

**EMERGENCY ALERTING AND DATA SHARING AGREEMENT
BETWEEN
THE COUNTY OF MONTEREY,
AND
MARINA COAST WATER DISTRICT**

This Emergency Alerting and Data Sharing Agreement ("Agreement") is made by and between the **Marina Coast Water District**, an independent, publicly owned special district, (hereinafter referred to as "MCWD" or "DISTRICT") and the **County of Monterey**, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and collectively referred to as "the Parties."

COUNTY Contact:	DISTRICT Contact:
Emergency Services Manager 831-796-1900 AlertMontereyCounty@countyofmonterey.gov	Operations Manager 831-883-5903

1. PURPOSE

The COUNTY, through the Department of Emergency Management (DEM) is a designated alerting authority for the Monterey County Operational Area and manages and maintains a countywide emergency notification system (hereinafter referred to as "System"). The DISTRICT is required to alert their customers and residents of possible hazards, warnings, and recommendations to the water and wastewater systems controlled by the DISTRICT. This Agreement establishes mutually agreeable terms and conditions for the DISTRICT to access and use the System. This Agreement address the specific roles, responsibilities and authorities of the COUNTY and the DISTRICT while using the System. This Agreements allow the use of the System by authorized personnel of the DISTRICT in order to provide emergency notifications and warnings to its customers. This Agreement permits the COUNTY use of DISTRICT customer contacts data for emergency alerting purposes pursuant to Government Code Section 8593.4 for the sole purpose of enrolling COUNTY residents in a COUNTY-operated emergency warning system. This agreement also authorizes the COUNTY to send such emergency alerts as are reasonably necessary for the health and safety of residents on behalf of the DISTRICT.

2. DEFINITIONS

Alert Monterey County: Alert Monterey County is the public facing name of the System as defined below.

Alert and Warning: Alert and Warning includes various pathways and technologies used to communicate public information that is critical to the preservation of life and property, impending natural or human-made disasters, threats, or dangerous or missing persons. Alert and Warning includes the Integrated Public Alert & Warning System (IPAWS) and local alerting systems using various channels of communication.

Alerting Authority: An Alerting Authority is a jurisdiction with the designated authority to alert and warn the public when there is an impending natural or human-made disaster, threat, or dangerous or missing person. The County of Monterey, the Department of Emergency Management and the Emergency Communications Department are the Alerting Authorities for the Monterey County Operational Area as designated by the Federal Emergency Management Agency (FEMA) (IPAWS Alerting Authority ID 200061).

Alert Pathways: The emergency notification System enables multi-modal delivery of alerts. This includes, Wireless Emergency Alerts (WEA), Emergency Alert System (EAS) alerts, voice calls, SMS text messages, Email messages, teletypewriter (TTY) messages, social media posts, and RSS Feed messages. Alert pathways can be targeted to a specific geographical zone and/or custom area. Each Alert Pathway uses a selected/ targeted contact database to filter the alerted end recipients.

Authorized Users: An individual authorized by a User Agency or Sub-Organization to access and utilize the System in accordance with their assigned permissions. Users must complete required training and operate within the scope of their access level and responsibilities. There are multiple **User Types**, which is a classification assigned to a User based on their functional role and access level within the System. These user profiles determine system permissions, scope of communication, and available tools. User Types include:

- **System Administrator:** Full administrative control across all organizations and sub-orgs, including system configuration, user management, template creation, and alert permissions.
- **Program Administrator:** Highest tier administrator for a single sub-org. Can manage users, templates, contacts, and approve alerts for their sub-org, but cannot configure platform-wide settings.
- **Alert Manager:** Authorized to create and edit all alert types and templates in the System to which they are assigned.
- **Contact Manager:** Manages and maintains the contact database with the sub-org to which they are assigned.
- **User/ Dispatcher:** Restricted to creating and sending alerts in the Sub-Org to which they are assigned. It is possible to restrict this role to accessing and launching alerts from templates only.

