

**REQUEST FOR PROPOSAL
TO PROVIDE AREA PLAN UPDATE AND EIR SERVICES TO LASSEN COUNTY**

LASSEN COUNTY, CALIFORNIA

Request for Proposal Issue Date: February 1, 2024

Proposal Deadline: March 18, 2024

I. PURPOSE

The County of Lassen Planning and Building Services Department intends to retain a qualified Firm to provide services to the County to update the Susanville Vicinity Area Plan, Johnstonville Area Plan, and Richmond/Gold Run Area Plan. These area plans will be combined into one comprehensive regional area plan that includes all these communities and is expanded to include some communities (such as Lake Forest) that are not currently the part of any area plan. The approximate boundary of the intended regional area plan is provided in the graphic attached as Exhibit A, but would not include the City of Susanville. These area plans are considered part of the Lassen County General Plan, and provide more detail than the County wide General Plan. The selected Firm will also be responsible for preparing the corresponding California Environmental Quality Act (CEQA) documents necessary for approval. It is assumed that an Environmental Impact Report will be required for this project. The tasks are more particularly described in the scope of work section.

The Area Plan Update will require substantial investments of community time and County resources. A detailed scope, technical expertise, innovative community outreach plan with an open and inclusive process, a schedule that maintains momentum and participation, and a creative policy vision will be crucial to the success of the Update. It is anticipated that this process will take 24 months to complete.

The focus of this project is to respond to changes in the community and in circumstances that affect the future direction of the County through the comprehensive update to the existing Area Plans. The consultant shall conduct field studies, and research as necessary, modify and add text focusing on policies and programs relevant to issues of existing Board of Supervisors concern, modify and add diagrams and maps, ensure that the Update conforms to state law, and extend the Area Plan's horizon to the year 2045. The updated Area Plan will be based upon the results of a comprehensive visioning process and public engagement program to ensure that all facets of the community participate and are fully represented in shaping the future.

The County will enter into a contract with the selected firm to perform an agreed upon and specific scope of work that best meets the County's planning needs, The County's standard contract template is attached as Exhibit B for reference.

II. GENERAL INFORMATION

Lassen County is located in northeastern California. It is bordered on the north by Modoc County, on the south by Plumas and Sierra Counties, on the west by Shasta County, and on the east by Washoe County in the State of Nevada. Lassen County has a total area of 3,001,780

acres (4,690.3 square miles). Over 63 percent of the land area in Lassen County is administered by federal, state, or local agencies.

The City of Susanville is the County seat and the only incorporated City in Lassen County. Lassen County's unincorporated communities include Westwood, Clear Creek, Bieber, Johnstonville, Janesville, Standish, Litchfield, Doyle, Herlong, Milford, Leavitt Lake, and Little Valley. As of the 2020 census, Lassen County is currently home to approximately 32,730 people. Approximately 16,673 of this population is within the City of Susanville. The predominant sector of employment in Lassen County is Federal, State, and Local Government, which comprises over 50 percent of jobs in the County.

III. BACKGROUND

The current adopted area plans are available on the Planning and Building Services Department's portion of the County website at the following URL:

<https://www.lassencounty.org/government/resources/planning-and-building-services>

The Susanville Vicinity Area Plan was last updated in 1984, the Johnstonville Area Plan was last updated in 1987, and the Richmond/Gold Run Area Plan was last updated in 1993.

Policy LU-2 of the Lassen County General Plan, in regard to Area Plans, reads as follows:

LU-2 POLICY: Adopted area plans contain general plan policies which apply, as relevant, to lands within particular planning areas. Because of the greater level of detail achieved in area plans, their land use designations, policies and related provisions are more specific than set forth in the Land Use Element and other elements of the General Plan. Wherever a goal, objective, policy, land use designation, and/or implementation measure of an area plan may be more specific or detailed than a corresponding provision of the General Plan, including any within the Land Use Element, such a provision of the area plan shall be deemed to be a refinement of the General Plan pertaining to the particular planning area.

