(Date)

COMPANY NAME
ADDRESS
CITY, STATE ZIP

SA #:
JOB # / NAME:

PHONE #:
FAX #:

Enclosed is your Service Agreement with Ghilotti Construction Company, Inc. for the above-referenced project. Please SIGN & RETURN ONE COPY of the Agreement, along with any required documents as indicated below, to the corporate office at 246 Ghilotti Avenue, Santa Rosa, CA 95407 to the attention of the undersigned within 5 working days of receipt or prior to performing any work, on or off site. Please keep one fully-executed copy for your files. **PLEASE SEE GCC'S WEBSITE (www.ghilotti.com) FOR ELECTRONIC VERSIONS OF THESE DOCUMENTS.**

1. **INSURANCE REQUIREMENTS __X__ per #5 on page 2 of this agreement.**

2. **CERTIFIED PAYROLL / FRINGE BENEFIT STATEMENT __X_____**
   Submittal of Certified Payroll (prevailing wage rate); including contributions for bonafide fringe benefits are required. All forms require an original signature.

3. **COPY OF CSLB POCKET LICENSE __X__**
   Please submit with signed Service Agreement.

4. **SIGNED ADDENDUM "D" – TERMS AND CONDITIONS AGREEMENT __X__**
   Please submit with signed Service Agreement.

PLEASE RETURN ONE OF THE SIGNED SERVICE AGREEMENTS WITHIN 5 WORKING DAYS FROM DATE OF RECEIPT – PROCEEDING WITH WORK PRIOR TO RETURNING A SIGNED SERVICE AGREEMENT WILL MEAN SERVICE PROVIDER HAS AGREED TO ALL TERMS AND CONDITIONS OF SERVICE AGREEMENT WITHOUT ADDITIONS / DELETIONS OR CHANGES. PAYMENTS WILL BE WITHHELD UNTIL A SIGNED SERVICE AGREEMENT IS RECEIVED BY GCC.

PLEASE DO NOT MODIFY SERVICE AGREEMENT WITHOUT PRIOR APPROVAL

Sincerely,
LAURA HIDALGO
CONTRACT ADMINISTRATOR

SERVICE AGREEMENT NO.:
VENDOR CODE:

TO: COMPANY NAME
ADDRESS
CITY, STATE ZIP

JOB NAME:
JOB OWNER:
JOB LOCATION:

PHONE: PHONE #
FAX: FAX #

CONTACT: CONTACT NAME

Date of Order	Terms	Job No.	Phase Code
	10th Prox-N30th/Mo		See Below

Description of Service Provided	Qty/Unit	Unit Cost	Extension

Note: SERVICE PROVIDER'S quotation dated _____ is hereby made a part of this service agreement. In the event of a conflict between service provider's proposal language and GCC's service agreement language, GCC's service agreement language will prevail. Inconsistent bid terms and conditions shall be void.

ADDITIONAL INFORMATION (see backside of this service agreement for conditions)