Integrated Public Alert & Warning System (IPAWS): FEMA's System for local alerting that provides authenticated emergency information through mobile phones using WEA, to radio and television via the EAS, and on the National Oceanic and Atmospheric Administration's (NOAA) Weather Radio.

System: The Emergency Mass Notification System, as established in the Agreement.

Sub-Organization (Sub-Org): A limited access unit of the System created so that Users, registered locations, and alert profiles that belong to one Sub-Org will not be visible to other Sub-Orgs. This ensures each Sub-Org can only issue alerts only to their own contacts. Sub-Org access is configured and managed by the COUNTY.

3. UNDERSTANDING OF THE PARTIES

3.1 Access to Mass Notification System (System)

- 3.1.1 Existing Capabilities and Access Rights- COUNTY will provide DISTRICT with a System Sub-Org, the DISTRICT Sub-Org will allow the following access:
- I. Preloaded Contact Database: The DISTRICT will upload and manage contact groups, such as staff or customers.
 - II. Alert Pathways: The DISTRICT can manage and send alerts to their own contact groups, such as staff or customers.
 - III. User Role Assignments: The DISTRICT may assign specific user roles within their organization. This includes Program Administrator, Alert Manager, Contact Manager, and Users.
 - IV. Internal Alert Templates: The DISTRICT will have access to alert templates.

- V. Generating Reports: The DISTRICT will have the ability to generate at least two types of report; Notification History and Contact Group Reports
- VI. Platform Help Center Access: The DISTRICT will have full access to Platform Help Center for user guides, FAQ, and troubleshooting articles.

3.1.2 Alerting, testing, and training is strictly limited to contact information uploaded by the DISTRICT. The DISTRICT Sub-Org does not have access to public alerting tools such as IPAWS or WEA and cannot issue jurisdiction-wide notifications. Their alerting capabilities are restricted to internal or organization-specific audiences, such as employees, customers, or facility-specific stakeholders. The DISTRICT will have access to send the following alert types to their specific contact database: voice calls, SMS text messages, email messages, and TTY messages. The DISTRICT will have access to the social media pathway, if enabled. The DISTRICT can send geographically targeted message to contacts within their contact database.

3.1.3 The Parties will coordinate on the development of pre-drafted, bilingual emergency alert message templates. These templates may be used by the DISTRICT when issuing alerts and by the COUNTY when issuing alerts on behalf of the DISTRICT.

3.1.4 Additional Emergency Alerting

- I. The COUNTY, at its sole discretion, agrees to issue emergency alerts to contacts within the geographic jurisdiction of the DISTRICT, including DISTRICT contacts and using delivery pathways not available under the DISTRICT Sub-Org access. The COUNTY retains sole authority over the timing, final message content, geographic areas notified, and selected delivery pathways. This decision may be influenced by the prioritization of concurrent emergency alerts or on going emergency response and recovery operations.
- II. The DISTRICT agrees to provide the COUNTY with recommended message language, target alerting areas, and preferred delivery pathways for each anticipated or requested alert. All recommendation are subject to final review, modification, and approval by the COUNTY.
- III. The County shall be held harmless for any mis-sent, false, failed, or delayed alerts.
- IV. All requests for additional emergency alerting will be made through the COUNTY DEM Duty Officer or, if Emergency Operations Center (EOC) is activated, through the COUNTY EOC. Alerts sent by the COUNTY will be limited to urgent emergency alerts and disseminated based on the current situation and competing priorities.

3.2 DISTRICT Responsibilities

3.2.1 DISTRICT will ensure that only trained and authorized personnel have access to the System. DISTRICT shall, without delay, remove any and all persons no longer employed or otherwise unauthorized to issue alerts messages on behalf of the DISTRICT from the System.

