

**PROFESSIONAL SERVICES AGREEMENT WITH
CURT PRINGLE & ASSOCIATES
FOR LAND ACQUISITION AND DEVELOPMENT SERVICES
AND PUBLIC AFFAIRS OUTREACH**

THIS AGREEMENT is made and entered into as of this 16th day of October, 2008, by and between the **ORANGE COUNTY CEMETERY DISTRICT**, ("District"), and **CURT PRINGLE & ASSOCIATES, LLC**, a corporation whose address is 2400 E. Katella, #350, Anaheim, CA 92806 ("**Consultant**"), and is made with reference to the following:

RECITALS

- A. The District, by and through the Board of Trustees ("Board") desires to engage Consultant to work with the District's staff to provide land acquisition and development services and public affairs outreach ("Project").
- B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement.
- C. The principal member[s] of Consultant for purposes of Project, shall be Todd Priest and Curt Pringle.
- D. District has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the above written date, and shall terminate in the six months from the commencement date unless terminated earlier as set forth herein.

Upon mutual consent of the District and the Consultant, the term of the agreement may be extended up to an additional six months.

2. SERVICES TO BE PERFORMED

Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference. The District may elect to delete certain tasks of the Scope of Services at its sole discretion.

COPY

3. COMPENSATION TO CONSULTANT

District shall pay Consultant for the services on a monthly retainer basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for work performed in accordance with this Agreement, shall not exceed **Six Thousand and no/100 (\$6,000) per month**, without additional authorization from District. No billing rate changes shall be made during the term of this Agreement without the prior written approval of District.

A performance bonus in the amount of **Twenty Five Thousand and no/100 \$25,000** shall be paid to the Consultant upon successful identification, acquisition and developmental approval of a new cemetery site within Orange County.

4.1 Consultant shall submit monthly invoices to District describing the work performed the preceding month. Consultant's bills shall include the name of the person who performed the work, a brief description of the services performed and/or the specific task in the Scope of Services to which it relates, the date the services were performed, the number of hours spent on all work billed on an hourly basis, and a description of any reimbursable expenditures. District shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by District staff.

4.2 District shall reimburse Consultant only for those costs or expenses specifically approved in this Agreement, or specifically approved in advance by District. Unless otherwise approved, such costs shall be limited and include nothing more than the following costs incurred by Consultant:

A. The actual costs of sub consultants for performance of any of the services that Consultant agrees to render pursuant to this Agreement, which have been approved in advance by District and awarded in accordance with this Agreement.

B. Routine, day-to-day administrative costs and expenses (photocopies, faxes, office supplies)

C. Actual costs and/or other costs and/or payments specifically authorized in advance in writing and incurred by Consultant in the performance of this Agreement.

4.3 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of District. As used herein, "Extra Work" means any work that is determined by District to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement.

5. PROJECT MANAGER

Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to District at all reasonable times during the Agreement term. Consultant has designated **TODD PRIEST** to be its Project Manager. Consultant shall not remove or reassign the Project Manager or assign any new or replacement personnel to the Project without the prior written consent of District. District's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

Consultant, at the sole discretion of District, shall remove from the Project any of its personnel assigned to the performance of services upon written request of District. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

6. ADMINISTRATION

TIM DEUTSCH, who shall be the Project Administrator and shall have the authority to act for District under this Agreement, will administer this Agreement. The Project Administrator or his/her authorized representative shall represent District in all matters pertaining to the services to be rendered pursuant to this Agreement.

7. DISTRICT'S RESPONSIBILITIES

In order to assist Consultant in the execution of its responsibilities under this Agreement, District agrees to, where applicable:

- A. Provide access to, and upon request of Consultant, one copy of all existing relevant information on file at District. District will provide all such materials in a timely manner so as not to cause delays in Consultant's work schedule.

