

## MASTER SERVICES AGREEMENT

MSA # C72380M-1

### SECTION I. SERVICES AND COMPENSATION:

This Master Services Agreement ("Agreement") is entered into effective October 19, 2023, by and between Perris Union High School District ("CLIENT") and LEIGHTON CONSULTING, INC. (the "parties"). This Agreement relates to performance of services at locations ("LOCATIONS") described in each Scope of Work Agreement, as set forth in A., below.

The parties agree as follows:

**A. Services to be Performed by LEIGHTON CONSULTING, INC.:** Leighton Consulting, Inc. shall perform consulting services ("Services") as needed by CLIENT in accordance with this Agreement and various Scope of Work Agreements, each of which shall refer to this Master Services Agreement. The Scope of Work Agreement shall detail the particular Services required at a given LOCATION for a specific task/scope. Each Scope of Work Agreement shall be numbered consecutively commencing with No. 1. Upon execution by the parties, each Scope of Work Agreement, together with this Agreement, shall constitute a separate contract.

**B. Invoicing and Payment:** CLIENT will pay Leighton Consulting, Inc. for performance of Leighton Consulting, Inc.'s Services, in accordance with the payment terms set forth in the Scope of Work Agreement pertaining to such Services. Leighton Consulting, Inc.'s fee schedules are

revised annually. The Schedule in effect at the time the Services are performed shall apply to the Services.

Leighton Consulting, Inc. shall invoice CLIENT monthly for its Services, unless another invoicing schedule is set forth in the applicable Scope of Work Agreement. In the event of a dispute over payment, Client shall pay all undisputed amounts in accordance with this Agreement. Invoices will be due upon presentation and will be past due thirty (30) days from the date of the invoice. Should any invoice for payment remain outstanding for sixty (60) days or more, CLIENT agrees that Leighton Consulting, Inc. may suspend Services and/or demand prepayment of fees at Leighton Consulting, Inc.'s option. CLIENT agrees to pay a service charge of one and one half (1½) percent per month, compounded monthly from the past due date of the invoice, on past due accounts, not to exceed limits set by any applicable usury laws. In the event that it becomes necessary for Leighton Consulting, Inc. to commence action to force payment of invoices, Leighton Consulting, Inc. shall be entitled to reasonable collection costs.

If at any time Leighton Consulting, Inc. or its officers or employees should be required or requested to give expert witness testimony or otherwise participate in a judicial or administrative proceeding involving the CLIENT or concerning matters in any way related to the Services under any Scope of Work Agreement, CLIENT agrees that such activities shall be deemed part of the Scope of Work Agreement.

#### TECHNICAL LIMITATIONS:

LEIGHTON CONSULTING, INC.'s Services are based solely on the investigations described in the Scope of Work Agreement, which was established after consultation between the parties. Client agrees that it is unreasonable to expect to completely evaluate subsurface conditions even after the most comprehensive exploratory program reasonably possible. Further, site conditions change frequently due to the passage of time, human activities and climatic conditions. Uncertainties are therefore inherent in the nature of LEIGHTON CONSULTING, INC.'S Services and impossible to avoid. CLIENT acknowledges that the identification of geotechnical conditions and the prediction of future or concealed conditions is an inexact scientific endeavor. The state of the art of geotechnical practice is such that LEIGHTON CONSULTING, INC. cannot guarantee that its recommendations will prove adequate on this project and the client assumes the risk of any such failure, except as provided in this Agreement. Anything herein to the contrary notwithstanding, LEIGHTON CONSULTING, INC. shall not be alleged to be negligent, nor shall LEIGHTON CONSULTING, INC. be liable under this Agreement or otherwise for occurrences occasioned by performance of Services performed in accordance with standards of care and diligence utilized by those performing similar services at the time and in the general vicinity in which the Services are performed.

THIS CONTRACT CONTAINS SPECIFIC LIMITATIONS OF LIABILITY.

**C. Warranty:** Leighton Consulting, Inc. shall perform its Services in accordance with the standards of care and diligence normally practiced by members of the profession performing professional consulting services of a similar nature. If, during the one (1) year period following completion or termination of Services, whichever is earlier, under the applicable Scope of Work Agreement, it is shown that there is an error in the Services as a result of Leighton Consulting, Inc.'s failure to perform the Services in accordance with the above standard, and CLIENT has notified Leighton Consulting, Inc. in writing of the error within such one year period, Leighton Consulting, Inc. shall re-perform, at no cost to CLIENT, such corrective Services within the original Scope of Work Agreement, as may be necessary to remedy such error and to conform the Services to the above stated standard.