3.2.2 The DISTRICT Program Administrator will be responsible for vetting and verifying which employees have completed required trainings in order to obtain access to the System. DISTRICT shall verify that, at a minimum, all users with access to the system:

- I. Are current agents of the DISTRICT with authority to access the system
- II. Have read, understand, and agree to the terms of the Agreement
- III. Have satisfied, at minimum, the training requirements set forth in this Agreement

- 3.2.3 Training Requirements. The DISTRICT will ensure all Users and Program Administrators receive mandatory COUNTY System Training for New Users and annual refresher trainings, as needed.
- 3.2.4 Use of the System Alerting Capabilities
- I. The System is not authorized for routine messages, messages of a commercial or political nature, and any non-official messages.
 - II. In accordance with California State Assembly Bill 1638, the DISTRICT shall provide information related to an emergency in English and in all languages spoken jointly and in common by 5 percent or more of the population that does not primarily speak English.
 - III. If an alert is issued by the DISTRICT, the DISTRICT must ensure that all recipients are notified when the alert has ended.
 - IV. The DISTRICT should consider best practices in the State of California Alert & Warning Guidelines when sending messages in the System.
- 3.2.5 There is no required system testing at the DISTRICT level. It is recommended that System Users and Program Administrators, as outlined above, perform skills testing on a regular basis.
- 3.2.6 The DISTRICT will update their System contact data at minimum every two years. When updating contacts, the DISTRICT will ensure their customers/contacts are notified of their enrollment in the System and that new enrollees are given an opportunity to opt-out.

3.3 COUNTY Responsibilities

- 3.3.1 The COUNTY will coordinate, administer, and maintain the emergency notification System and will serve as the overall System Administrator.
- 3.3.2 The COUNTY will work with the System vendor to add the DISTRICT as a new Sub-Org. The COUNTY will assist with uploading initial contact data, creating contact groups for distribution, developing alert templates, and providing initial training.
- 3.3.3 With the approval of the COUNTY Board of Supervisors, the COUNTY shall be the signatory on agreements with third-party vendors for services such as, but not limited to, support of systems required under this Agreement.
- 3.3.4 As System Administrator, all requests for new users must be made through the COUNTY. Once the COUNTY receives a new user request from the DISTRICT, the COUNTY will validate it for appropriate need and configuration and take the appropriate steps to create that user.
- 3.3.5 Annually, if needed, the COUNTY will assist the DISTRICT with an update of contact data. At the request of the DISTRICT and at the discretion of the COUNTY, the COUNTY may assist with this update more frequently than annually.
- 3.3.6 THE COUNTY will provide at least one (1) training annually on use of the System to the DISTRICT at the request of the DISTRICT. The COUNTY will also provide train-the-trainer training to the DISTRICT and facilitate and support additional available mass notification training.

- 3.3.7 If a major change occurs in the System that requires migration or transition the COUNTY will ensure the District will continue to have an equivalent level of access and will provide additional training for Users and Program Administrators, as needed.
- 3.3.8 The COUNTY will ensure that only emergency related notifications are sent to the public. If the DISTRICT utilizes the System for any other purpose other than set forth herein, three levels of response will be forthcoming:
- I. First violation: Notice of failure to adhere to the Agreement is sent to the DISTRICT.
 - II. Second violation: Privilege revoked for individual offending user(s) for one (1) year and individual offending user(s) will be required to complete user training before being reinstated.
 - III. Third violation: The DISTRICT loses permission to use the SYSTEM for one (1) year and requires remedial training for system administrators and users prior to reinstatement

