



**MENDOCINO COUNTY WATER AGENCY**  
**REQUEST FOR PROPOSALS FROM A PROFESSIONAL CONSULTANT WITH**  
**WATER EXPERTISE TO SERVE AS THE WATER RESOURCE SPECIALIST**  
**AND TO CREATE A MENDOCINO COUNTY WATER RESOURCE TEAM TO**  
**SERVE AS THE MENDOCINO COUNTY WATER AGENCY**  
**DOT CONTRACT NUMBER 22-0025**

**I. INTRODUCTION**

Mendocino County requires the services of a professional firm to serve as the Water Resource Specialist and to aid in the formulation of a Mendocino County Water Resource Team (MCWRT), which will serve as the Mendocino County Water Agency (MCWA) after the CONSULTANT contract is complete. To accomplish this, the CONSULTANT will evaluate Mendocino County’s 2022 Water Agency Implementation Plan (WAIP) and prepare a plan for MCWRT to execute those portions of WAIP that are able to be put into practice successfully based on available resources and provide an explanation of the reasons other portions of the WAIP cannot be accomplished by MCWRT. Those portions of WAIP that reflect the needs of local water purveyors (non-county entities or “NCE”) were highlighted at the Board of Supervisors (BOS) meeting of August 2, 2022; specifically, the chief short-term goal is to assist five NCEs (approximately one NCE in each supervisorial district), as determined by a technical advisory committee (TAC), to obtain grant funding for one project which that NCE could use to accomplish their project.

Among other tasks, CONSULTANT will take a “matrix” approach to creating MCWRT by utilizing staff from multiple departments to provide expertise, write grants and administer programs. CONSULTANT will also identify necessary contracted expertise in such areas as hydrology, hydrogeology and grant management when no county staff expertise or capacity is available.

Based on the ideas presented as Scenario #1 to the BOS on August 2, 2022, the MCWRT is proposed to be housed in the University of California Cooperative Extension (UCCE) Office with part-time administrative and technical support from both UCCE and other county department staff, using a one-time “startup” allocation of up to \$250,000. Following the first fiscal year, it is envisioned MCWRT will assume management of the Water Agency duties currently performed by Department of Transportation (DOT) staff and the Water Agency budget (BU 0326), which collects approximately \$160,000 per year in tax revenue. It is unclear at this time which MCWRT member will assume budget leadership and provide any required functions associated with enforcement of County Code. UCCE is amenable to sharing office space and equipment and offering technical and support services but cannot engage in enforcement actions. It is assumed that by Fiscal Year 2023-24, current Water Agency workload and budget revenue will have been absorbed by MCWRT at UCCE. It will be important that one department, likely

UCCE, will be responsible for the budget and then allocate approved expenditures to other MCWRT members by inter-department cost applies.

## II. DEFINITIONS

**COUNTY** – The County of Mendocino.

**CONSULTANT** – 1. A person, partnership, firm, corporation, or joint venture submitting a proposal to obtain a COUNTY contract. 2. A CONSULTANT who signs a contract with the COUNTY to perform services.

**PROJECT**- Establish Mendocino County Water Resource Team – MCWRT.

## III. PROPOSAL SUBMISSION

- A. CONSULTANTS must submit 3 copies of their proposal with original CONSULTANT signature. The proposal must be formatted in accordance with the instructions of this RFP. Promotional materials may be attached, but are not necessary and will not be considered as meeting any of the requirements of this RFP. Proposals must be enclosed in a sealed envelope or package, clearly marked “**Establish Mendocino County Water Resource Team – MCWRT**”, and delivered to:

Attn: Howard Dashiell  
Director of Transportation, Engineering  
Mendocino County Department of Transportation  
340 Lake Mendocino Drive  
Ukiah, CA 95482-9432

Late or facsimile proposals will not be accepted. It is the proposer’s responsibility to assure that his proposal is delivered and received at the location specified herein, on or before the date and hour set. Proposals received after the date and time specified will not be considered.

Note: The un-authorized use of the County’s official logo is strictly prohibited.

### **Submittal Deadline: September 30, 2022 at 4:30 p.m.**

- B. In a separate sealed envelope, proposers are required to submit with their proposal package, with original CONSULTANT signature:
1. Certificate of Non-Collusion (Attachment B).
  2. Proposal Summary Fact Sheet and Statement of Responsibility (Attachment C).
- C. Proposers are expected to examine all provisions, specifications, and instructions included in this RFP. Failure to do so will be at the proposer’s risk.
- D. All proposals must be dated and signed by a representative authorized to enter into contracts for the proposing CONSULTANT.
- E. All proposals will remain in effect and legally binding for at least 90 days from the opening date.
- F. Expenses incurred in preparation of the proposal, site visits, or any other actions related to responding to this RFP shall be the responsibility of the CONSULTANT. Any and all damages that may occur due to packaging or shipping of the proposal will be the sole responsibility of the CONSULTANT.

