

HERZOG
GEOTECHNICAL
CONSULTING ENGINEERS

Revised September 26, 2014
Proposal Number 3184-01-14

Muir Beach Community Services District
Attention: Leighton Hills, District Manager
16 Miller Avenue, Suite 203
Mill Valley, California 94941

RE: Proposal
Geotechnical Investigation
Sunset Way and Cove Lane Improvements
Muir Beach, California

Herzog Geotechnical is pleased to present this proposal to perform a geotechnical investigation for in connection with water main, street and drainage improvements at Sunset Way and Cove Lane in Muir Beach, California. The attached Professional Service Agreement contains our recommended scope of services and corresponding fee estimate. When you wish us to proceed with the scope of services as outlined, please return one signed copy of the Professional Service Agreement to confirm your authorization. Information regarding our firm and a list of representative projects can be viewed at our web site *herzog-geotechnical.com*.

We appreciate the opportunity to be of service to you. If you have any questions, please call me at (415) 388-8355.

Sincerely,

HERZOG GEOTECHNICAL



Craig Herzog, G.E. #2383
Principal Engineer

Attachments: Professional Service Agreement
Schedule of Charges

PROFESSIONAL SERVICES AGREEMENT

Project Name: Sunset Way and Cove Lane Improvements

Project Location: Muir Beach, California

Date: Revised September 26, 2014

Project Number: 3184-01-14

Client: Muir Beach Community Services District
Attention: Leighton Hills, District Manager
16 Miller Avenue, Suite 203
Mill Valley, California 94941

Consultant: **HERZOG GEOTECHNICAL**
70 Woodside Lane Improvements
Mill Valley, California 94941

Project Description: Client retains Herzog Geotechnical to perform a geotechnical investigation for in connection with water main, street and drainage improvements at Sunset Way and Cove Lane in Muir Beach, California. The project is shown on the plan by ILS Associates dated September 3, 2014.

Scope of Services: The scope of Herzog Geotechnical's services will consist of the following:

Herzog Geotechnical will 1) conduct a reconnaissance of the project area and the surrounding vicinity; 2) review selected geologic references; 3) excavate, log and sample nine test borings; 4) test selected samples of the earth materials recovered from the exploration points; 5) conduct engineering analyses and geotechnical interpretations; and 6) produce a report including geotechnical recommendations for site preparation and grading, retaining walls, utility trench backfill, pavement subgrade preparation, and for design asphaltic concrete and baserock thicknesses.

Our scope of work does not include an evaluation of any potential hazardous waste contamination of the soil or groundwater or corrosion potential of the soils at the site. Based on our discussions with the client, we understand that with the exception of the portion of Sunset Way immediately east of the intersection with Cove Lane, the project will not include stabilization measures along the outboard roadway edges, and that the risk of maintenance and repair of these areas is considered acceptable.

Fees: Herzog Geotechnical proposes to perform the services associated with the geotechnical investigation for a fixed fee of \$9,400. Prior to commencement of the field exploration, client agrees to remit a retainer in the amount of one half the fee (\$4,700). Services requested by the client beyond the scope listed above (such as additional consultation, plan review, and services during construction)

will be performed on a time and materials basis in accordance with our Schedule of Charges then in effect. Our current Schedule of Charges is attached for your information.

Conditions: The following Terms and Conditions are incorporated into and made a part of this Professional Services Agreement:

TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Professional services performed by Herzog Geotechnical under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this agreement, or in any report, opinion, document or otherwise.
2. **EXCLUSIONS.** Unless agreed to in writing, Herzog Geotechnical's scope of work does not include evaluation of soil contamination, soil chemistry, corrosivity, groundwater contamination, potential hazardous materials, presence or absence of wetlands, approval of or installation of construction materials, or establishing or verifying construction line and grades.
3. **PERMITS AND RIGHT OF ENTRY.** Client shall be responsible for obtaining all permits and approvals required by law or regulation for Herzog Geotechnical to provide the services under this Agreement. Client shall provide for Herzog Geotechnical's right to enter or access a site as may be required to fulfill the scope of services included herein. Client waives any claim against Herzog Geotechnical, and agrees to defend, indemnify and hold Herzog Geotechnical harmless from any claim or liability for injury or loss allegedly arising from procedures associated with exploration activities or discovery of hazardous materials or suspected hazardous materials.
4. **MONITORING.** If Herzog Geotechnical is retained to provide a site representative to monitor specific portions of project work or other field services as set forth in this Agreement, then the following applies: For the specified assignment, Herzog Geotechnical's representatives will report observations and professional opinions to Client or its designated representative. No action of Herzog Geotechnical can be construed as altering any agreement between Client and others. Herzog Geotechnical will report to Client any observed project work within the scope of services which, in Herzog Geotechnical's opinion, does not conform with Client's specifications. Herzog Geotechnical has no right to reject or stop work of any agent of Client. Herzog Geotechnical's presence on site does not, in any way, guarantee the completion or quality of the performance of the work of any party retained by Client to provide project related services. Herzog Geotechnical's monitoring of project work does not create any responsibility of Herzog Geotechnical for project or site safety conditions, which are the sole responsibility of Client.
5. **PROJECT INFORMATION.** Client will make available for Herzog Geotechnical's review all available information regarding project conditions or requirements that may be relevant to or affect the services to be performed under this Agreement, including, but not limited to, information Client knows, assumes or may suspect with respect to hazardous or potentially hazardous substances or wastes, or any documents pertaining to physical and/or geotechnical conditions of the property. Client will immediately transmit to Herzog Geotechnical any new information concerning the project that becomes available to it, either directly or indirectly, during the performance of this Agreement. Client agrees to render reasonable assistance as requested by Herzog Geotechnical so the performance of the services under this Agreement may proceed without delay or interference. Herzog Geotechnical will not be liable for any advice, judgment or decision based on inaccurate or incomplete information furnished by client.
6. **SAMPLES AND WASTE DISPOSITION.** Client shall be solely responsible for proper disposal (including costs) of all contaminated and/or waste materials, including, but not limited to, contaminated personal protective equipment, samples, waste materials and produced soils or fluids at or submitted from the project site. Client is responsible for all

hazardous or potentially hazardous materials, substances or wastes that are present on the project site and/or submitted to Herzog Geotechnical. Samples determined to contain or suspected of containing any hazardous or potentially hazardous materials, substances or wastes will remain the property of Client, who will be solely and completely responsible for their proper disposal.

7. **TERMINATION.** This Agreement may be terminated by either party upon ten days written notice if there is a substantial failure by the other party to perform. Termination will not be effective if substantial failure to perform is remedied before expiration of the ten day period. Upon termination, Consultant will be paid for services performed to the date of termination, plus reasonable termination expenses and expenses associated with the project services provided under this Agreement.
8. **DISPUTE RESOLUTION.** All claims, disputes and other matters in controversy between Herzog Geotechnical and Client arising out of or in any way related to this agreement will be submitted to "alternate dispute resolution" (ADR) before and as a condition precedent to other remedies provided by law. Since no specific ADR procedures are set forth in this agreement, it is understood that the parties shall submit disputes to mediation as a condition precedent to litigation.
9. **GENERAL INDEMNITY.** Client agrees to defend, indemnify and hold harmless Herzog Geotechnical against any claims, obligations and liabilities arising from or related to the performance of project services under this Agreement, or occurring or resulting from Client's utilization of Herzog Geotechnical's reports, other than to the extent that Herzog Geotechnical is found to be at fault (unless Herzog Geotechnical is otherwise indemnified under this Agreement without regard to fault). Client agrees to defend, indemnify and hold harmless Herzog Geotechnical against any claims, obligations and liabilities arising from or related to Client's, or those working for Client, failure to follow the recommendations given by Herzog Geotechnical.
10. **LIMITATION OF LIABILITY.** Client hereby agrees, to the fullest extent permitted by law, to limit the liability of Herzog Geotechnical and his subcontractors to the Client and to all construction contractors and subcontractors on the project for any losses, costs, damages or any nature whatsoever or claims expenses from any cause or causes including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability to Herzog Geotechnical and his subconsultants to all those named shall not exceed \$50,000, or Herzog Geotechnical's total fee for services rendered on this project, whichever is more. In no event shall Herzog Geotechnical be liable for special, incidental, exemplary, punitive or consequential damages. This clause has been specifically negotiated between the parties and Client has had the opportunity to discuss this clause with Herzog Geotechnical and any other advisor of their choosing.
11. **OWNERSHIP OF DOCUMENTS.** Unless indicated otherwise in specific project contracts, all reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by Herzog Geotechnical as instruments of service shall remain the property of Herzog Geotechnical. Client agrees that all reports and other work furnished to Client or his agents, which are not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever.
12. **BURIED UTILITIES.** Client will furnish to Herzog Geotechnical information identifying the type and location of utility lines and other man-made objects beneath the site's surface. Herzog Geotechnical will take reasonable precautions to avoid damaging these man-made objects. Client agrees to waive any claim against Herzog Geotechnical, and to defend, indemnify and hold Herzog Geotechnical harmless from any claim or liability for injury or loss allegedly arising from Herzog Geotechnical's damaging underground utilities or other man-made objects that were not called to Herzog Geotechnical's attention or which were not properly located on the plans furnished to Herzog Geotechnical.
13. **PAYMENT TERMS.** Client will pay Consultant for services and expenses in accordance with the agreed project fee and any fee and cost schedules attached to this Agreement and incorporated by reference herein. Consultant's invoices will be presented at the completion of its work, or monthly, as specified in the quotation, and will be paid within thirty (30) days of receipt by Client or Client's authorized representative. Client agrees to pay a finance charge of 1-1/2% per month on past due accounts, or the maximum allowed by law if such maximum is less than 1-1/2% per month. Failure by Herzog Geotechnical to charge interest to any billings does not waive Herzog Geotechnical's right to collect interest