EXCEPT AS EXPRESSLY STATED ABOVE, LEIGHTON CONSULTING, INC. MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, CONCERNING ANY OF THE MATERIALS OR SERVICES WHICH MAY BE FURNISHED PURSUANT TO THIS AGREEMENT.

Leighton Consulting, Inc. shall, for the protection of CLIENT, demand available warranties, indemnities and guaranties with respect to machinery, equipment, materials and services from all vendors and subcontractors with whom Leighton Consulting, Inc. contracts, and shall render all reasonable assistance to CLIENT for the purpose of enforcing the same.

**D. Indemnity:** Leighton Consulting, Inc. shall release, indemnify and hold CLIENT harmless from and against any and all claims, demands, losses, expenses and causes of action resulting from or arising out of (a) failure of Leighton Consulting, Inc. to comply in material respects with federal, state and local laws and regulations applicable to the Services; (b) material breach by Leighton Consulting, Inc. of Leighton Consulting, Inc.'s warranties in this Agreement; (c) bodily injury or death of persons, or damage to or destruction of property to the extent that the same results from the negligence or willful misconduct of Leighton Consulting, Inc., its employees, officers or agents while engaged in the performance of the Services.

**E. Limitations:** For any errors, omissions or other acts, including any damages based in contract, tort or other causes of action, Leighton Consulting, Inc.'s liability, including that of its employees, agents, and officers shall not exceed amounts recovered under the scope and limits of Leighton Consulting, Inc.'s insurance, described in F below, plus Leighton Consulting, Inc.'s warranty obligation, as stated in C, above.

**F. Insurance:** Commencing with performance of the Services, and for the entire term of this Agreement,

Leighton Consulting, Inc. shall maintain the following insurance, and shall, upon the request of CLIENT, furnish copies of insurance certificates evidencing the following coverage:

Worker's Compensation: California statutory limits

Employer's Liability: \$1,000,000 per occurrence

Commercial Liability Insurance: Commercial liability insurance including Contractual Liability, Property Damage, Bodily Injury and Death and Automobile Liability, \$1,000,000 combined single limit, \$1,000,000 annual aggregate

CLIENT may be named as an additional insured on the Commercial liability policy, with respect to Leighton Consulting, Inc.'s performance of this Agreement. CLIENT shall be provided with thirty (30) days written notice before cancellation of or any material change in such insurance.

**G. Changes:** In the event CLIENT desires to make changes in the Services and so notifies Leighton Consulting, Inc., Leighton Consulting, Inc. will perform such changes and additional work pursuant to the terms, conditions and pricing of this Agreement and the applicable Scope of Work Agreement. CLIENT acknowledges that the individual signing this Agreement on its behalf, or any authorized representative of CLIENT, may amend or change any Scope of Work Agreement.

**H. Termination:** Either party may, prior to completion and with or without cause, terminate the Services under any or all Scopes of Work at any time upon five (5) working days' written notice to the other. In event that CLIENT terminates this Agreement without cause, Leighton Consulting, Inc. shall be paid for Services performed to the date of termination plus non cancelable commitments entered into prior to Leighton Consulting, Inc.'s receipt of notice of termination, and actual, reasonable, termination costs.

**I. Term:** This Agreement shall run for a five (5) year term beginning October 19, 2023 through October 18, 2028 unless terminated by either party. Termination shall not affect the rights, obligations and remedies of the parties.

This Agreement, with attachments, Scope of Work Agreement(s) and any attachments thereto, constitute the complete Agreement of the parties. No other representations of any kind, oral or otherwise, have been made. If CLIENT elects to utilize a purchase order or other form as a convenience, for billing purposes or in accordance with its customary practice, Leighton Consulting, Inc. will refer to the same in invoices or

correspondence, with the understanding that this Agreement supersedes all inconsistent terms.

This Agreement shall be governed by the laws of the State of California. Any arbitration or litigation arising from this Agreement shall take place in Orange County, California.