IV. SCOPE OF SERVICES

The qualified consultant shall perform all necessary tasks to prepare a comprehensive regional Area Plan Update and all related environmental documents required by CEQA. The update shall be compliant with the 2017 General Plan Guidelines or most current guidelines published by the California Office of Planning and Research. This project will also include an update to Title 18 (Zoning) of the Lassen County Code, if necessary to maintain consistency with the Area Plan being developed. The consultant will be required to coordinate and work with county staff as part of the Update.

The scope of work for the Update shall include, but not be limited to, the following tasks:

1. Conduct necessary background research and analysis related to the Update.
2. Conduct a kick-off meeting with Planning and Building Services Department staff regarding information transfers, personnel contacts, and Area Plan format. Meeting should accomplish the following:
 - Review and discuss overall format and organization of the Update and all related Update products,
 - Determine a typical review schedule for work products and a method by which comments will be compiled,
 - Establish or confirm roles and responsibilities of County staff and the consultant in preparing the Update, Environmental Impact Report, and involvement in public outreach efforts,
 - Identify all available GIS mapping data,
 - Discuss potential engagement with Board of Supervisors' appointed Advisory Committee,
 - Refine the project schedule,
 - Establish status reporting frequency and project status meeting protocols,
 - Determine consultation and coordination of the update with appropriate governmental agencies.
3. Facilitate an innovative public input process that is expected to include, but is not limited to, community opinion surveys, outreach to community organizations, community workshops, , and formal public hearings.
4. Develop final work program confirming all tasks to be completed, budget, and detailed schedule of the project.
5. Review the current general plan and area plans and determine which portions (if any) may be retained.
6. Assess current planning boundaries for consistency with plan vision and goals, and develop a Background Report to be presented at a joint work session of the Lassen County Planning Commission and Lassen County Board of Supervisors.
7. Explore policies and programs that balance the need to adequately and appropriately accommodate development.
8. Conduct a minimum of two joint work sessions with the Lassen County Planning Commission and Lassen County Board of Supervisors to, review drafts of the Area Plan

Update, discuss alternatives, discuss the Environmental Impact Report, and review proposed revisions to Title 18 and other portions of the Lassen County Code.

9. Conduct scoping meetings and prepare drafts of all plans or reports for an Environmental Impact Report covering the Update to the Lassen County Code for review by Department staff prior to public release.
10. Maintain consistency with the overall Lassen County General Plan, Lassen County Regional Transportation Plan and any other applicable transportation or land use plans.
11. Formulate goals and policies that reflect the County's policy direction in a clear, concise, manner compliant with applicable law.
12. Prepare an Administrative Draft, Draft, and Final EIR and conduct all public reviews in accordance with CEQA to create thorough and defensible CEQA documentation. In proposal, consultants should indicate whether use of a Program EIR or other form of EIR should be considered for the Area Plan Update. The County is interested in exploring the possibility of an Area Plan EIR that will assist in streamlining and exempting future projects from CEQA with the idea that the Area Plan EIR can be used for such exemptions when projects are consistent with the adopted Area Plan.
13. Make a presentation of draft Update to the Lassen County Board of Supervisors during a regular public meeting.
14. Review all public comments received during public hearings, public workshops, and CEQA review to determine changes required for final environmental documents and the final draft of the Update.
15. Integrate all elements into one Area Plan Update document (including maps) with uniform text layout and format that can be displayed electronically on the County's website and readily accessible on other electronic devices and printed inexpensively.
16. Prepare an implementation strategy that identifies all tasks necessary to implement the Area Plan Update.
17. Production of Final Update including land use designation maps and Environmental Impact Report incorporating all revisions, comments, and additional topics identified during the development process.

All data generated and/or used during the development of the plan shall be provided to Lassen County, including all presentation materials (printed or electronic), data produced using Geographic Information Systems such as ArcGIS, and other data formats used to conduct analysis for the update

or Environmental Impact Report. The consultant will work under the direction of the Planning and Building Services Department Director, who will have final approval authority of all issues in the review process.

Proposer shall propose the project scope of work that it feels necessary to satisfactorily complete the project, meet project objectives, and create a practical, useable planning document that will guide development in Lassen County over the next 20 years and beyond. Lassen County will select one Firm from among the proposers, to complete all phases of this project.

A contract will be developed between the successful candidate (based on the submitted Proposal) and Lassen County, using the County's standard contract template (see Exhibit B). The executed contract may include all or some of the above or other agreed to services. The proposed contract must be approved by the Board of Supervisors.

