



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

## AGENDA PERSONNEL COMMITTEE

1655 Front Street  
6:30 P.M.

March 30, 2009

Oceano  
Monday

COMMITTEE MEMBERS  
Mary Lucey, Chair/Director  
Vern Dahl, Director

STAFF  
Kevin D. Walsh, General Manager  
Gina Davis, Administrative Assistant

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1. Roll Call
2. Public Comment
3. Approval of Minutes
  - a. None
4. Old Business

None
5. New Business
  - a. District Legal Counsel

Review of District's Contract with Kirk & Simas
  - b. District Contract Engineer  
Review of District's Contract with the Wallace Group
  - c. Review of Personnel Policies
6. Public Comment
7. Written Communication

Adjournment

P.O. Box 599 Oceano, CA 93475  
1655 Front Street Oceano, CA 93445  
(805) 481-6730  
FAX (805) 481-6836  
[www.oceanocsd.org](http://www.oceanocsd.org) / [ocsd@oceanocsd.org](mailto:ocsd@oceanocsd.org)



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

## AGREEMENT FOR CONTRACT ENGINEERING SERVICES

**THIS AGREEMENT FOR CONTRACT ENGINEERING SERVICES** (the "Agreement") is made by and between the Oceano Community Services District, a community services district duly existing and operating pursuant to the provisions of Government Code Section 61000 et seq. ("OCSD") and Wallace Group, A California corporation, having a principal place of business at 612 Clarion Court, San Luis Obispo, CA 93401 ("Consultant"), all on the terms and conditions herein specified.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**1. SCOPE OF SERVICES.** OCSD wishes to hire Consultant to provide, and Consultant wishes to provide to OCSD, various engineering and engineering consulting services throughout the term of this Agreement. Consultant agrees to provide OCSD the services identified on the attached Exhibit "A" upon the advance directive of OCSD's Contract Representative (as defined below) and in the character, sequence, and timing so that said services will be coordinated with any requirements of OCSD.

**2. TERM.** This Agreement shall become effective upon notice by OCSD to Consultant that the Agreement has gone through the appropriate procedures required by OCSD and has been executed by both the OCSD President and OCSD General Manager. Consultant shall commence performance of any given service within 5 days of OCSD's Notice to Proceed. This Agreement shall remain in effect indefinitely until terminated pursuant to Section 19 below

### **3. COMPENSATION OF CONSULTANT.**

A. OCSD shall pay Consultant for services performed by Consultant to OCSD on a time and material basis in accordance with the schedule set forth in the attached Exhibit "B".

B. Payment of undisputed amounts are due within 45 days of receipt of invoices. Consultant shall submit its billing statement monthly, at the end of the month, for all services provided to OCSD in that month. . Each billing statement shall include the name of each engineer or other person identified in Exhibit "B" whom provided the services, the time billed by each engineer or other person on a daily, itemized (i.e. no block billing) basis, a description of the services provided, and the hourly rate for each person in accordance with Exhibit "B".

C. OCSD's failure to discover or object to any unsatisfactory work or billing prior to payment will not constitute a waiver of OCSD's right to:

1. Require Consultant to correct such work or billings; or
2. Seek any other legal remedy.

**4. DIRECT EXPENSES.** OCSD shall reimburse Consultant for all Direct Expenses and Mileage, as specified in Exhibit "B", related to services provided by Consultant for OCSD.

**5. INDEPENDENT CONTRACTOR.** Consultant, its contractors, employees and other agents, are independent contractors of OCSD. As such, Contractor shall be responsible for all methods and means used in performing the Consultant's services under this agreement. Under no circumstances are Consultant, its contractors, employees or other agents, nor shall they become, employees, agents or partners of OCSD.

**6. PERFORMANCE STANDARDS.**

A. Compliance with laws.

(1) Consultant shall (and shall cause its employees, agents and contractors), at its sole cost and expense, comply with OCSD, County, State and Federal ordinances, regulations and statutes now in force or which may hereafter be in force with regard to the services provided under this Agreement. The judgment of any court of competent jurisdiction, or the admission of Consultant in any action or proceeding against Consultant, whether OCSD be a party thereto or not, that Consultant has violated any such ordinance or statute, shall be conclusive of that fact as between Consultant and OCSD. Any corrections to Consultant's instruments of professional service which become necessary as a result of the Consultant's failure to comply with these requirements shall be made at the Consultant's expense.