## SECTION II: GENERAL PROVISIONS

**A Severability:** If any provision of this Agreement is finally determined to be contrary to, prohibited by, or invalid under applicable laws or regulations, such provision will be renegotiated to give effect to the intent of the parties to the maximum possible extent. Such determination and renegotiation shall not affect or invalidate the remaining provisions of this Agreement

**B Use of Reports or Services:** Leighton Consulting, Inc.'s opinions, reports or Services may not be utilized in prospectuses, proxy solicitations, loan applications, or other documents or transactions reasonably expected to influence investment decisions without Leighton Consulting, Inc.'s prior written consent.

**C. No Third Party Rights:** Nothing contained in or relating to the formation of this Agreement is intended to make any person or entity who is not a signatory to the Agreement a third party beneficiary. No one other than CLIENT shall be entitled to use and rely on the opinions, Services or reports produced hereunder.

**D. Execution and Counterparts:** This Agreement and any Scope of Work Agreement may be executed and delivered in two or more counterparts and by each party hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original and both of which taken together shall constitute but one and the same instrument.

**E. Remedies:** Neither party shall be held liable for indirect or consequential damages of any nature whatsoever, howsoever arising. The obligations, responsibilities, warranties and liabilities of the parties with respect to the Services shall be solely those expressly set forth in this Agreement. Remedies and limitations on liability shall apply regardless of whether an action is brought in contract, or is based on either party's negligence, strict liability or another theory of law. The limitations stated in this Agreement extend collectively to the parties' partners, joint venturers, licensors, insurers and affiliates. CLIENT and Leighton Consulting, Inc. agree that any legal action with respect to the Services to be done under this agreement shall be brought solely against the parties, and not against affiliated companies, individual officers, employees or former employees of the

parties. All legal actions by either party against the other for breach of this Agreement, or for the failure to perform in accordance with the applicable standard of care, however framed, that are essentially based upon such breach or failure shall be barred two (2) years from the time claimant knew or should have known of its right to make a claim, but, in any event, not later than four (4) years from substantial completion of the Services.

**F. Confidentiality:** Leighton Consulting, Inc. agrees to hold in confidence and not to use or disclose to any third party without the written consent of CLIENT any and all information relating directly to the Services provided, except as required by law or regulation, or as needed to carry out work under this Agreement. This obligation of confidentiality shall expire five (5) years after completion or termination of the Services under the applicable Scope of Work Agreement, and shall not apply to: (a) information in Leighton Consulting, Inc.'s possession or known to Leighton Consulting, Inc. prior to its receipt in connection with this Agreement or the Services; (b) information independently developed by Leighton Consulting, Inc. at no cost to CLIENT and without the use of Client's confidential information; (c) information which is or becomes public knowledge through no fault of Leighton Consulting, Inc.; (d) information which is or becomes available on an unrestricted basis from a third party which Leighton Consulting, Inc. has no reason to believe has an obligation of confidentiality.

**G. Ownership of Records:** Subject to Paragraph "F," above, all reports, logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Leighton Consulting, Inc. under this Agreement shall remain the property of CLIENT. Leighton Consulting, Inc. shall be entitled to maintain file copies, subject to Leighton Consulting, Inc.'s confidentiality agreement set forth in Paragraph "F" above. CLIENT recognizes that Leighton Consulting, Inc.'s reports and opinions will be prepared specifically for and in connection with the Services performed for the particular LOCATION and task/scope. CLIENT shall not, except with Leighton Consulting, Inc.'s prior written consent, utilize the same on other projects. Inventions or software conceived or developed by employees of Leighton Consulting, Inc. in the course of the Services shall belong exclusively to Leighton Consulting, Inc.

**H. Force Majeure:** Unless otherwise specified in this Agreement, Leighton Consulting, Inc. shall be obligated to perform its Services within a reasonable period of time. Schedules are estimates only. Leighton Consulting, Inc. shall not be responsible for delays in the completion of the Services if such delays are created by reason of any unforeseen cause or causes beyond Leighton Consulting,

Inc.'s reasonable control, including, but not restricted to acts of God or the public enemy, acts or delays of governmental or regulatory bodies, acts or delays of other contractors or CLIENT, fire, floods, epidemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather. In the event of delay due to any such cause, Leighton Consulting, Inc. shall be paid by CLIENT only for actual out of pocket costs occasioned by such delay, including standby costs, as if the same had been included in the Scope of Work Agreement.