V. PROJECT MANAGEMENT

The consultant would manage the project and be held responsible for developing the documents and services outlined above. The County's Planning and Building Services Department will work closely with the selected firm throughout all phases of the project, including review of draft documents.

Each firm or individual interested in preparing a Proposal should provide the following:

- A Statement that demonstrates a clear understanding of the project and required services, including a discussion of how to best address the needs specific to Lassen County,
- A discussion of the consultant's qualifications and expertise for meeting the needs of the required services,
- A list of references, preferably of past/current clients for whom general plan update services were provided,
- Consultant's current hourly and billing rates/fee schedule specifically identifying rates and fees to be charged for persons likely to be assigned and tasks required to carry out work pursuant to this Request for Proposals,
- A project timeline indicating the beginning date, project milestones, deliverables and ending date,
- A proposed work plan to include a proposed scope of work.

VI. SUBMISSION REQUIREMENTS

Proposal Deadline: March 18, 2024, 4:00 p.m.

ALL PROPOSALS MUST BE RECEIVED by the County of Lassen by 4:00 p.m. (Pacific Daylight Time) **March 18, 2024, 4:00 p.m.** Proposals received after 4:00 p.m. (Pacific Daylight Time) on **March 18, 2024**, or proposals sent by facsimile machine will be considered late and disqualified by the proposal evaluation committee.

Please submit three (3) proposals and one electronic copy (MS Word Compatible) in a sealed envelope and clearly marked "Proposal for Regional Area Plan Update."

Total Price should include all costs, including travel. The County of Lassen is not responsible for any costs incurred in the preparation of proposals, attendance at related interviews, or any work rendered by a firm prior to an "executed" Contract for Professional Services.

Although the format is discretionary, at a minimum, please include the following information:

1. The legal name of respondent(s), firm name, address, and telephone number(s). Indicate whether the proposing entity is a sole proprietorship, partnership, or corporation, and the state and year established. List key personnel who will be involved in decision-making, contract negotiation, and project development, including mailing address, email address, and phone and fax number(s).
2. A narrative description of the three most relevant prior public sector projects and the key personnel that were assigned to work on the project. Provide description of work performed by said individuals, including date, location, etc. Provide names of contact individuals who provided material assistance on the projects described.
3. Describe consultant's experience with public agencies. Provide a list of references from the public sector including name, title, agency, address, and phone number(s).
4. A narrative description of the approach to be used. Please identify objectives, proposed procedures and activities, and the measurable results that are anticipated.
5. Consultant should include a sample of any previous general/area plans they have prepared.
6. The proposed timeline to complete project.

Please mail or deliver to the following location:

Gaylon F. Norwood
Deputy Director
Lassen County Planning and
Building Services Department
707 Nevada Street, Suite 5
Susanville, CA 96130

You may address any questions you may have to Deputy Director Gaylon Norwood, who can be contacted by phone at (530) 251-8269 or by email at gnorwood@co.lassen.ca.us.

VII. PROPOSAL EVALUATION

An evaluation committee will be assembled to review all proposals. The Lassen County Board of Supervisors, who retain the right to reject any and all proposals, will make the final decision. Selection will be made within 30 days of the proposal deadline, if possible.

The County of Lassen reserves the right to negotiate aspects of the project with the successful responder. The leading respondents may be invited for an interview and given the opportunity of an oral presentation of its proposal.

Proposals will be rated:

1) Understanding Scope of Work, Final Work Product	5 Points, Maximum
2) Clarity of Work Plan, Description of Services Offered	5 Points, Maximum
3) Budget	5 Points, Maximum
4) Project Leader and Team Qualifications and Relevant Experience	10 Points, Maximum
5) Demonstrated Understanding of Local Issues	10 Points, Maximum
Maximum Possible Score:	35 Points

VIII. ADDENDA

Any subsequent changes in the RFP from the date of issuance to the date of submittal will result in an addendum by the issuing office to those parties who have provided the proper notice of interest in responding to the RFP.

