

**MARIN COUNTY OPEN SPACE DISTRICT
STANDARD SHORT FORM CONTRACT**

Contract Log# 10-6300-53

THIS AGREEMENT is made and entered into this **22nd day of June 2010** by and between the MARIN COUNTY OPEN SPACE DISTRICT, hereinafter referred to as "District" and **F3 & ASSOCIATES, INC.**, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, District desires to retain a person or firm to provide the following services: **boundary survey to address encroachments and construction issues at Horse Hill Open Space Preserve (APNs 033-072-03, 04, 07, 12, 14, 17, and 033-102-28);** and

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by District, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit "A"** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

The District agrees to:

- A. Guarantee access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.
- B. Make available all pertinent data and records for review.
- C. Provide general bid and contract forms and special provisions format when needed.

3. FEES AND PAYMENT SCHEDULE:

The fees and payment schedule for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as **Exhibit "B"** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Contract.

Contractor shall provide District with his/her/its Federal Tax I.D. number prior to submitting the first invoice.

4. MAXIMUM COST TO DISTRICT:

In no event will the cost to District for the services to be provided herein exceed the maximum sum of **\$15,520.00** including direct non-salary expenses.

5. TIME OF AGREEMENT:

This Agreement shall commence on **June 22, 2010**, and shall terminate on **July 31, 2010**. Certificate(s) of Insurance must be current on day Contract commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor. The final invoice must be submitted within 30 days of completion of the stated scope of services.

6. INSURANCE:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to District. The general liability policy shall be endorsed naming the County of Marin and the Marin County Open Space District as an additional insured. The certificate(s) of insurance and required endorsement shall be furnished to the District prior to commencement of work. Each certificate shall provide for thirty (30) days advance notice to the District of any cancellation in coverage. Said policies shall remain in force through the life of this Contract and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify and hold the District, its employees, officers, and agents, harmless and defend the District against any and all claims, damages, losses and expense that may arise by reason of the Contractor's negligent actions or omissions. District agrees to timely notify Contractor of any negligence claim.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of the agreement. In addition to any other available remedies, District may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

A request for a waiver of any of the following insurance requirements must be set forth on **Exhibit "C"** attached hereto. A waiver must address reduced amounts of coverage or the type of coverage waived entirely.

6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000.00). The District shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.
(see sample form: ISO - CG 20 10 11 85).

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

6.2 AUTO LIABILITY

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000.00).

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

6.3 WORKERS' COMPENSATION

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work under this Contract. If Contractor has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to District prior to commencement of work.

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

6.4 PROFESSIONAL LIABILITY INSURANCE

Coverages required by this paragraph may be provided on a claims-made basis with a "Retroactive Date" either prior to the date of the Contract or the beginning of the contract work. If the policy is on a claims-made basis, coverage must extend to a minimum of twelve (12) months beyond completion of contract work. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to the Contract effective date, the contractor must purchase "extended reporting" coverage for a minimum of twelve (12) months after completion of contract work. Contractor shall maintain a policy limit of not less than \$1,000,000 per incident. The amount of the policy deductible or self-insured retention must be declared on Exhibit C. If the deductible or self-insured retention amount exceeds \$100,000, the District may ask for evidence that contractor has segregated amounts in a special insurance reserve fund or contractor's general insurance reserves are adequate to provide the necessary coverage and the District may conclusively rely thereon.

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit C)

7. NONDISCRIMINATORY EMPLOYMENT:

Contractor and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the District except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to the District evidence of same.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be transferred or assigned without the express prior written consent of the District.

10. LICENSING AND PERMITS:

The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

11. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this Contract. Contractor will permit District to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. Any audit may be conducted on Contractor's premises or, at District's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from District. Contractor shall refund any monies erroneously charged.

12. WORK PRODUCT/PRE-EXISTING WORK PRODUCT OF CONSULTANT:

Any and all work product resulting from this agreement is commissioned by the District as a work for hire. The District shall be considered, for all purposes, the author of the work product and shall have all rights of authorship to the work, including, but not limited to, the exclusive right to use, publish, reproduce, copy and make derivative use of, the work product or otherwise grant others limited rights to use the work product.

To the extent Consultant incorporates into the work product any pre-existing work product owned by Consultant, Consultant hereby acknowledges and agrees that ownership of such work product shall be transferred to the District.

13. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the District may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract so long as proof of required insurance is provided for the periods covered in the Contract or Amendment(s).

14. RELATIONSHIP BETWEEN THE PARTIES:

It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of the District. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and workers' compensation.

15. AMENDMENT:

This Contract may be amended or modified only by written agreement of all parties.

16. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to District, as is evidenced in writing.

17. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

18. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold District, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's willful misconduct or negligent performance of this Contract.

19. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all Federal, State and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Contract. Copies of any of the above-referenced local laws and resolutions may be secured from the District's contact person referenced in paragraph 20.

NOTICES below.

20. NOTICES:

This Contract shall be managed and administered on District's behalf by the Department Contract Manager named below. All invoices shall be submitted and approved by this Department and all notices shall be given to District at the following location:

Contract Manager:	James Raives
Dept./Location:	Marin County Department of Parks and Open Space 3501 Civic Center Dr. #260 San Rafael, CA 94903
Telephone No.:	415 / 507-3745

Notices shall be given to Contractor at the following address:

Contractor:	F3 & Associates, Inc. Attn: Fred Feickert
Address:	701 E. H Street Benicia, CA 94510
Telephone No.:	707 / 762-9399

21. ACKNOWLEDGEMENT OF EXHIBITS

CONTRACTOR'S INITIALS

<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/> <u>Scope of Services</u>
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/> <u>Fees and Payment</u>
<u>EXHIBIT C.</u>	<input type="checkbox"/> <u>Insurance Reduction/Waiver</u>

IN WITNESS WHEREOF, the parties have executed this Contract on the date first above written.