**I. Compliance:** Leighton Consulting, Inc. agrees to perform its Services in accordance with all applicable laws and regulations which are in force and effect at the time of performance.

**J. Information Obtained from Others:** The parties agree that Leighton Consulting, Inc. will be supplied with certain information and/or data by CLIENT and/or others, and that Leighton Consulting, Inc. will rely on same. Leighton Consulting, Inc. shall not be responsible for verifying the accuracy of such information, unless the applicable Scope of Work Agreement provides for verification by Leighton Consulting, Inc..

**K. Provision of Information:** CLIENT shall immediately notify Leighton Consulting, Inc. in writing of any data, information or knowledge in the possession of or known to CLIENT relating or relevant to performance of the Services, including information relating to the actual or possible presence of hazardous materials. CLIENT recognizes that new information may require revision of Leighton Consulting, Inc.'s opinions or analyses.

**L. Timely Review and Comment:** CLIENT shall promptly review all documents, reports, data and recommendations submitted by Leighton Consulting, Inc. and shall communicate with Leighton Consulting, Inc. concerning such reviews to avoid delay in the performance of the Services.

**M. Headings and Construction:** Article and paragraph headings used herein are for the convenience of reference only and shall not affect the construction of any provision of this Agreement. Neither party hereto nor its respective counsel shall be deemed the drafter of this Agreement for purposes of construing the provisions hereof. The language in all parts of this Agreement shall in all cases be construed according to its fair meaning and not strictly for or against any party hereto.

**N. Independent Contractor:** Leighton Consulting, Inc. shall perform services as an independent contractor and not an employee or agent of CLIENT.

**O. Notices:** Any and all notices and other communications hereunder shall be in writing and be deemed received when delivered, or forty eight (48) hours after being mailed, via certified or registered mail, return receipt requested, postage prepaid, to the respective addresses set forth in the applicable Scope of Work Agreement, or to such other addresses as either of the parties hereto may from time to time designate in writing to the other party.

### SECTION III: FIELD WORK TERMS

**A. Access:** CLIENT warrants that it has or will obtain, timely access for Leighton Consulting, Inc. to all necessary areas of the LOCATION and any other property necessary for the performance of the Services.

**B. Site Characteristics and Hazards:** CLIENT will provide Leighton Consulting, Inc. with and Leighton Consulting, Inc. can rely on all relevant information available concerning the LOCATION, including, without limitation, any past or present uses, site and facility diagrams, facts concerning previous conditions or incidents which could affect the Services or Leighton Consulting, Inc.'s opinions; prior studies and assessments and compliance issues.

**C. Repairs, Cleanup and Field Corrections:** Leighton Consulting, Inc. will use all reasonable care to minimize damage to the LOCATION and other properties, but has included only customary site cleanup in the Scope of Work Agreement. CLIENT is responsible for identifying and locating underground structures, and agrees to defend, indemnify and hold Leighton Consulting, Inc. harmless from and against all liability, losses or costs resulting from damage to or destruction of underground structures not properly located and marked. CLIENT recognizes that performance of the Services may result in the necessity of some repairs, extra cleanup or field corrections and agrees to compensate Leighton Consulting, Inc. for the same as if it were included in the Scope of Work Agreement.

**D. Safety Equipment and Samples:** If special safety equipment is required to protect personnel, such equipment will be purchased at the Client's expense. Upon completion of the Services, all such equipment shall remain Client's property and shall be returned to CLIENT for proper disposal. All samples taken, including contaminated materials and decontamination fluids, shall remain the property of the CLIENT and shall be returned to the CLIENT at the conclusion of the project for proper disposal by the CLIENT.

**E. Removal Materials:** All materials removed from boreholes or trenches will be placed in suitable storage containers, if necessary, and left onsite. Contaminated materials will be stored separately from non-contaminated materials, if this determination can be made with appropriate field equipment. An appropriate label will be attached to each container identified as holding contaminated or possibly contaminated materials. Proper disposal of the containers and their contents is the sole responsibility of the CLIENT.

**F. Groundwater:** All groundwater removed from a monitoring well will be stored in containers on site. An appropriate label will be attached to each container. Following chemical analysis of a sample from the monitoring well or container, Leighton Consulting, Inc. will notify the CLIENT of analyses results. Proper disposal of containers and contents is the sole responsibility of the CLIENT.

