If to COUNTY:

Board of Supervisors, County of Marin
3501 Civic Center Drive, Room 315
San Rafael, CA 94903

and to:

Sheriff, County of Marin
3501 Civic Center Drive, Room 145
San Rafael, CA 94903

If to DISTRICT:

President, Marin County Open Space District Board of Directors
3501 Civic Center Drive, Room 260
San Rafael, CA 94903

Each party shall provide the other with telephonic and written notice of any change of address as soon as practicable.

Notices given by personal delivery shall be effective immediately.

J. Indemnification

1. DISTRICT agrees to defend, indemnify, hold harmless and release COUNTY, its Board of Supervisors, and the officers, agents, and employees of COUNTY, from and against any and all actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity including DISTRICT, arising out of or in connection with the activities of DISTRICT, its governing body, the officers, agents, and employees of DISTRICT pursuant to this Agreement whether or not there is concurrent negligence on the part of COUNTY but excluding liability due to the sole active negligence or sole willful misconduct of COUNTY. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for DISTRICT or its agents under workers' compensation acts, disability benefits act, or other employee benefit acts.
2. COUNTY agrees to defend, indemnify, hold harmless, and release DISTRICT, its governing body, and the officers, agents, and employees of DISTRICT, from and against any and all actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity including COUNTY, arising out of or in connection with the activities of COUNTY, its Board of Supervisors, the officers, agents, and employees of COUNTY pursuant to this Agreement whether or not there is concurrent negligence on the part of the DISTRICT but excluding liability due to the sole active negligence or sole willful misconduct of DISTRICT. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for COUNTY or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

EXHIBIT – B

FINANCIAL TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE COUNTY OF MARIN AND THE MARIN COUNTY OPEN SPACE DISTRICT REGARDING THE DELIVERY OF LAW ENFORCEMENT SERVICES

The Board of Directors of the Marin County Open Space District (hereinafter referred to as "DISTRICT") and the Marin County Board of Supervisors (hereinafter referred to as "COUNTY") acting by and through its Sheriff's Office (hereinafter referred to as "SHERIFF") have entered into a contract for the delivery of law enforcement services to DISTRICT by SHERIFF. This Exhibit to the Agreement fully describes the financial terms and conditions agreed to by COUNTY and DISTRICT.

A. COST RECOVERY MANDATE

1. COUNTY is required by policy to recover costs for providing services to other local government agencies. This Exhibit describes how COUNTY determines its costs for providing law enforcement services on a contract basis.

B. DETERMINATION OF COST OF SERVICES

1. DISTRICT shall pay COUNTY for the full cost of salary and benefits of one (1) full-time Deputy Sheriff FTE, as well as any uniform allowance, P.O.S.T. Incentive Pay and/or Bilingual Pay required by the Memorandum of Understanding entered into between COUNTY and the Marin County Deputy Sheriff's Association, (hereinafter referred to as "MCDSA").
 - a) Appendix A, Section 1 of this Exhibit B displays the costs associated with providing law enforcement services to DISTRICT as described above.
2. A quarterly charge will be made to DISTRICT by COUNTY for providing the services described in Exhibit A of this agreement.
 - a) The actual cost to SHERIFF of providing the services described in Exhibit A of this Agreement shall be determined in January 2010, and again during each successive January until the termination of this agreement. Such costs shall not include overhead.
 - c) SHERIFF shall prepare an invoice detailing those costs as soon after the date of initial contract execution as practical, and again during each successive Fiscal Year Quarter, until the termination of this Agreement. SHERIFF shall transmit one (1) copy of said billing invoice to DISTRICT. Upon receipt of said invoice, DISTRICT shall transfer all monies due under this Agreement from DISTRICT to SHERIFF.

C. ADMINISTRATIVE FEE

1. SHERIFF normally assesses an annual five percent (5%) administrative fee based on the total charge to DISTRICT for law enforcement services. In consideration of certain long standing benefits to COUNTY of having SHERIFF provide law enforcement services to DISTRICT under this agreement, COUNTY agrees to waive said administrative fee for the life of this Agreement.

D. SPECIAL CIRCUMSTANCES

1. DISTRICT may request COUNTY to perform certain services outside of the scope of this Agreement. SHERIFF will issue an estimation of the cost for providing those services or changes, in writing, to the designated DISTRICT representative. DISTRICT must authorize the work to be performed on their behalf, and agree in writing to authorize reimbursement to SHERIFF from DISTRICT for all costs associated with those changes before SHERIFF will commence the work.

EXHIBIT B – Financial Terms and Conditions for Law Enforcement Services

F. BILLING

1. SHERIFF shall submit all requests for payment to DISTRICT on a quarterly basis, as described in Paragraph B, Section 2 of this Exhibit B. Transfer of funds by DISTRICT to SHERIFF is due upon receipt of said invoice by DISTRICT.

APPENDIX A

SECTION 1 – FY 2010-2011 PERSONNEL COST

Annual DISTRICT Personnel Costs	Amount
Deputy Sheriff FTE; (full salary / benefits as of January 1 st 2010)	\$126,921
Deputy Sheriff Overtime Pay (cost per hour)	\$68.46
Uniform Allowance; (Paid to all Deputy Sheriff FTE)	\$920
P.O.S.T. Incentive Pay; (Paid to eligible Deputy Sheriff FTE)	\$4,500
Bilingual Pay; (Paid to eligible Deputy Sheriff FTE)	\$2,159