IX. INSURANCE REQUIREMENTS

Proof of insurance is not required to be submitted with your proposal, but will be required prior to the County's award of the contract. Given the scope of services, appropriate insurance coverage will be required. Insurance Coverage and Amounts will be specified in the Contract document (see Exhibit B of this RFP).

X. NON-DISCRIMINATION

The County is an affirmative action employer. Consultants shall not discriminate in their employment with regard to race, color, religion, sex, or national origin. Qualified firms including small businesses and businesses owned by women, minorities and disabled persons are encouraged to submit proposals.

XI. CONFIDENTIALITY

The details of each response to this Request for Proposal are considered proprietary and will not be shared with competing consultants or the general public until after completion of the selection process. The proposals, when submitted, will become the property of the County of Lassen and will

be prepared at the sole cost of the consultant. Brief public presentations may be required in subsequent stages of the selection process.

XIII RESOURCES

Exhibit A: Graphic showing proposed regional Area Plan boundaries.
Exhibit B: Standard County Contract template

Exhibit A

Proposed Area Plan Layout

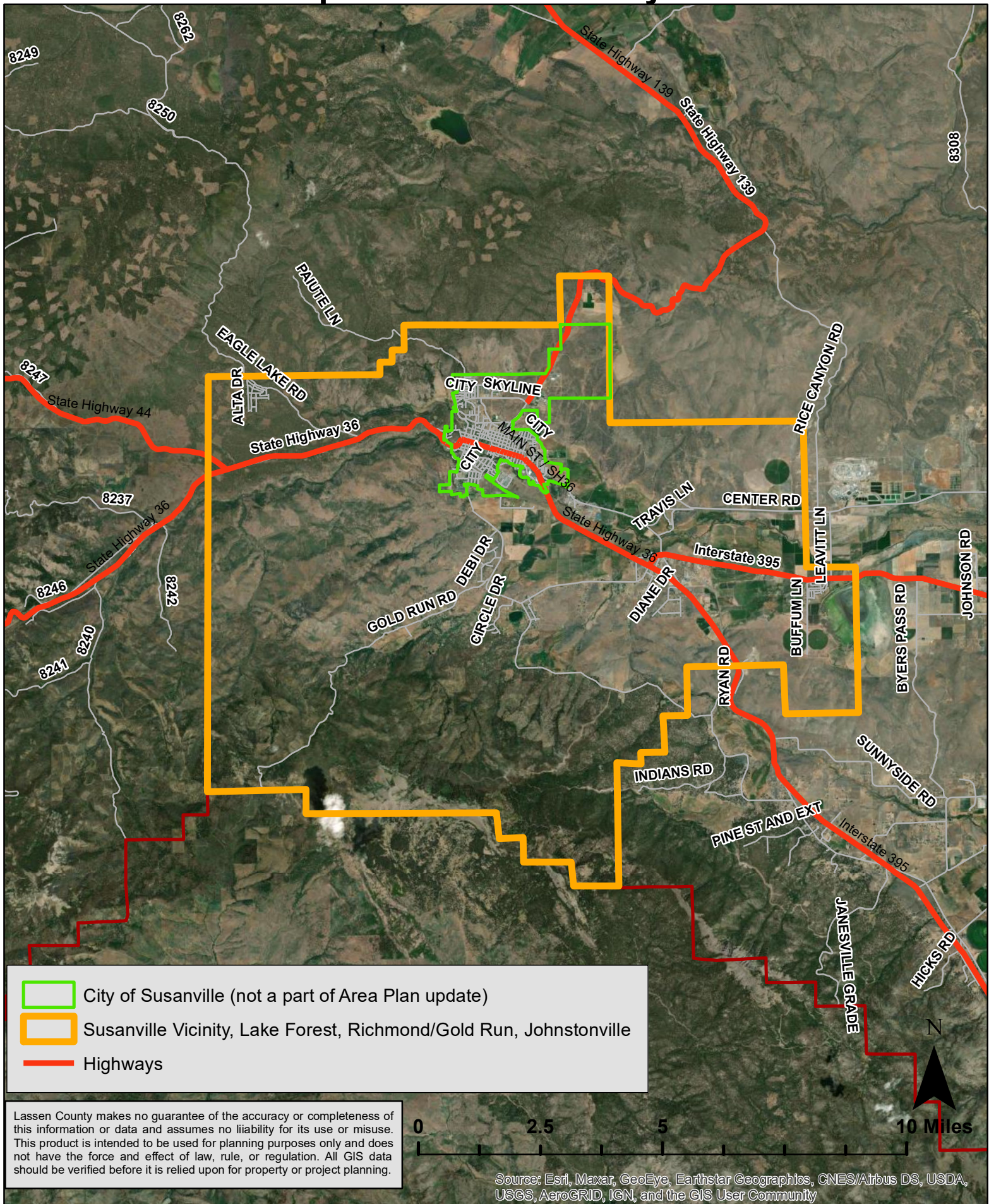


Exhibit B

AGREEMENT BETWEEN LASSEN COUNTY

AND

*

Commented [BB1]: Insert the name of the other party to the contract here. Asterisks (*) indicate a place information is needed.

THIS AGREEMENT is made between the COUNTY OF LASSEN, a political subdivision of the State of California (hereinafter "COUNTY"), and *, with a principal place of business at *, (hereinafter "CONTRACTOR").

Commented [BB2]: Insert the name of the contractor in all capital letters.

This Agreement is made with reference to the following facts and circumstances:

Commented [BB3]: State the form of the business the contractor employs, for example:

- . California corporation
- . California non-profit corporation
- . California limited liability company
- . California general partnership
- . Sole proprietorship
- . Limited partnership

WHEREAS COUNTY has need for *and,

WHEREAS CONTRACTOR desires to provide those services.

Commented [BB4]: State the type of services being provided.

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A". CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A".

2. TERM.

The term of the agreement shall be for the period of July 1, 20* through June 30, 20*.

Commented [BB5]: Fill in the beginning date of the agreement. Typically one fiscal year.

3. PAYMENT.

Commented [BB6]: Fill in the end date of the agreement. Typically one fiscal year.

