

**COUNTY OF MONTEREY
RIGHT OF ENTRY,
MUTUAL INDEMNIFICATION AND
REIMBURSEMENT AGREEMENT**

This Right of Entry, Mutual Indemnification and Reimbursement Agreement (Agreement) is made by and between the County of Monterey (“County”) and the Moss Landing Harbor District (“District”). County and District are collectively referred to as “the Parties”.

- 1. Right to Enter.** This Agreement permits the right to enter the County’s property located contiguous to Kirby Park, including portions of Kirby Road in Moss Landing (“Property”), as shown on Exhibit A. Specifically, the District desires to prevent ingress into Kirby Park at certain times for public safety reasons by patrolling and securing the Property and locking and unlocking the existing gate on Kirby Road, which leads to the entrance to Kirby Park.
- 2. Kirby Road Gate.** This Agreement allows the District to patrol and secure the Property, lock and unlock, the existing gate on Kirby Road, leading to the entrance to Kirby Park, and to regulate the times at which ingress will be allowed at Kirby Park. The parties understand and agree that between sunrise to sunset are reasonably acceptable times for the District to allow ingress and egress at Kirby Park.
- 3. Term of Agreement.** This Agreement will go into effect upon execution and continue for a one-year pilot term which shall commence as of the date the District engages a private security service as set forth below in Section 7 and as of the date said private security services begin, whichever date occurs later. Following the initial one-year pilot term, the term of this Agreement can be extended subject to funding availability and pursuant to a mutually agreeable written amendment by the Parties.
- 4. Contacts.**

County Contacts:

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District Contacts:

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General Manager/Harbor Master
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5. Mutual Indemnification and Hold Harmless Provisions:

5.1 District. In furtherance of the specified purpose, the District agrees to indemnify, defend, and hold harmless the County's officers, agents, and employees from and against any and all claims and losses whatsoever arising out of or in any way related to the District's performance under this Agreement, including but not limited to claims for property damage, personal injury, death, injuries to reputation, economic losses, and emotional distress, and any legal expenses (such as attorney's fees, court costs, investigation costs, and expert fees) incurred by the County in connection with such claims. "The District's performance" includes the District's action or inaction, and the action or inaction of its officers, employees, contractors, agents or designees. The obligation to indemnify the County does not extend to any claim or losses arising out of the sole negligence or willful misconduct of the County, or of the County's officers, agents, or employees.

5.2 County. In furtherance of the specified purpose, the County agrees to indemnify, defend, and hold harmless the District's officers, agents, and employees from and against any and all claims and losses whatsoever arising out of or in any way related to the County's performance under this Agreement, including but not limited to claims for property damage, personal injury, death, injuries to reputation, economic losses, and emotional distress, and any legal expenses (such as attorney's fees, court costs, investigation costs, and expert fees) incurred by the District in connection with such claims. "The County's performance" includes the County's action or inaction, and the action or inaction of its officers, employees, contractors, agents or designees. The obligation to indemnify the District does not extend to any claim or losses arising out of the sole negligence or willful misconduct of the District, or of the District's officers, agents, or employees.

6. Restoration.

In the event the Property is in need of restoration as a result of the District's and/or its Security Services Contractor's actions during the term of this Agreement, the District shall restore, or cause the restoration of, the Property to a condition acceptable to the County upon termination of this Agreement.

7. Private Security Services.

7.1 During the one-year term of this Agreement, the Parties understand and agree to share the cost of retaining private security services to periodically patrol Kirby Park and manage the Kirby Road Gate. Said private security service will be charged with the responsibility of accessing Kirby Park before sunset, ensuring the Property has been cleared of all visitors, and thereafter locking the Kirby Road Gate at or around sunset. Said private security service will return in the morning, at or around sunrise, to open the Kirby Road Gate to visitors.

7.2 During the one-year term of this Agreement, the Parties understand and agree that for ease of administration, District shall contract with the selected private security service. The District shall provide \$13,000 of the annual costs and the County shall provide \$14,276 of the annual costs (estimated at \$27,276 total) for private security services during the one-year pilot program.

7.3 During the one-year term of this Agreement, the Parties understand and agree that the selected private security service shall have access to Kirby Road to periodically patrol Kirby Park, to secure the Property and lock and unlock the existing Kirby Road Gate.

7.4 During the one-year term of this Agreement, County shall provide funding in the amount \$14,276 toward the costs for private security services, on a reimbursement basis, for a total not to exceed amount of \$14,276 for the one year pilot program, to be funded through District 2 Discretionary Funds.

7.5 District will provide verified invoices within five (5) days of receipt from the selected private security service to Public Works Facilities and Parks – Facilities – Real Property Division (PWFP-Real Property). Invoices shall be reviewed by PWFP-Real Property prior to processing payments for reimbursement by the Auditor-Controller's Office. Once reviewed and approved for payment by PWFP-Real Property Staff, Staff shall forward approved invoices to the Auditor-Controller's Office for payment. The Auditor-Controller's Office shall have 30 days to process payments from the date the approved invoices are received from PWFP-Real Property Staff.

7.6 In the event Discretionary Funds are eliminated from Supervisorial District Office Budgets during the one-year term of this Agreement, the Parties understand and agree that reimbursement for private security services by the County shall cease upon the elimination of this funding source.

8. Government Code Section 8546.7. The parties understand and agree that County shall have the right to examine, monitor and audit all records, documents, conditions and activities of District and its private security services provider related to security services provided under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

9. Termination. This Agreement may be terminated by either party upon thirty (30) days written notice.

10. Consent to Use of Electronic Signatures. The Parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree

that the legality of electronic signatures is governed by state and federal law, 15 U.S.C Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 et. seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF) which may be delivered by mail, E-Mail, or Facsimile.

11. **Authority.** Any individual executing this Agreement on behalf of the County or the District represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

12. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

The parties executing this Agreement hereby covenants and warrants that he/she is duly authorized to execute this Agreement.

County of Monterey

By: _____
Randell Ishii, Director

Date: _____

Approved as to form:
Office of the County Counsel
Susan K. Blich, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

Moss Landing Harbor District

By: _____
Tommy Razzeca
General Manager/Harbor Master

Date: _____

Approved as to form:

By: _____
Mike Rodriquez- District Counsel

Date: _____

Exhibit A