4. TERM

- 4.1 This Agreement shall become effective as of the last date opposite the respective signatures.
- 4.2 The initial term of this agreement shall be for three years plus the remainder of the fiscal year that the agreement is executed, unless terminated sooner by mutual consent of all Parties. Upon completion of the initial three-year term, this Agreement shall automatically be renewed for successive periods of two years.
- 4.3 If the DISTRICT seeks to terminate this Agreement, they shall provide written notice to the COUNTY, before invoicing is sent out for the upcoming fiscal year. The DISTRICT will remain responsible for the costs for the fiscal year in which they withdraw. Upon withdrawal, the DISTRICT relinquishes all rights and access to System at the end of that fiscal year.
- 4.4 Termination for Cause. The COUNTY and the DISTRICT, may terminate this Agreement for cause, including the DISTRICT's failure to fully pay agreed upon costs, as well as any other breach of this Agreement. Cause for termination includes compliance with any requirement imposed upon the Parties as specified in this Agreement.
- 4.5 The DISTRICT acknowledges that a new funding agreement for Alert and Warning may be developed between the COUNTY and the entities that make up the current Alert and Warning users under the 911 Services Agreement. The COUNTY will notify the DISTRICT, of the development of a countywide Alert and Warning Agreement and provide the DISTRICT an opportunity to participate. A countywide Alert and Warning Agreement will supersede this Agreement.
- 4.6 Upon termination of this Agreement, all data shall be removed from the system, and the removal shall be certified by the COUNTY.

5. COST STRUCTURE

- 5.1 Onboarding Cost of \$8,000 is one time only and is inclusive of annual cost for the remainder of fiscal year in which the Agreement is executed, and includes:
- 5.1.1 Set up of DISTRICT Sub-Org in the System, including Tailoring system settings, permissions, and roles to the DISTRICT's specific needs
 - 5.1.2 Contact data upload and contact group creation in DISTRICT Sub-Org
 - 5.1.3 Alert template development in DISTRICT Sub-Org

- 5.1.4 Initial Sub-Org Administration training and User training
- 5.1.5 System and Sub-Org Testing
- 5.1.6 Documentation, Standard Operating Procedures, and Admin Manuals

5.2 Annual Fee of \$4,000, includes:

- 5.2.1 Ongoing access to the emergency notification System
- 5.2.2 Annual assistance with DISTRICT contact update
- 5.2.3 Minimum of one (1) training annually
- 5.2.4 Alert Support from 24/7 COUNTY DEM Duty Officer
- 5.2.5 Access to System updates and enhancement
- 5.2.6 System administrative support, as needed

6. BILLING

- 6.1 The COUNTY will invoice the DISTRICT for the Onboarding Fee upon execution of this Agreement, and then annually during the 1st Quarter of the Fiscal Year.
- 6.2 If the DISTRICT disputes payment owed to COUNTY, the DISTRICT shall notify COUNTY within 30 calendar days of its receipt of its invoice. This notice shall include sufficient details about the dispute for COUNTY to sample invoice maybe review and act. COUNTY shall provide any requested information within 30 calendar days. If COUNTY is unable to respond within 30 calendar days, the Party disputing the billing shall be relieved of any delinquency payment until 30 days after the information is provided.
- 6.3 Payments are due to within 30 days of the billing date. Payments are considered late after 30 days of non-payment by DISTRICT and shall accrue a 5% penalty on any amount owed every 30 days until paid in full. If DISTRICT does not pay the delinquent amount and any delinquency fee within ninety (90) calendar days from the Due Date, the COUNTY will limit or remove DISTRICT's access to the System.

7. DATA PRIVACY & CONFIDENTIALITY

- 7.1 The DISTRICT will provide the COUNTY with the current contact information of DISTRICT customers who are residents of COUNTY ("Confidential Customer Information"), which shall not include customer water usage data, in the format and frequency described in **Attachment 1** to this Agreement. The DISTRICT shall take reasonable steps to transmit the Confidential Customer Information to protect the security and confidentiality of the Confidential Customer Information. The Parties agree to work together to determine the most secure means for the DISTRICT to provide the Confidential Customer Information to the COUNTY.
- 7.2 The COUNTY acknowledges the confidentiality and proprietary status of the Confidential Customer Information and will use the Confidential Customer Information solely for the purposes of updating its emergency contact information and emergency notification systems as authorized by California Government Code Section 8593.4, and for no other purpose. Consistent with Government Code Section 8593.4, the COUNTY may share or make Confidential Customer Information available to third party contractors or other local governments that assist with the COUNTY's emergency warning system solely for purposes of providing emergency notification to County residents with prior written notification to the DISTRICT. Confidential Customer Information shall be treated as confidential by all third-party contractors under this Agreement.