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billing for said services to COUNTY in the manner specified in Attachment "B".

4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.

COUNTY shall:

4.1 Pay the CONTRACTOR on the terms agreed upon herein in writing, provided that: (1) the CONTRACTOR timely submits appropriate invoices to the COUNTY, (2) the CONTRACTOR is not in breach of the terms and conditions of this Agreement, its attachments, or the standards or specifications referenced or applicable thereto; (3) the CONTRACTOR is not in

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____ County Initials

Contractor Initials _____

Exhibit B

violation of laws or regulations substantially impairing the value of the CONTRACTOR'S performance or the CONTRACTOR'S entitlement to payment; (4) funds to be paid to the CONTRACTOR are not the subject of any active levy, execution, claim, offset, or stop notice by any third party or the COUNTY; and (5) appropriate public funds are available to the COUNTY for such payment.

4.2 Retain ownership and have prompt access to any report, evaluations, intellectual property, findings, or data assembled/developed by CONTRACTOR under this Agreement.

5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions.

7. DESIGNATED REPRESENTATIVES.

§, §, is the designated representative of the COUNTY and will administer this Agreement for the COUNTY. § is the authorized representative for CONTRACTOR. Changes in the designated representatives shall occur only by advance written notice to the other party.

Commented [BB7]: Identify by name the person assuming responsibility for administering this contract.

Commented [BB8]: Identify by title the person assuming responsibility for administering this contract.

Commented [BB9]: Once again, state the name of the person administering this contract. BB7 should be the same as BB9.

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

Attachment A-Services
Attachment B-Payment
Attachment C-Additional Provisions
Attachment D-General Provisions
Attachment E-No Third Party Beneficiaries

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown opposite their respective signatures.

CONTRACTOR

§

Commented [BB10]: Insert name of contractor.

Dated: _____

By: _____

§

Commented [BB11]: Name and title of signor for contractor.

Page 2

____ County Initials

Contractor Initials _____

Exhibit B

Dated: _____

By: _____

Commented [BB12]: Name and title of second signor for contractor, if necessary only.

COUNTY
County of Lassen

Dated: _____

By:

Commented [BB13]: Name and title of signor for County. To ascertain who is authorized to sign for County, compare amount of contract in light of County purchasing policy. This will either be the Dept Head, the CAO, or the Chairman of the Board.