_____
COMPANY NAME'S Rep., Title

_____
Thomas Smith, Estimating Manager

CONDITIONS FORMING PART OF THIS AGREEMENT

1. In accordance with applicable plans and specifications.
2. All quantities are approximate and subject to revision by the engineer.
3. ALL INVOICES MUST BE BILLED ACCORDING TO THE ITEM NUMBERS ABOVE.
4. The term Service Providers shall refer to and include (but is not limited to) the following: Service Providers, Subcontractors, Professional Service Providers, and Trucking Companies.
5. Insurance Requirements: Service Providers will maintain Commercial General Liability Insurance with limits at a minimum of $5,000,000 each occurrence / $5,000,000 general aggregate (limits to apply per project). GCC, Owner, including officers, directors, agents and employees as an additional insured, including completed operations. Additional Insured endorsements shall not contain and provision or definition that requires any form of negligence on the part of the Service Provider. Said policy shall include a Waiver of Subrogation in favor of the additional insureds. Coverage shall be primary and all coverages maintained by GCC and Owner will be non-contributory. There shall be no provision or definition which would exclude coverage for claims brought by employees of the owner, GCC, subcontractors. If any portion of work contains residential construction, Service Provider shall not have a residential exclusion that voids coverage. Automobile Liability covering all owned, non-owned, and hired automobiles with limits at a minimum of $5,000,000 each occurrence. GCC and Owner will be named as an additional insured. Those companies performing/providing any form of professional service will maintain professional liability coverage with limits at a minimum of $1,000,000. Professional Liability coverage will remain in effect for five (5) years after project completion; any form of retro date shall not be advanced past the date of original service. Pollution Liability Coverage where applicable. Workers' Compensation Insurance as required by statute; coverage shall include a waiver of subrogation in favor of GCC and Owner. Policies shall contain a notice of cancellation where carrier will mail to GCC 30 days notice prior to cancellation date; 10 days for non-payment of premium. Subcontractor's insurance coverage shall not contain any form of subsidence and/or earth movement exclusion. If project owner requires higher limits than GCC's standard minimum insurance requirements, GCC has the right to modify this agreement to meet the project requirements. An excess or umbrella liability policy may be used to satisfy the limits requirements.
6. To the fullest extent permitted by law, Service Provider shall indemnify and hold harmless GCC and Owner including officers, directors, agents and employees from claims, demands, damages, losses, costs, expenses, including attorney fees, causes of actions and liabilities of every kind and nature whatsoever arising out of or in connection with service provider's operations performed under this agreement. This indemnification shall extend to claims occurring after this Agreement is terminated as well as while it is in force. The indemnity shall apply regardless of any active and/or passive negligent act or omission of Owner or GCC, or their officers, directors, agents and employees, but service provider shall not be obligated to indemnify any part for claims arising from the sole negligence or willful misconduct of Owner or GCC or their agents or employees or caused solely by the designs provided by such parties. The indemnity set forth in this section shall not be limited by insurance requirements or any other provision of this agreement.

   (a) Indemnity Residential Builder Limitation.

   (1). If the Owner or GCC is a "Residential Builder" and all "Residential Claims" as defined by California Civil Code §§ 911 et. seq. & 2782, (such party is herein referred to as "Residential Builder" whether the designation applies to the Owner only, the Prime Contractor, GCC only, or all), then all provisions of this Section 6 will apply with the sole exception that Service Provider is not obligated until "Final Resolution" of the "Residential Claims" to indemnify the Residential Builder to the extent the Claims are determined to be the result of negligence of the Residential Builder or the Residential Builder's other agents, other servants, or other independent contractors who are directly responsible to the Residential Builder, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in this Agreement. "Final Resolution" of the "Residential Claims" occurs at the conclusion of the claim whether by settlement, litigation, or arbitration, and in such cases involving a Residential Builder only, the Final Resolution shall be determined instead by the principles of comparative equitable indemnity. Pending Final Resolution, Service Provider is obligated to provide a defense of the Residential Claims as provided in this Section 6 despite allegations of Residential Builder's negligence without prejudice to adjustment at the time of Final Resolution of the Residential Claims. If any provision or term of this Article section that is determined by California Law to be unenforceable, or void then only that term shall not be enforced. All remaining terms of this Article section shall be enforced with the intent that the Service Provider agrees to provide the maximum duty to defend and indemnify Owner and GCC permitted by law.

(2). Service Provider shall not be Obligated to Defend Residential Claims under this agreement for Residential Claims arising from the sole negligence or willful misconduct of the Residential Builder.
(3). This indemnity provision is not intended to and shall not in any way limit the extent of any insurance coverage available to Residential Builder under any insurance policy purchased and maintained by Service Provider.
(4). The Obligation to Defend Defined. Pending the “Final Resolution” of the “Residential Claims”, Service Provider shall immediately at its own cost, expense and risk, defend all Residential Claims as defined in this Section 6 that may be brought or instituted by the Owner or Prime Contractor or any third party against the GCC, third persons, including, but not limited to, governmental agencies or employees of Service Provider, successor owners, tenants, guests, invitees of the Owner and its successors against GCC or Owner or their agents or employees or any of them.
(b). Procedure for all Claims. If any Claim arising out of or in connection with the Service Provider’s operations as defined in this Section 4 is presented against Ghilotti Construction Company, Inc. or the Owner, GCC or the Owner shall promptly notify Service Provider in writing, and the Service Provider shall defend Owner and, Ghilotti Construction Company, Inc. and/or any other person or entity that GCC is obligated to defend or indemnify from said Claims and reimburse Ghilotti Construction Company, Inc. or the Owner, and/or any other person or entity that GCC is obligated to defend or indemnify within 10 days of delivery to Service Provider, for all costs and expenses incurred in defending the Claims, including but not limited to paying for Ghilotti Construction Company, Inc. and the Owner’s attorney’s fees and costs, expert and consultants fees and costs, litigation fees and costs, additional Architect/Engineer/Designers’ fees and costs incurred in defending said Claims. Service Provider shall promptly pay and satisfy any judgment or decree that may be rendered against GCC or Owner or their agents or employees, or any of them, arising out of any such Claim; and/or reimburse GCC or Owner or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the Service Provider’s Obligation to Defend and Indemnify as specified in this Article section. Time is of the essence.