(2) Should these requirements in effect as of the date of design or drawing preparation change at some point during or after the date of design or drawing but prior to execution of related services, then upon OCSD's request, Consultant shall be responsible for notifying OCSD of such change in requirements. Consultant will bring the instruments of professional service into conformance with the newly issued requirements at the written direction of OCSD. Consultant's costs for providing services pursuant to this paragraph shall be submitted to OCSD as additional services, in an amount equal to the proportional cost to consultant to bring said instruments into conformance with the new requirements for performance of services to OCSD. Consultant shall not bill, and OCSD shall not be required to pay for all costs of bringing those instruments in conformance if the instruments are used for other matters not associated with the services performed to OCSD.

(3) Consultant hereby represents that it possesses all licenses, certificates, or other qualifications required by all Federal, State or local agencies to do business in the State of California and the County of San Luis Obispo, and to perform the services contemplated by this Agreement, and will maintain all licenses, certificates and other qualifications during the term of this Agreement. Upon OCSD's request, Consultant shall provide proof of the same to OCSD's Contract Representative.

B. **Standard of Performance.** Consultant represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Consultant shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Consultant is engaged. All products of whatsoever nature which Consultant delivers to OCSD pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in Consultant's profession. Consultant shall correct or revise any errors or omissions at OCSD's request without additional compensation. Permits and/or licenses shall be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.

C. **Professional Seal.** Consultant shall have documents stamped by registered professionals, at Consultant's cost, for the disciplines covered by Consultant's instruments of professional service when required by prevailing law, usual and customary professional practice, by OCSD, or by any governmental agency having jurisdiction over the Project.

**7. CONTRACT REPRESENTATIVE.** Patrick O'Reilly, General Manager of OCSD, or whomever OCSD shall later designate ("OCSD's Contract Representative"), will administer this Agreement for and on behalf of OCSD. John Wallace, or such person as Consultant shall later designate ("Consultant's Contract Representative") is the authorized representative for Consultant and will administer this agreement on behalf of Consultant. Changes in designated representatives shall be made only after advance written notices to the other party.

**8. TAXES.** Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant

**9. CONFLICT OF INTEREST.** Consultant covenants that Consultant presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under the Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Consultant. The above notwithstanding, OCSD recognizes consultant is the District Administrator/Engineer for SSLOCSD and expressly waives any conflict of interest with respect to consultant's work for SSLOCSD. OCSD recognizes consultant represents County Service Area 12 (Avila) SLOCFD Zone3, and expressly waives any conflict of interest with respect to consultant's work for Zone 3. OCSD recognizes consultant provides services for the Cities of Arroyo Grande, Pismo Beach and Grover Beach on a case-by-case basis for capital improvement programs and expressly waives any conflict of interest with respect to those projects.

**10. RESPONSIBILITIES OF OCSD.** OCSD shall provide all information reasonably necessary by Consultant in performing the services provided herein.

**11. OWNERSHIP OF DOCUMENTS.** All drawings, specifications, data, and other instruments of professional service prepared by Consultant during the performance of this Agreement shall become the property of OCSD and shall not be disclosed to third parties without the written consent of OCSD.

**12. RECORDS, AUDIT AND REVIEW.** Consultant shall keep such business records pursuant to this Agreement and otherwise related to services performed hereunder as would be kept by a reasonably prudent practitioner of Consultant's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. OCSD shall have the right to audit and review all such documents and records at any time during Consultant's regular business hours or upon reasonable notice.

**13. INDEMNIFICATION.**

A. Consultant shall indemnify, defend, and hold harmless OCSD and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense and costs (including costs and fees of litigations) of every nature arising out of or in connection with Consultant's, its contractors', employees' or other agents' performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which was caused by the proportional negligence or willful misconduct of OCSD.