Approved as to form:

By: _____
Amanda Uhrhammer
Lassen County Counsel

[1Contract Standard Professional Services Master v20210505]

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____ County Initials

Contractor Initials _____

[v.20210505]

AGREEMENT BETWEEN LASSEN COUNTY AND *

Exhibit B

ATTACHMENT A
AGREEMENT BETWEEN LASSEN COUNTY AND
*
SCOPE OF SERVICES

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

*

END OF ATTACHMENT "A"

Commented [BB14]: Insert name of contractor.

Commented [BB15]: Description of services to be provided, or scope of work. To the degree that separate paragraphs may be required, please utilize the following hierarchical structure:
A.1
 .A.1.1
 .A.1.1.1
A.2

Exhibit B

ATTACHMENT B
AGREEMENT BETWEEN LASSEN
COUNTY AND

*

Commented [BB16]: Insert name of contractor.

PAYMENT

COUNTY shall pay CONTRACTOR as follows:

*

Commented [BB17]: Describe payment amount or rate, maximum amount payable under this contract, and method of invoicing that must occur before payment is due.

END OF ATTACHMENT “B”

[v.20210505]

AGREEMENT BETWEEN LASSEN COUNTY AND *

Exhibit B

ATTACHMENT C
AGREEMENT BETWEEN LASSEN COUNTY AND
*
ADDITIONAL PROVISIONS

*

Commented [BB18]: Insert name of contractor.

Commented [BB19]: Set out here any other provisions particular to this contract not otherwise covered elsewhere.

END OF ATTACHMENT “C”

Exhibit B

ATTACHMENT D

GENERAL PROVISIONS

D.1. INDEPENDENT CONTRACTOR. For all purposes arising out of this Agreement, CONTRACTOR shall be: an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in California Government Code sections 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

Commented [BB20]: These provisions, all of D, are important. They make up the backbone of the agreement. If you change them prior to submitting for Counsel approval you run the risk of substantially delaying review and perhaps causing a denial of approval.

D.1.1 CONTRACTOR shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

D.1.2 CONTRACTOR shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

D.1.3 CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

D.1.4 CONTRACTOR is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the CONTRACTOR with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY.

D.1.5 The CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

D.1.6 The CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

D.1.7 COUNTY shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax including, but not limited to, any personal income tax owed by CONTRACTOR.

D.1.8. The CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of COUNTY.

D.1.9 CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY any way without the written consent of the COUNTY.

D.2 LICENSES, PERMITS, ETC. CONTRACTOR represents and warrants to COUNTY that it has all

____ County Initials ATTACHMENT D, Page 1 Contractor Initials _____

Exhibit B

licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

D.3 CHANGE IN STATUTES OR REGULATIONS. If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

D.4 TIME. CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

D.5 INSURANCE.

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage (hereinafter referred to as "the insurance") through and with an insurer acceptable to COUNTY. The insurance shall contain the following coverages:

D.5.1.1 Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than One Million Dollars (\$1,000,000) aggregate; CONTRACTOR shall insure both COUNTY and CONTRACTOR against any liability arising under or related to this Agreement.

D.5.1.2 During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000) per incident and One Million Dollars (\$1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

D.5.1.3 Comprehensive automobile liability insurance with minimum coverage of Five Hundred Thousand Dollars (\$500,000) per occurrence and with not less than Five Hundred Thousand Dollars (\$500,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

D.5.1.4 Workers' Compensation Insurance coverage for all of CONTRACTOR's employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the California Labor Code.

D.5.2 The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

D.5.4 Except for automobile liability insurance, the insurance shall name the COUNTY and COUNTY's officers, employees, agents and independent contractors as additional insureds and shall

Commented [BB21]: As of June 2015, there is not a County-wide policy describing insurance requirements for contracts. The amount, type, or whether to require insurance at all is in the discretion of the signor for the County. Counsel's office strongly urges requiring contractor to have some form of insurance.

Commented [BB22]: This is often referred to as "malpractice insurance". Use where County is contracting with professionals such as engineers, surveyors, doctors, psychologists, other health care providers (hospitals, board and care facilities, etc), lawyers, and parties who are required to hold a professional license or certification of some kind. In some situations this clause may be omitted.