**G. Standby Costs:** CLIENT shall pay Leighton Consulting, Inc. the standby rate set forth in the Scope of Work Agreement for field personnel and for drilling equipment in the event of stoppage of work in the field due to: (1) request by CLIENT, or (2) governmental agency order, or (3) unreported or unanticipated conditions at the site which, in the sole opinion of Leighton Consulting, Inc., constitute a hazard to personnel and/or equipment in the performance of the investigation.


**H. Waste Removal and Disposal:** CLIENT shall be solely responsible for the selection of disposal sites, removal, transportation, handling, management, packaging, labeling, storage, treatment, labeling, manifesting and disposal of any waste or hazardous materials, including samples produced or encountered in the performance of the Services as well as all associated documentation connected therewith. Leighton Consulting, Inc. shall follow Client's instructions with respect to such waste, and shall assist CLIENT as specified in the Scope of Work Agreement.

**I. Hazardous Substances or Conditions:** CLIENT agrees to advise Leighton Consulting, Inc. in writing if any Services are to be performed in an area where hazardous or toxic substances or conditions may or are likely to be encountered. CLIENT further agrees that, if such substances or conditions are encountered, such event shall constitute a changed condition necessitating a revision to the Scope of Work Agreement to include all necessary additional Services and to resolve all health and safety concerns posed by such substances or conditions, or termination of the services. CLIENT will defend, indemnify and hold Leighton Consulting, Inc. harmless from any cost, claim, liability or injury including delay, associated with discovery of unanticipated hazardous materials on any disclosure of any such materials required by law or regulation.

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

**LEIGHTON CONSULTING, INC.**

**CLIENT: Perris Union High School District**



\_\_\_\_\_  
By (Signature)

\_\_\_\_\_  
By (Signature)

Simon I. Saiid / Senior Principal Engineer

\_\_\_\_\_  
Please type or clearly print name and title

\_\_\_\_\_  
Please type or clearly print name and title

Date: September 14, 2023

Date: \_\_\_\_\_



## INFORMATION FOR CLIENTS REGARDING LEIGHTON'S SERVICES

- We provide technical consulting services in the field of geotechnical engineering. As consultants, we provide professional opinions based on limited observations and often- changing conditions. Due to the nature of our work, there are unavoidable risks. We call your attention specifically to the following points:
- Our professional opinions will be based in part upon data obtained from a limited number of soil and/or other samples, tests analyses, histories of occurrences, spaced subsurface explorations and limited numbers of historical events and observations. Such information is necessarily limited and incomplete.
- The accuracy, value and analytical significance of borings and other field and laboratory procedures and data relate only to their specific time and location. The nature of many sites is such that differing characteristics can be experienced within small distances and under various climatic conditions. Greater accuracy is obtained when the number and frequency of procedures and analyses are increased, but we recognize the necessity of budgetary constraints, and have agreed with you on the Scope of Work Agreement taking into account such constraints.
- If conditions change, unexpected events occur, or variations or latent conditions are later discovered, they may have an impact on the way systems perform, and/or it may become necessary to reevaluate conclusions and recommendations. Such impacts may also necessitate a change in the applicable Scope(s) of Work.
- The Services involve tests, calculations, analyses and procedures, which are in a constant state of development and refinement. Evaluative techniques are continually evolving.
- Modifications of procedures that have been made in the past are now being made and are expected to continue to be made in the future. Standards existing at present may be revised as knowledge increases and the state of the practice in our profession continues to improve.

Because of the inherent risks and uncertainties in our Services, our contract contains specific limitations of liability. Leighton cannot guarantee that geotechnical services or opinions will prove adequate and the client assumes the risk of failure of such services.

- At times, clients elect to utilize new, state-of-the art, or innovative techniques, systems, or approaches for cost, schedule or other reasons. Sometimes governmental or regulatory agencies will allow the use of a new technique, process, or system before it has been thoroughly tested. If the Client elects to use unproven or new techniques, they may fail, despite the exercise of due care on our part, and despite agency approvals.
- Our work products shall be based solely upon the Services described in the Scope of Work Agreement, and not on tasks, procedures or tests beyond the scope of described Services on the time and budgetary constraints reflected in the Scope of Work Agreement.

**We appreciate your business and look forward to working with you.**