B. Termination of this Agreement shall not release Consultant from its obligations referenced in the above Subsection A, or any other provision of this Agreement, for any claims where the claim is based or otherwise arises from any services that Consultant, its contractors, employees, agents and/or consultants, or the employee, agent or consultant of any one of them. performed during the term of this Agreement.

C. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in the Agreement does not relieve Consultant from liability referenced in the above Subsection A or any other provision of this Agreement. The obligations of this article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

**14. INSURANCE.**

A. Consultant shall procure and maintain, in insurance companies authorized to do business in the State of California and assigned an A.M. Best's rating of no less than A-(IX), the following insurance coverage on an "occurrence basis", written on the ISO form shown below (or its equivalent) at the limits of liability specified for each:

Commercial General Liability Insurance (ISO Form CG 0001 11/85)	\$ 1 Million per occurrence \$ 2 Million in the aggregate
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Commercial Automobile Liability Insurance (ISO Form CA 0001 12/90)	\$ 1 Million per accident
Workers' Compensation Insurance	Then current statutory requirements.
Employer's Liability Insurance	\$ 1 Million policy limit
Professional Liability Insurance	\$ 1 Million per claim \$ 1 Million in the aggregate

B. General liability and automobile liability policies identified in sub-paragraph A above shall be endorsed to include the following:

(1) OCSD, its officers, directors, employees, volunteers and agents shall be named as additional insureds; and

(2) The coverage afforded OCSD shall be primary and non-contributing with any other insurance maintained by OCSD.

(3) If not covered separately under a business automobile liability policy, the general liability policy shall also be endorsed to include non-owned and hired automobile liability.

(4) Coverage shall not be canceled by any party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to OCSD.

(5) Coverage shall not extend to any indemnity coverage for the negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

C. Prior to commencing work under this Agreement, Consultant shall provide OCSD with Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance for automobile liability, workers' compensation/ employer's liability, and professional liability insurance shall specify that the insurer shall give OCSD an unqualified thirty (30) days advance written notice by the insurer prior to any cancellation of the policy.

D. All insurance coverage required hereunder shall be kept in full force and effect for the term of this Agreement. Professional liability insurance shall be maintained for an additional uninterrupted period of three (3) years after termination of this agreement, provided such insurance is commercially available at rates reasonably comparable to those currently in effect. Certificates of Insurance evidencing renewal of the required coverage shall be provided within ten (10) days of the expiration of any policy at any time during the period such policy is required to be maintained by Consultant hereunder. Any failure to comply with this requirement shall constitute a material breach of this Agreement.

**15. LIMITATION OF LIABILITY.** OCSD hereby agrees to limits Consultant's liability to the limits of insurance as required by OCSD pursuant to Section 14 of this Agreement, except as to Worker's Compensation Insurance and Employers Liability Insurance.

**16. PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by the Consultant or under Consultant's supervision, and all personnel engaged in the work shall be qualified to perform such services.

**17. NONEXCLUSIVE AGREEMENT.** Consultant understands that this is not an exclusive Agreement and that OCSD shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as the OCSD desires.

**18. ASSIGNMENT.** Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of OCSD and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

**19. TERMINATION.**

A. Right to terminate. OCSD retains the right to terminate this Agreement for any reason by notifying Consultant in writing fifteen (15) days prior to termination. Upon receipt of such notice, Consultant shall promptly cease work and notify OCSD as to the status of its performance. OCSD shall pay Consultant for its reasonable costs and expenses through the date of termination. However, if this Agreement is terminated for fault of Consultant, then OCSD shall be obligated to compensate Consultant only for that portion of Consultant services which are of benefit to OCSD, up to and including the day Consultant receives notice of termination from OCSD.

B. Return of materials. Upon such termination, Consultant shall immediately turn over to the District copies of studies, drawings, mylars, computations, computer models and other instruments of professional services, whether or not completed, prepared by Consultant, or given to Consultant in connection with this Agreement. Consultant, however, shall not be liable for OCSD's use of incomplete materials or for OCSD's use of complete documents if used for other than the project or scope of services contemplated by this Agreement.