____ County Initials ATTACHMENT D, Page 2 Contractor Initials _____

Exhibit B

include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to COUNTY.

D.5.5 The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit.

D.5.6 Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and endorsements to:

Commented [BB23]: Insert the name and address of the person responsible for administration of this Contract.

Upon COUNTY's request, CONTRACTOR shall deliver certified copies of any insurance policies to COUNTY.

D.5.7 CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.

D.5.8 COUNTY shall have the right to request such further coverages and/or endorsements on the insurance as COUNTY deems necessary, at CONTRACTOR's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY in its sole and absolute discretion.

D.5.9 Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, CONTRACTOR shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

D.6 INDEMNITY.

COUNTY shall not be liable for, and CONTRACTOR shall defend and indemnify COUNTY and its officers, agents, employees, and volunteers (collectively "County Parties"), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics; liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorney's fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this Agreement arising either directly or indirectly from any act, error, omission or negligence of CONTRACTOR or its officers, employees, agents, contractors, licensees or servants, including, without limitation, Claims caused by the concurrent negligent act, error or omission,

Commented [BB24]: IMPORTANT NOTE: There are three choices of Indemnification clauses – Class I, Class II, or Class III. Choose only one and delete the other two depending on the type of contract.

____ County Initials ATTACHMENT D, Page 3 Contractor Initials _____

Exhibit B

whether active or passive of County Parties. CONTRACTOR shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County Parties.

County shall not be liable for, and CONTRACTOR shall defend and indemnify COUNTY and its officers, agents, employees and volunteers (collectively 'County Parties'), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as 'Claims'), which arise out of or are in any way connected to the work covered by this Agreement arising either directly or indirectly from any act, error, omission or negligence of CONTRACTOR or its officers, employees, agents, contractors, licensees or servants, including, without limitation, claims caused by the concurrent negligent act, error or omission, of County Parties. However, CONTRACTOR shall have no obligation to defend or indemnify County Parties against claims caused by the active negligence, sole negligence or willful misconduct of County Parties.

D.6.1. Claims Arising from Sole Acts or Omissions of COUNTY:

The County of Lassen (COUNTY) does hereby agree to defend and indemnify the *[OTHER PUBLIC AGENCY], its agents, officers and employees (hereinafter collectively referred to in this paragraph as *[OTHER PUBLIC AGENCY], from any claim, action or proceeding against *[OTHER PUBLIC AGENCY], arising solely out of the acts or omissions of County in the performance of this Agreement. At its sole discretion, *[OTHER PUBLIC AGENCY] may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve county of any obligation imposed by this Agreement. *[OTHER PUBLIC AGENCY] shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense.

D.6.2. Claims arising From Sole Acts or Omissions of *[OTHER PUBLIC AGENCY]:

The *[OTHER PUBLIC AGENCY] hereby agrees to defend and indemnify the County of Lassen, its agents, officers and employees, (hereinafter collectively referred to in this paragraph as County), from any claim, action or proceeding against County, arising solely out of the acts or omissions of *[OTHER PUBLIC AGENCY] in the performance of this MOA. At its sole discretion, County may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve *[OTHER PUBLIC AGENCY] of any obligation imposed by this Agreement. County shall notify *[OTHER PUBLIC AGENCY] promptly of any claim, action or proceeding and cooperate fully in the defense.

D.6.3. Claims Arising From Concurrent Acts or Omissions:

The County of Lassen (COUNTY) hereby agrees to defend itself, and the *[OTHER PUBLIC AGENCY] hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of County and *[OTHER PUBLIC AGENCY]. In such cases, county and *[OTHER PUBLIC AGENCY] agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 5 below.

D.6.4. Joint Defense:

Notwithstanding paragraph D.6.3 above, in cases where COUNTY and *[OTHER PUBLIC AGENCY] agree in writing to a joint defense, County and *[OTHER PUBLIC AGENCY] may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of *[OTHER PUBLIC AGENCY]. Joint defense counsel shall be selected by mutual agreement of County and *[OTHER PUBLIC AGENCY]. County and [OTHER PUBLIC AGENCY] agree to share

Commented [BB25]: Class I Indemnity

. Generally required for all county service contracts, with the following exceptions:

construction contracts, consultant contracts which are "collateral to" construction contracts, such as architecture and engineering contracts, "acquisition" leases (i.e., County as tenant) contracts for the purchase of goods, only, and contracts with other self-insured public entities.