7. All work covered by this agreement done at the site or in preparing or delivering materials or equipment to the site shall be at the sole risk of service provider until the completed work is accepted by GCC.

8. If owner or other responsible party delays making payment to GCC from which payment to Service Provider is to be made, GCC and its sureties shall have a Reasonable Time to make payment to Service Provider. "Reasonable Time" shall be determined according to the relevant circumstances, but in no event shall be less than the time GCC, GCC's sureties, and Service Provider require to pursue to conclusion their legal remedies against Owner or other responsible party to obtain payment, including (but not limited to) mechanics' lien remedies and collection of a final judgment. During said Reasonable Time, GCC is not obligated to pay any of the Service Provider’s late charges, interest charges, attorney’s fees and costs, or collection fees and expenses. The Service Provider shall cooperate fully with the GCC in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the GCC for all expense, including legal expense, incurred by GCC which arise out of GCC's submission of Service Provider's claim to Owner or other responsible party. Service Provider shall be bound by any determination, adjudication or award in any action or proceeding, including Service Provider’s entitlement to recover all or a portion of the Service Provider’s attorney’s fees and cost, resolving such a claim. If a progress and/or final payment from Owner or other responsible parties for the work is not received by GCC, through no fault of Service Provider, GCC will make payment to Service Provider after GCC has been afforded the Reasonable Time (as defined in this Section) to obtain payment from Owner or other responsible parties as provided in this section. Nothing in this Section shall be interpreted to require the Service Provider to waive its right to pursue its mechanic’s lien and stop notice remedies at its expense, nor waive the Service Provider’s right to payment from GCC after GCC as completed all legal remedies against the Owner or other responsible parties, less the Service Provider’s equitable share of the GCC’s expenses incurred in pursuing the recovery of the funds due Service Provider from the Owner or other responsible parties, including but not limited to GCC’s attorney’s fees and costs, consultant and expert fees and costs, court costs, interest costs, and all costs and expenses incurred by GCC pursuing the legal remedies against the Owner and other responsible parties.

9. Agreement to Arbitrate Limited.
(a). Intent. It is the intent that the dispute resolution procedures contained in the Prime Contract be consistently applied to all Service Providers in a consolidated proceeding in order to achieve a consistent resolution in the most efficient manner, including any award of attorney’s fees and costs.

(b). Disputes under Prime Contract with Arbitration. Any dispute resolution procedure including but not limited to any agreement Arbitrate disputes between Owner, (and/or the Customer of the Contractor) and GCC in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder.

(c). Disputes with Other Service Provider/Supplier with Arbitration Agreement. Any dispute resolution procedure including but not limited to any agreement to Arbitrate disputes between another Service Provider/subcontractor/supplier and GCC, relating to work performed by Service Provider, but does not involve the Owner, shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder.

(d). If there is no agreement to arbitrate disputes between GCC and the Owner, (or the GCC's Customer), or there is no agreement to Arbitrate disputes between another subcontractor/supplier and GCC, relating to work performed by Service Provider, but does not involve the Owner, then the dispute will be resolved through the California Court system.

(e). Consolidated Arbitration Proceedings. To the extent not prohibited by their contracts with others, the claims and disputes of Owner, GCC, and Service Provider and other subcontractors, suppliers and/or material men involving a common question of fact or law shall be heard by the same arbitrator(s) in a single proceeding. In this event, it shall be the responsibility of Service Provider to prepare and present GCC's case, to the extent the proceedings are related to this Agreement. Should GCC enter into arbitration with the Owner or others regarding matters relating to this Agreement, Service Provider shall be bound by the result of the arbitration to the same degree as the GCC.