**20. OCSD NOT OBLIGATED TO THIRD PARTIES.** OCSD shall not be obligated or liable for payment hereunder to any party other than the Consultant.

**21. NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, by facsimile or otherwise delivered as follows:

**OCSD:** Oceano Community Services District  
1665 Front Street  
P. O. Box 599  
Oceano, CA 93445  
Attn: Patrick O'Reilly  
Facsimile: (805) 481-6836

**CONSULTANT:** Wallace Group  
612 Clarion Court  
San Luis Obispo, CA 93401  
Attention: John Wallace  
Facsimile: 805-544-4294

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

**22 COSTS AND ATTORNEY'S FEES.** The prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement or arising out of this Agreement shall be entitled to recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

**23. SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

**24. SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

**25. REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to OCSD is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**26. TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

**27. NO WAIVER OF DEFAULT.** No delay or omission of OCSD to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein;



and every power and remedy given by this Agreement to OCSD shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of OCSD.

**28. ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

**29. SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**30. CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any dispute or litigation regarding this Agreement or its contents shall be filed with the Superior Court, the County of San Luis Obispo, which shall have jurisdiction in any such dispute or litigation.

**31. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**32. AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Consultant hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Consultant is obligated, which breach would have a material effect hereon.


**33. FORCE MAJEURE.** Neither party shall hold the other responsible for damages or delays in performance caused by force majeure (acts of nature) or other events beyond the reasonable control of either party.

***[Remainder of Page left Blank Intentionally]***

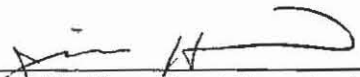
**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective upon Consultant providing insurance endorsements required by Section 16 and the District issuing its Notice to Proceed pursuant to Section 5.

**CONSULTANT**

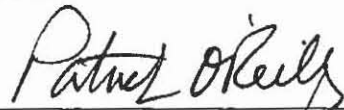
Wallace Group, A California Corporation

By:   
Name: John L. Wallace  
Title: president  
Date: 12/14/07

**OCEANO COMMUNITY SERVICES DISTRICT**

  
Jim Hill, President Board of Directors  
Date: 12/13/2007

**ATTEST:**

  
Patrick O'Reilly, Secretary to the Board  
Date: 12/13/2007

## **AGREEMENT FOR CONTRACT CSD ATTORNEY SERVICES**

**THIS AGREEMENT FOR CONTRACT CSD ATTORNEY SERVICES** (the "Agreement") is made and entered into as of April 9, 2008, by and between the OCEANO COMMUNITY SERVICES DISTRICT, a special district organized under California law (the "District") and KIRK & SIMAS, a professional law corporation (the "Firm") with reference to the following facts:

- A. The District, through its duly elected officials, has determined that it is in the District's best interests to retain, on a contract basis, CSD attorney services (the "Legal Services") to advise the District on certain legal matters as specified herein.
- B. The Firm is a law firm duly organized under California law, registered to practice law through its constituent principal shareholders and associates, and capable of providing the Legal Services the District requires.
- C. The District and the Firm are the same parties as those named in that certain Agreement for Contract CSD Attorney Services dated July 11, 2001 as amended by a certain Amendment #1 thereto dated as of July 1, 2002 and as amended and superseded by another certain Agreement for Contract CSD Attorney Services dated as of July 1, 2005 (the "Prior Agreements").
- D. The parties wish to enter into this Agreement for such Legal Services to supercede and replace the Prior Agreements, all on the terms and conditions specified herein.

**NOW THEREFORE**, in consideration of the mutual promises, covenants and conditions contained herein, the parties hereto agree as follows:

1. **TRUTH OF RECITALS.** All of the matters specified in Recitals A. through D. above are true and correct as of this Agreement's date.
2. **ENGAGEMENT OF COUNSEL.** The District hereby engages the Firm as an independent contractor to provide Legal Services to the District as specified herein, and the Firm hereby accepts such engagement.
3. **DESIGNATION OF RESPONSIBLE ATTORNEY.** In connection with this Agreement, the District hereby appoints Alexander F. Simas ("Simas") as the attorney primarily responsible to fulfill the Firm's obligations hereunder. The parties acknowledge that from time to time, the

firm may designate additional member attorneys, law clerks, paralegals, legal assistants, secretaries or special outside counsel to discharge the Firm's duties under this Agreement. In particular, the District acknowledges that Firm associate Ryan W Fothergill will actively participate in providing services to the District under Simas' direction and supervision.