**APPROVED BY
MARIN COUNTY OPEN SPACE DISTRICT:**

By: _____
JUDY ARNOLD
PRESIDENT, BOARD OF DIRECTORS

ATTEST:

By: _____
SECRETARY

CONTRACTOR:

By: _____
Name: _____
Telephone No.: _____

COUNTY COUNSEL REVIEW AND APPROVAL (Only required if any of the noted reason(s) applies)

REASON(S) REVIEW:

- ☒ Contract Requires Board of Directors' Approval
- ☐ Standard Short Form Content Has Been Modified
- ☐ Optional Review by County Counsel at Department's Request

County Counsel: _____

Date: _____

EXHIBIT "A"
SCOPE OF SERVICES (required)

Contract shall provide the following services.

- Prepare of a topographic survey that shows the property boundary and the location of trees and structures that encroach on the District property.
- Install permanent corner markers at the southwest and northwest corners of 033-072-07 and the northeast corner of 033-072-17
- Prepare of a record of survey

EXHIBIT "B"
FEES AND PAYMENT SCHEDULE (required)

The maximum cost of this contract shall not exceed \$15,520.00

Principal in Charge	200.00/hr
Associate Land Surveyor	160.00/hr
Project Land Surveyor	140.00/hr
Assistant Land Surveyor	110.00/hr
Construction Survey Manager	110.00/hr
Drafting Technician	80.00/hr
Clerical	50.00/hr
Field Crew	215.00/hr
3-Man Crew	295.00/hr
Chainman	89.00/hr
Additional Truck(per day)	50.00/hr

All invoices submitted by Contactor shall include:

- * Brief description of services performed,
- * Date(s) services were performed,
- * Number of hours spent and by whom,
- * Brief description of any extra costs incurred,
- * Contract Log Number, and
- * Purchase Order Number.

Invoices are to be submitted at the end of each month.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/08/10

PRODUCER
Dealey, Renton & Associates
P. O. Box 12675
Oakland, CA 94604-2675
510 465-3090

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED	F3 & Associates, Inc. 701 E. H Street Benicia, CA 94510
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INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: **Hartford Fire Ins. Co.**

25666

INSURER B: **Travelers Property Casualty Co. of A**INSURER C: **Catlin Insurance Company, Inc.**INSURER D: **Travelers Indemnity Company of Ameri**

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD		TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY	57SBAAW5453 GENERAL LIAB EXCLUDES CLAIMS ARISING OUT OF THE PERFORMANCE OF PROFESSIONAL SERVICES.	06/09/10	06/09/11	EACH OCCURRENCE	\$1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
		<input checked="" type="checkbox"/> CONTRACTUAL				PERSONAL & ADV INJURY	\$1,000,000
		<input type="checkbox"/> LIABILITY				GENERAL AGGREGATE	\$2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	\$2,000,000
<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							
D		AUTOMOBILE LIABILITY	BA0582R928	06/09/10	06/09/11	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		<input checked="" type="checkbox"/> HIRED AUTOS					
		<input checked="" type="checkbox"/> NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
		<input type="checkbox"/>				AUTO ONLY: AGG	\$
A		EXCESS/UMBRELLA LIABILITY	57SBAAW5453	06/09/10	06/09/11	EACH OCCURRENCE	\$6,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$6,000,000
		<input type="checkbox"/>					\$
		<input type="checkbox"/> DEDUCTIBLE					\$
		<input checked="" type="checkbox"/> RETENTION \$ 10000					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	UB3490T92A	06/09/10	06/09/11	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER		
					E.L. EACH ACCIDENT	\$1,000,000	
					E.L. DISEASE - EA EMPLOYEE	\$1,000,000	
					E.L. DISEASE - POLICY LIMIT	\$1,000,000	
C	OTHER Professional Liability	AED1010180611	06/09/10	06/09/11	\$2,000,000 per claim \$4,000,000 annl aggr.		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
ALL OPERATIONS OF NAMED INSURED.

BUSINESS LIABILITY ADDITIONAL INSURED: County of Marin and the Marin County Open Space District their Officers, Agents and Employees and any (See Attached Descriptions)

CERTIFICATE HOLDER

**County of Marin
Dept. of Parks & Open Space
Attn: Tina Torresan
3501 Civic Center Drive #415
San Rafael, CA 94903**

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL REIMBURSE BY MAIL 30 DAYS WRITTEN

NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~SHYAM KUMAR DOSOGHAI~~

WAPDER NR ORIGINATOR OR MARKING OF ANY KIND FROM THE INSTANT IS AGENT FOR XX

AUTHORIZED REPRESENTATIVE

(Signature)

DESCRIPTIONS (Continued from Page 1)

other person named in the written contract between the Named Insured and the Certificate Holder. The coverage afforded is pursuant to Section C., Who Is An Insured, Sub-Section 6., Additional Insureds When Required By Written Contract, Written Agreement Or Permit, Subsection f. Any Other Party of the Business Liability Coverage Form, Form No. SS 00 08.

BUSINESS LIABILITY COVERAGE FORM

Insured: F3 & Associates, Inc.

Insurer: Hartford Fire Insurance Co

Policy Number: 57SBAAW5453

Policy Dates: June 9, 2010- June 9, 2011

C. WHO IS AN INSURED

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury, "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products- completed operations hazard, but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury, "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom a claim is made or "suit" is brought.

E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.