- 7.3 The COUNTY shall, promptly following receipt of the Confidential Customer Information, notify residents or customers identified in the Confidential Customer Information that they have been entered into the public emergency warning systems. This notification shall include a process for such residents or customers to opt out of the warning system and to terminate the COUNTY's access to the contact information of the resident or customer for purposes of the emergency warning system.
- 7.4 The COUNTY shall take reasonable measures within its control to immediately stop the unauthorized access or disclosure of Confidential Customer Information in its possession or under its control. Confidential Customer Information shall be treated as confidential by COUNTY and by persons and entities provided authorized access to such information under this Agreement. The COUNTY shall keep reasonable records of all Confidential Customer Information received and shall cooperate and expeditiously provide the DISTRICT with access to and documentation of such records in response to any request, including, without limitation, any request by the DISTRICT or California consumers to the DISTRICT under the California Consumer Privacy Act.
- 7.5 The COUNTY shall notify the DISTRICT in writing within 24 hours of becoming aware of any unauthorized access or disclosure of the Confidential Customer Information. The COUNTY (and or their designee) shall investigate such breach or potential breach and shall inform the DISTRICT in the most expeditious time possible and without reasonable delay, in writing, of the results of such investigation, and assist the DISTRICT (at COUNTY's sole cost and expense) in maintaining the confidentiality of such Confidential Customer Information. If requested in writing by the DISTRICT, the COUNTY will notify the potentially affected persons regarding such breach or potential breach within a reasonable time period determined by the DISTRICT and in a form as specifically approved in writing by the DISTRICT or as otherwise required by law. The COUNTY shall not issue or permit to be issued any public statements regarding the security breach involving the Confidential Customer Information before notifying the DISTRICT and potentially affected customers. Any such public statement shall be coordinated with the DISTRICT before being issued.
- 7.6 In the event that a court or other governmental authority of competent jurisdiction issues an order, subpoena, or other lawful process requiring the disclosure of Confidential Customer Information, the COUNTY shall notify the DISTRICT immediately upon receipt thereof to facilitate the DISTRICT's efforts to prevent such disclosure or otherwise preserve the confidentiality of Confidential Customer Information. The COUNTY shall not be in violation of the Agreement if the COUNTY complies with an order of such court or governmental authority to disclose Confidential Information, after notifying the DISTRICT to give it the opportunity to maintain the confidentiality of such information as provided herein or has notified the COUNTY in writing that it will take no action to maintain such confidentiality.
- 7.7 All Confidential Customer Information shall be maintained by the COUNTY and other persons and entities provided access to such information under this Agreement pursuant to reasonable security procedures. The COUNTY shall implement reasonable administrative, technical, and physical safeguards to protect the Confidential Customer Information from unauthorized access, use, destruction, modification, or disclosure. Reasonable administrative, technical and physical safeguards include, without limitation, the following:
- 7.7.1 Password protected workstations at COUNTY's premises, any premises where work or services are being performed, and any premises of any authorized person who has access to such Confidential Customer Information
 - 7.7.2 Encryption in transit and at rest of the Confidential Customer Information
 - 7.7.3 Measures to safeguard against the unauthorized access, destruction, use, alteration or disclosure of any such Confidential Customer Information including, but not limited to, restriction of physical access to such data and information, implementation of logical access controls, sanitization or

destruction of media, including hard drives, and establishment of an information security program that at all times is in compliance with reasonable security requirements as agreed to between the Parties.

7.7.4 At the termination of any event subject to disclosure of Confidential Customer Information, destruction or deletion of all Confidential Customer Information disclosed to the COUNTY for purposes of mutual assistance during the event, and certified documentation provided to the DISTRICT in writing demonstrating such destruction or deletion.