**4. TERM OF AGREEMENT.** The term of this Agreement shall be for a period commencing July 1, 2008 and ending June 30, 2009. It thereafter shall renew automatically for successive periods of twelve (12) months each, subject to:

- a. Such annual adjustments in compensation as the parties may from time to time agree pursuant to the District's budgeting process;
- b. The termination rights granted pursuant to Section 10 hereof;
- c. Such other modifications to which the parties may from time to time agree in writing.

Until July 1, 2008, the Prior Agreements shall remain in full force and effect, subject only to the provisions of Section 7.c. of this Agreement modifying the "Current Bank" arrangements.

**5. SCOPE OF WORK.** The Firm shall provide the District with its general legal services, including but not limited to:

- a. Attendance at regular District meetings (second and fourth Wednesdays of each month) and at such special meetings as may reasonably be required.
- b. Reviewing, drafting and advising the District and its staff with regard to legislation, resolutions, contracts, litigation and other matters of a legal nature.
- c. "On call" availability for legal questions of the District's Board of Directors and responsible management level staff.

The parties expressly agree that the Firm's responsibilities:

- d. Include completing codification of the District's ordinances during calendar year 2008.
- e. Do not include any bond or other securities work; or any other services for which the Firm does not have the necessary expertise and for which similar districts would ordinarily retain special counsel.

Nothing herein shall be deemed to constitute a representation or warranty regarding any particular outcome on any particular matter of District business.

**6. EMPLOYMENT OF ASSISTANTS.** The Firm, at its own expense, shall employ such

assistants as it deems necessary to perform the services required of it under this Agreement. The District shall not control, direct or supervise the Firm's assistants or employees in performing those services. Nothing herein shall be deemed to create an employer - employee relationship between the District and any of the Firm's employees or subcontractors.

**7. COMPENSATION.** The Firm shall be paid for its services rendered pursuant to this Agreement as follows:

a. Four Thousand Dollars (\$4,000) per month as a retainer (20 hours at \$200 per hour).

b. Two Hundred Twenty Five Dollars (\$225) per hour for any Legal Services rendered in excess of twenty (20) hours in one calendar month on all District files including litigation work.

c. In months in which the District utilizes less than twenty (20) hours, the unused hours shall be accrued and applied against later months in which the District utilizes more than twenty (20) hours so as to avoid payment at the higher rate pursuant to Section 7.b. above. Hours accrued but not used within twenty-four (24) months of accrual shall be lost and no longer subject to use by the District at a later time. In connection therewith, the parties acknowledge that as of February 29, 2008 there are approximately fifty (50) accrued and unused hours under the Prior Agreement (the "Current Bank Hours"), and that under the Prior Agreements, some of the Current Bank Hours are scheduled to expire during April 2008. The parties agree that the first expiration date for any Current Bank Hours is extended to October 1, 2008.

**8. REIMBURSABLE EXPENSES.** In addition to the foregoing fees for services, the District shall advance to or reimburse the Firm for any litigation costs, filing fees, postage, photocopies, long distance phone charges, overnight courier charges, facsimile charges or the like incurred by the Firm on behalf of the District.

**9. BILLINGS.** Fees and costs incurred during the term of this Agreement shall be billed in arrears on or about the last day of each month and shall be payable within fifteen (15) days thereafter.

Billings shall identify the services performed, the date of the services, the person performing the services, the number of hours worked, the aggregate cost of the services allocated to the retainer and/or extra hours, and all reimbursable cost items.

**10. TERMINATION.** The District may terminate this Agreement at any time and without penalty and without cause upon not less than thirty (30) days written notice delivered in person or by first class mail to the Firm. In order to avoid any proration of fees for partial months, such notice shall provide for termination on the last day of the first month ending at least thirty (30) days after the notice date.