Commented [BB26]: Class II Indemnity

. Generally required for all County construction contracts and agreements with architects and engineers, which are "collateral" to construction contracts. Also, used in contracts for the sale of goods.

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Exhibit B

the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph D.6.5 below. County and *[OTHER PUBLIC AGENCY] further agree that neither party may bind the other to a settlement agreement without the written consent of both County and *[OTHER PUBLIC AGENCY].

D.6.5. Reimbursement and/or Reallocation:

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, County and *[OTHER PUBLIC AGENCY] may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

Commented [BB27]: Class III Indemnity

Generally used only in county contracts with other self-insured public agencies.

D.7 CONTRACTOR NOT AGENT. Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

D.8 ASSIGNMENT PROHIBITED. CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

D.9 PERSONNEL. CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

D.10 STANDARD OF PERFORMANCE. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

D.11 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code section 107. For all purposes of compliance by COUNTY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

D.12 TAXES. CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

D.13 TERMINATION.

D.13.1 COUNTY shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to CONTRACTOR. In the event COUNTY gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

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D.13.1.1 CONTRACTOR shall deliver to COUNTY copies of all writings prepared by it pursuant this agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photocopying, photographing computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, pictures, sounds, or symbols, or combinations thereof.

D.13.1.2 COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed Dollars (\$*). Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

Commented [BB28]: Written out amount, e.g. "Ten Thousand and 50/100Dollars."

Commented [BB29]: Numeric amount with dollar sign, e.g. "\$10,000.50." This figure will usually be the maximum amount of the Contract (as shown in the payment provisions).

D.13.2 CONTRACTOR may terminate its services under this Agreement upon thirty (30) working days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY, provided that CONTRACTOR has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the COUNTY may cure the alleged breach.

D.14 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

D.15 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.16 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

D.17 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.18 ATTORNEY'S FEES. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

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D.19 MINOR AUDITOR REVISION. In the event the Lassen County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed one percent (1%) of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

D.20 CAPTIONS. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.21 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

D.21.1 **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

D.21.2 **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

D.22 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

D.23 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

D.24 MODIFICATION. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

D.25 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

D.26 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.27 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

D.28 VENUE. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Lassen, State of California.

D.29 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

D.30 CALIFORNIA TORT CLAIMS ACT. Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the Government Code, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under

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the terms and conditions of this Agreement.

D.31 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term herein.

D.32 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.33 CORPORATE AUTHORITY. If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR shall, within thirty (30) days after execution of this Agreement, deliver to COUNTY a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

D.34 CONFLICT OF INTEREST.

D.34.1 **Legal Compliance.** CONTRACTOR agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090 and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

D.34.2 **Advisement.** CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

D.34.3 **Admonition.** Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow exceptions.

D.35 NONDISCRIMINATION. During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in

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Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.36 JOINT AND SEVERAL LIABILITY. If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

D.37 TAXPAYER I.D. NUMBER. The COUNTY shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the latter's Taxpayer Identification Number or Social Security Number by providing COUNTY with a completed IRS Form W-9.

Commented [BB30]: Not required if Contractor is a corporation.

D.38 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":

*

Commented [BB31]: Insert here the name and address of the person responsible for administration of this Contract on behalf of the County.

If to "CONTRACTOR":

*

Commented [BB32]: Insert the name and address of the person responsible for administration of this Contract on behalf of the Contractor.

END OF ATTACHMENT "D".

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ATTACHMENT E

NO THIRD-PARTY BENEFICIARIES

This Agreement is made solely and specifically among and for the benefit of the parties to it, the COUNTY and the CONTRACTOR, and their respective successors and assigns, subject to the express provision of the agreement relating to successors and assigns, and no other person, has or will have any rights, interest, or claims under this Agreement as a third-party beneficiary or otherwise. This Agreement shall not establish any actionable duty of the County or County personnel inuring to any third party or to anyone claiming under or on behalf of such a third party.

END OF ATTACHMENT "E"

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