7.7.5 In the event the DISTRICT determines the COUNTY has not complied with security measures, the DISTRICT shall provide written notice to the COUNTY describing the deficiencies. The COUNTY shall then have sixty (60) calendar days to cure. If the COUNTY has not cured the deficiencies within sixty (60) calendar days, the DISTRICT may terminate this Agreement and require the COUNTY to return and/or destroy all Confidential Customer Information.

7.8 The COUNTY and the DISTRICT agree that Confidential Customer Information provided to the COUNTY pursuant to this Agreement is exempt from production under the California Public Records Act, Cal. Gov't Code Sections 6250, *et seq.*, under the exemptions provided in the California Public Records Act, including Sections 6254(e), 6254(k), 6254.16, 6255(a), and/or 6276.36 (citing Public Utilities Code Section 583), and the COUNTY agrees to withhold production of such materials unless ordered to do so by a court of competent jurisdiction. Under this Agreement, the COUNTY agrees to comply with all applicable laws, regulations and orders related to the protection of customer privacy.

7.9 All Confidential Customer Information disclosed under this Agreement is provided "as is, with all faults." The DISTRICT expressly disclaims all warranties and conditions of any kind, express or implied, regarding the accuracy, completeness, intended use, improper use or release, or other attributes of the Confidential Customer Information disclosed hereunder. None of the Parties waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Confidential Customer Information. The Parties agree that, in addition to whatever other remedies may be available to a Party under applicable law, a Party shall be entitled to obtain injunctive relief with respect to any actual or threatened violation of this Agreement by any other Party. This Agreement is made in the State of California and shall be governed by and interpreted in accordance with its laws. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Monterey County, California. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement shall remain in full force and effect. Nothing express or implied in this Agreement is intended to confer upon is intended to confer, nor will anything herein confer, upon any person or entity other than the Parties hereto any rights, remedies, obligations, or liabilities whatsoever.

7.10 This Agreement, including the Attachments hereto, contains the complete agreement between the Parties with respect to matters contained in this Agreement and supersede all other agreements, whether written or oral, with respect to the matters contained in this Agreement. This Agreement may be executed and amended in two or more counterparts, all of which shall be considered one and the same Agreement. The DISTRICT and the COUNTY may mutually agree by email or other electronic or written documentation in counterparts to amend this Agreement to expand the categories of events subject to this Agreement at their sole discretion.

8. INDEMNIFICATION

The DISTRICT shall indemnify, defend, and hold harmless the COUNTY, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the DISTRICT's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the COUNTY. "DISTRICT's performance" includes DISTRICT's action or inaction and the action or inaction of DISTRICT's officers, employees, agents and subcontractors.

9. INSURANCE REQUIREMENTS

9.1 Evidence of Coverage: Prior to commencement of this Agreement, the DISTRICT shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the DISTRICT upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the COUNTY, unless otherwise directed. Work under this Agreement shall not proceed until the COUNTY has obtained all insurance required and the COUNTY has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the DISTRICT.

9.2 Qualifying Insurers: All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current A.M. Best's Rating Guide or a company of equal financial stability that is approved by the COUNTY's Purchasing Agent.

9.3 Insurance Coverage Requirements: Without limiting DISTRICT duty to indemnify, DISTRICT shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate.

Auto Liability Coverage: must include motor vehicles, including scheduled, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance: if the DISTRICT employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the

DISTRICT shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

If the DISTRICT maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or higher limits maintained by the DISTRICT.

9.4 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to the COUNTY and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date the DISTRICT completes its performance of services under this Agreement.

Each liability policy shall provide that the COUNTY shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Additional Insured Status:

The County of Monterey, its officers, officials, employees, and volunteers are to be covered as additional insureds on the commercial general liability policy with respect to liability arising out of work or operations performed by or on behalf of the DISTRICT including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage shall be provided in the form of an endorsement to the DISTRICT's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage:

For any claims related to this contract, the DISTRICT's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the DISTRICT's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Waiver of Subrogation:

The DISTRICT hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said DISTRICT may acquire against the COUNTY by virtue of the payment of any loss under such insurance. The DISTRICT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.