The District may terminate this Agreement for cause at any time upon written notice to the Firm, subject only to payment for fees and costs incurred to date.

The Firm may terminate this Agreement upon not less than ninety (90) days written notice delivered in person or by first class mail to the District. In order to avoid any proration of fees for partial months, such notice shall provide for termination as of the last day of the first month ending at least ninety (90) days after the date of the notice.

11. **ASSIGNMENT**. Neither this Agreement nor any duties or obligations under this Agreement may be assigned by the Firm without the District's prior written consent.

12. **WORKER'S COMPENSATION**. The Firm shall provide worker's compensation insurance for its employees and agents to indemnify the District against any loss or liability arising out of work related injuries for its employees.

13. **PROFESSIONAL LIABILITY INSURANCE**. The Firm shall maintain a comprehensive policy of professional liability insurance in the minimum amount of Five Hundred Thousand Dollars (\$500,000) per claim / One Million Five Hundred Thousand (\$1,500,000) aggregate, to cover any professional errors or omissions committed by the Firm's employees and agents during the performance of any duties under this Agreement.

14. **DOCUMENT RETENTION POLICY**: Because of the volume of work the Firm performs, the Firm cannot retain all documents in its files forever. As a result the Firm has developed a document retention policy. In general, the Firm retains originals or copies of all documents for a minimum of five years after the date on which the particular engagement involved ends.

15. **NOTICE**. Any and all notices or other communications required or permitted by this Agreement or by law to be delivered to, served on, or given to any party to this Agreement by any other party to this Agreement shall be in writing and shall be deemed properly delivered, served, or given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, first class, postage pre-paid, addressed to:

**IF TO THE DISTRICT:** OCEANO COMMUNITY SERVICES DISTRICT  
P.O. Box 599  
Oceano, CA 93475-0599

Att: General Manager

**IF TO KIRK & SIMAS:** Alexander F. Simas  
KIRK & SIMAS  
2550 Professional Parkway  
Santa Maria, CA 93455

Any party to this Agreement may change his address for the purposes of this Section by giving written notice of such change in accordance herewith.

16. **MODIFICATION**. This Agreement may be amended or modified only by an instrument

in writing, stating the amendment or modification, executed by the parties hereto and attached to the end of this instrument.

17. **GOVERNING LAW/VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event that it is necessary to institute any action to enforce any right granted herein or to redress any alleged breach hereof, then the exclusive venue for such action shall reside with the Superior Court of the State of California in and for the County of San Luis Obispo located in the City of San Luis Obispo, California. Prior to instituting any such action, the parties agree to actively participate in an attempt to mediate any dispute through the services of a regionally or nationally recognized mediation service to be agreed upon by the parties.

18. **HEIRS AND SUCCESSORS.** This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

19. **SEVERABILITY.** Should any portion of this Agreement be held unenforceable or inoperative for any reason, such shall not affect any other portion of this Agreement, but the remainder shall be as effective as though such ineffective portion had not been contained herein.

20. **ATTORNEY'S FEES.** In the event that it is necessary for either party to this Agreement to institute an action to enforce any right granted hereunder or to redress the breach of any provision of this Agreement, then the prevailing party in such action, in addition to any other award made by the Court, shall be entitled to his reasonable attorney's fees and costs incurred in prosecuting such action and the enforcement of any judgment entered in such action, all in an amount to be determined by the Court. Any judgment entered in such action shall include a specific provision authorizing the recovery of attorney's fees and costs incurred in enforcing such judgment.

**IN WITNESS WHEREOF** the parties have executed this instrument at Oceano, California as of the date and year above first written.

**OCEANO COMMUNITY  
SERVICES DISTRICT  
a special district**

**KIRK & SIMAS**  
a professional law corporation

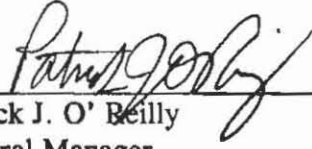
By: \_\_\_\_\_

James Hill  
President, Board of Directors

By: \_\_\_\_\_

Alexander F. Simas

**ATTEST:**

  
\_\_\_\_\_  
Patrick J. O'Beilly  
General Manager