8. HOLD HARMLESS

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless District, its Board of Trustees, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any work performed or services provided under this Agreement (including, without limitation, defects in workmanship or materials and/or design defects [if the design originated with Consultant]) or Consultant's presence or activities conducted on the Project (including the

negligent and/or willful acts, errors and/or omissions of Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

9. PROGRESS

Consultant is responsible for keeping the Project Administrator and/or his/her duly authorized designee informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

10. INSURANCE

Without limiting Consultant's indemnification of District, and prior to commencement of work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to District.

- A. Certificates of Insurance. Consultant shall provide certificates of insurance with original endorsements to District as evidence of the insurance coverage required herein. Insurance certificates must be approved by District's General Manager prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with District at all times during the term of this Agreement.
- B. Signature. A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.
- C. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the District's General Manager.

D. Coverage Requirements.

- i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his or her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by District at least thirty (30) calendar days (10 calendar days written notice of non-payment of premium) prior to such change. The insurer shall agree to waive all rights of subrogation against District, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for District.
- ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, five hundred thousand dollars (\$500,000) per person for personal injury, and one hundred fifty thousand dollars (\$150,000) per occurrence for property damage, including without limitation, contractual liability.

E. Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:

- i. The District, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insured's with respect to liability arising out of work performed by or on behalf of the Consultant.
- ii. This policy shall be considered primary insurance as respects to District, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from the Consultant's operations or services provided to District. Any insurance maintained by District, including any self-insured retention District may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.
- iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
- iv. The insurer waives all rights of subrogation against District, its elected or appointed officers, officials, employees, agents and volunteers.

- v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to District, its elected or appointed officers, officials, employees, agents or volunteers.
 - vi. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days (10 calendar days written notice of non-payment of premium) written notice has been received by District.
- F. Timely Notice of Claims. Consultant shall give District prompt and timely notice of claim made or suit instituted arising out of or resulting from Consultant's performance under this Agreement.
- G. Additional Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

11. RECORDS

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures and disbursements charged to District, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of District to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

12. WITHHOLDINGS

District may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue work as a result of such withholding. Consultant shall have an immediate right to appeal to the General Manager or his/her designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return that District earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

13. CONFLICTS OF INTEREST

The Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by District. Consultant shall indemnify and hold harmless District for any and all claims for damages resulting from Consultant's violation of this Section.

14. NOTICES

All notices, demands, requests or approvals to be given under the terms of this Agreement shall be given in writing, to District by Consultant and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided. All notices, demands, requests or approvals from Consultant to District shall be addressed to District at:

Attn: Tim Deutsch
Orange County Cemetery District
25751 Trabuco Road
Lake Forest, CA 92630
Phone: 949-951-9102
Fax: 949-951-0236

All notices, demands, requests or approvals from District to Consultant shall be addressed to Consultant at:

Attention: Todd Priest
Curt Pringle & Associates, LLC
2400 E. Katella, #350
Anaheim, CA 92806
Phone: 714-939-9070
Fax: 714-939-9080

15. TERMINATION

In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after

receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

Notwithstanding the above provisions, District shall have the right, at its sole discretion and without cause, of terminating this Agreement at any time by giving seven (7) calendar days prior written notice to Consultant. In the event of termination under this Section, District shall pay Consultant for services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to District all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

16. AMENDMENTS

This Agreement may be modified or amended only by a written document executed by both Consultant and District and approved as to form by the District Attorney.

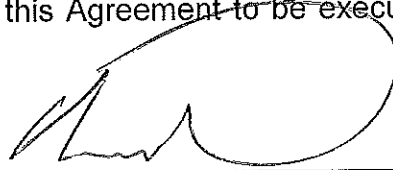
17. SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

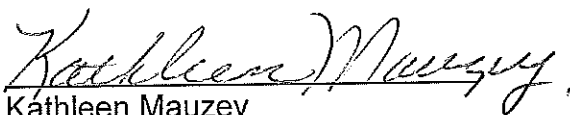


Curt Pringle
Curt Pringle & Associates, LLC



Tim Deutsch
General Manager

ATTEST:



Kathleen Mauzey
Clerk of the Board

APPROVED AS TO FORM:



Barbara Raileanu
General Counsel

Attachments: Exhibit A – Scope of Services