Prior to the execution of this Agreement by the COUNTY, the DISTRICT shall file certificates of insurance with the COUNTY, showing that the DISTRICT has in effect the insurance required by this Agreement. The DISTRICT shall file a new or amended certificate of insurance within five calendar days after any change is

made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. The DISTRICT shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by COUNTY, annual certificates to COUNTY's Contract Administrator. If the certificate is not received by the expiration date, COUNTY shall notify the DISTRICT and the DISTRICT shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by the DISTRICT to maintain such insurance is a default of this Agreement, which entitles COUNTY, at its sole discretion, to terminate this Agreement immediately.

10. COMPLIANCE WITH APPLICABLE LAWS

DISTRICT shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement as well as any privacy laws including, if applicable, HIPAA. DISTRICT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Agreement.

The Americans with Disabilities Act (42 U.S.C. § 12101, et seq.) and the regulations thereunder (28 C.F.R. § 35.130) ("ADA") prohibit discrimination against persons with disabilities by the State. As a condition of this Agreement, the DISTRICT certifies that services, programs, and activities under this Agreement and will continue to be in compliance with the ADA.

11. NON-DISCRIMINATION

During the performance of this Agreement, DISTRICT, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in DISTRICT's employment practices or in the furnishing of services to recipients. DISTRICT shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. DISTRICT and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. MISCELLANEOUS

12.1 Amendments: This Agreement may be amended only by written agreement signed by each of the Parties.

12.2 Waivers: No waiver of any provision of this Agreement will be valid unless it is in writing and signed by all of the Parties. Waiver by any Party at any time of any breach of this Agreement cannot be deemed a waiver of or consent to a breach of the same or any other provision of this Agreement. If a Party's action requires the consent or approval of any other Party, that consent or approval on any one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

12.3 Binding Effect and Assignment: This Agreement shall be binding upon and inure to the benefit of the Parties and their successors or assigns. This Agreement is for the benefit only of the Parties, and no third parties are intended to be benefited by this AGREEMENT.

- 12.4 Governing Law: This Agreement, and the Parties' performance under this Agreement, will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions.
- 12.5 Construction: The headings used in this Agreement are for convenience only and will not affect the meaning or interpretation of this Agreement. This Agreement will not be construed against any Party as the principal draftsman. The words "include" and "including" when used are not exclusive and mean "include but are not limited to" and "including but not limited to," respectively.
- 12.6 Capitalized Terms: Capitalized terms have the meanings given to them in this Agreement.
- 12.7 Severability: If any term of this Agreement is inconsistent with applicable law, then upon the request of any Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with law, but all parts of this Agreement not affected by the inconsistency will remain in full force and effect.
- 12.8 Further Assurances: The Parties agree to cooperate reasonably and in good faith with one another to implement the terms of this Agreement, and to negotiate and execute any further Agreements and perform any additional acts that are reasonably necessary to carry out the terms of this Agreement.
- 12.9 Notices: Any notices or other communications to be sent by one Party to the other under this Agreement shall be in writing and shall be given by personal or electronic delivery to the persons designated above, with copies delivered as indicated, or by U.S. Mail, return receipt requested, with copies mailed as indicated.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

MARINA COAST WATER DISTRICT

Kelsey Scanlon
Director of Emergency Management

Derek Cray
Operations Manager

Date

Date

Approved as to Form

Date

ATTACHMENT 1

MARINA COAST WATER District ("MCWD") CUSTOMER CONTACT INFORMATION SPECIFICATIONS

- Data Elements
- Customer ID
- Customer Name
- Premise_Address_line_1
- Premise_Address_line_2
- Premise City
- Premise ZIP
- Premise County
- Customer_Phone_1
- Customer_Phone_2
- Public Customer Email

Format

- Comma Separated Value (csv) file