(f). No Limitation of Rights or Remedies. This Section shall not be deemed a limitation of any rights or remedies which Service Provider may have under any federal or state mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by it.

(g). Limitation of Liability of GCC in Pursuing Claim on Behalf of Service Provider. Subject to compliance with all applicable laws, including but not limited to those relating to false claims, dispute and claim certifications, and cost and pricing data requirements, GCC's sole obligation is to present any timely-filed claims by Service Provider to Owner and, subject to the other provisions of this Agreement, to pay to Service Provider the proportionate part of any sums paid by the Owner to which Service Provider is entitled.

10. Attorney's Fees. If the event the parties become involved in litigation or arbitration with each other arising out of this Agreement or other performance thereof in which the services of an attorney or other expert are reasonably required, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees, expert witness fees/costs, attorney's fees on appeal, copy costs, exhibit costs, fees and costs associated with execution upon any judgment or order, special transcript costs, appointment of a special master, arbitrator or discovery referee. Unless judgment goes by default, the attorneys' fee award shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees actually incurred in good faith, regardless of the size of a judgment, it being the intention of the parties to fully compensate for all attorneys' fees and experts' fees paid or incurred in good faith. Service Provider's right to recover Attorney's Fees and Costs arising out of payment dispute between Service Provider, GCC and/or other party responsible for payment are subject to the provisions contained in section 8 above of this Agreement: 1) "During said Reasonable Time, (to collect funds from Owner or other responsible party) Contractor is not obligated to pay any of the Service Provider's late charges, interest charges, attorney's fees and costs, or collection fees and expenses". 2) "Service Provider shall be bound by any determination, adjudication or award in any action or proceeding, including Service Provider's entitlement to recover all or a portion of the Service Provider's attorney's fees and cost, resolving such a claim." 3) In the case of a dispute under the prime contract dispute resolution provisions, Service Provider shall be limited to such attorneys' fees and other costs as may be provided for under the prime contract, (if GCC is not entitled to recover from Owner its attorney's fees and costs, then neither does Service Provider against GCC). It is the intent that the dispute resolution procedures contained in the Prime Contract be consistently applied to all subcontractors/service providers in a consolidated proceeding in order to achieve a consistent resolution in the most efficient manner, including any award of attorney's fees and costs.

11. Termination for Default. If Service Provider fails to commence and satisfactorily continue correction of a default within forty-eight (48) hours after receipt by Service Provider of the Notice to Cure, then GCC may terminate Service Provider's right to perform under this Agreement and use any

materials, implements, equipment, appliances or tools furnished by or belonging to Service Provider to complete Service Provider's work without any further compensation to Service Provider for such use. GCC also may furnish those materials and equipment, and/or employ such workers or subcontractors as GCC deems necessary to maintain the orderly progress of the work. In such case, Service Provider shall be entitled to no further payment until the balance of Service Provider's work has been completed. At that time, all of the costs incurred by GCC in performing Service Provider's work, including a markup of twenty five percent (25%) for the GCC's Fee on such expenses, plus actual attorneys' fees as provided above, shall be deducted from any moneys due or to become due Service Provider. Service Provider shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

12. Termination for Convenience. GCC may at any time and for any reason terminate Service Provider's services and work at GCC's convenience. Cancellation shall be by service of written notice to Service Providers place of business. Upon receipt of such notice, Service Provider shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to GCC or, at the option of GCC, give GCC the right to assume those obligations directly, including all benefits to be derived there from. Service Provider shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto. Upon such termination, Service Provider shall be entitled to payment in accordance with the Payment Conditions contained in this Agreement only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Service Provider as are permitted by the prime contract and approved by Owner; plus (3) fifteen percent (15%) of the cost of the work referred to in item (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Service Provider prior to the date of the termination of this Agreement. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Service Provider shall not be entitled to any claim or claim of lien against GCC or Owner for any additional compensation or damages in the event of such termination and payment.

13. Grounds for Withholding Payment. GCC may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect GCC from loss, including costs and actual attorneys' fees, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim; (3) failure of Service Provider to make payments properly to its subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) penalties assessed against GCC or Service Provider for failure of Service Provider to comply with state, federal or local laws and regulations; (7) the filing of presentation of any "Disputed Claim" by Service Provider; or (7) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Service Provider.

14. Payments will be withheld until a signed Service Agreement is received by GCC.