on past due invoices and/or future billings. All time and expenses incurred (including attorney's fees) in connection with collection of any delinquent amount will be paid by Client to Herzog Geotechnical per Herzog Geotechnical's current fee schedules. In the event Client fails to pay Herzog Geotechnical within sixty (60) days after invoices rendered, Client agrees that Herzog Geotechnical will have the right to consider the failure to pay Herzog Geotechnical's invoice as a breach of this agreement. At which point remaining work performed by Herzog Geotechnical on the project will be halted, and a lien may be filed on the property.

AUTHORIZATION: Subject to receipt of any specified retainer, the undersigned agree to the terms and conditions of this Agreement.

HERZOG GEOTECHNICAL

By: 

Craig W. Herzog
Principal Engineer

Revised September 26, 2014

CLIENT

By: 

Title: District Manager
Muir Beach CSD

Date: 9/29/14

Phone: 415-383-7102

Fax: " 383-7060

E-mail: leigha.hills@muirbeachcsd.com

**HERZOG GEOTECHNICAL
2014 SCHEDULE OF CHARGES**

Effective January 1, 2014

PERSONNEL

<u>Description</u>	<u>Rate</u> ¹
Principal Engineer/Geologist.....	\$240/hour
Senior Geotechnical Consultant.....	250/hour
Project Engineer/Geologist.....	140/hour
Field Technician/Engineer.....	105/hour
Lab Technician	105/hour
Drafting.....	72/hour
Report Production.....	60/hour
Miscellaneous Labor.....	60/hour
Expert Testimony ²	1800 for first 4 hours
Extra Report Copies.....	25/each

DRILLING AND EQUIPMENT³

<u>Description</u>	<u>Rate</u>
Truck-Mounted Drilling Equipment	Cost plus 20%
Backhoe Equipment.....	Cost plus 20%
Portable Power Auger with Drill Crew.....	Cost plus 20%
Cone Penetration Testing	Cost plus 20%
Materials/Expenses.....	Cost plus 20%

FIELD AND LABORATORY TESTING

<u>Description</u>	<u>Rate</u>
Nuclear Density Testing.....	\$15/test
Laboratory Testing.....	Cost plus 20%

¹Travel time to and from site is billed at hourly rate. Weekends and overtime billed at 1-1/2 times standard rate.

²\$450/hour after first four hours.

³Four-hour minimum for all drilling and sampling equipment.