- G. All proposals, response inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts, displays, schedules, exhibits and other documentation submitted by CONSULTANT shall become the property of the County of Mendocino.
- H. Time when stated as a number of days, shall include Sundays through Saturdays, excluding legal holidays.
- I. CONSULTANT must examine all information and materials contained in and accompanying its proposal. Failure to do so will be at the CONSULTANT's risk. This will include, but not be limited to, all relevant laws and regulations of the State of California and the United States Government.
- J. The successful CONSULTANT will be subject to verification of non-fraud and for listing on the list for debarred contractors/CONSULTANTS per federal funding requirements.

#### IV. PRE-SUBMITTAL INQUIRIES

Pre-submittal procedural or process inquiries may be directed to Howard Dashiell, Director, at (707) 234-2808 or [dashielh@mendocinocounty.org](mailto:dashielh@mendocinocounty.org). Proposers are required to submit any technical questions in writing no less than 72 hours before proposals are due, in order for staff to prepare written responses to all CONSULTANTS. Technical questions will be answered by email only. Technical questions will not be accepted by phone.

#### V. MODIFICATIONS OR WITHDRAWAL OF PROPOSALS

- A. A proposal that is in the possession of the County may be altered by letter or facsimile bearing the signature or name of the CONSULTANT's authorized representative, provided it is received **prior to the deadline for submission of proposals**. Telephone or verbal alterations will not be accepted.
- B. A proposal that is in the possession of the County may be withdrawn by the proposer **up to the time of the deadline for submission of proposals**.

#### VI. SCHEDULE OF ACTIVITIES

The County intends to progress in this procurement in a series of orderly steps. The schedule that follows has been developed in order to provide adequate information for CONSULTANTS to prepare definitive Proposals and to permit Mendocino County to fully consider various factors that may affect its decision. **This schedule is subject to change at the discretion of the County. The County will provide sufficient advance notice to CONSULTANTS in the event of schedule changes.**

Scheduled Activity	Proposed Date
Request for Proposals mailed to prospective proposers	<b>August 31, 2022</b>
RFP Submission Deadline	<b>September 30, 2022</b>
RFP Selection and Notification	<b>October 14, 2022</b>
Negotiate Contract Terms – Scope & Cost	<b>November 21, 2022</b>
Board Authorization to Award	<b>December 13, 2022</b>
Notice to Proceed – Start Work	<b>December 27, 2022</b>

## **VII. SELECTION PROCESS**

- A. The County reserves the sole right to judge the contents of the Consultants' proposals. The selection process will be governed by the following criteria:
1. The proposals must adhere to the instructions and format as specified in this RFP.
  2. The evaluation will include a review of all documents and information relating to the Consultants' services, organizational structure, capabilities, and qualifications, past performance.
  3. Consultants' may be required to make an oral presentation and interview before final selection is made.
  4. The County may evaluate any information from any source it deems relevant to the evaluation.
  5. False, incomplete, or unresponsive statements in a proposal may be sufficient cause for its rejection.

## **VIII. EVALUATION CRITERIA**

- A. The proposal will be judged based on service capabilities and experience of the prospective CONSULTANT and all persons who will be providing services under contract. The following are the critical areas of the proposals that will be evaluated by the Selection Committee:
1. Adequacy of the described plan/approach to deliver requested services as described in this RFP.
  2. Experience of CONSULTANT in providing services and quality of work.
  3. Status of Professional Certification including whether the CONSULTANT meets the minimum requirements to provide service.

There are further parameters noted in Attachment A.

## **IX. AWARD AND CONTRACT INFORMATION**

- A. The County hereby notifies all proposers that it will affirmatively ensure that minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation, and that no proposer shall be discriminated against on the grounds of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.
- B. The CONSULTANT agrees that should it be awarded a contract, the CONSULTANT shall not discriminate against any person who performs work there under because of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.
- C. The County reserves the right to reject any or all proposals and to waive any irregularities if deemed in the best interest of the County to do so. The County will select the

CONSULTANT whose proposal is determined by the County to be the most responsive and responsible proposal and of the best advantage to the citizens of Mendocino County. The County shall be the sole judge in making such a determination.

- D. The successful CONSULTANT will be required to enter into and sign a formal agreement with the County, which agreement will be in effect for the duration of the contract period. A sample CONSULTANT Agreement is attached to this Request for Proposal as Attachment D. It is the CONSULTANT's responsibility to review the contract's terms and conditions and to state any exceptions to those conditions in its response to the Request for Proposals (Attachment E). If no exceptions are noted, the County will understand that the CONSULTANT agrees to the terms and conditions as stated in the contract.
- E. Prior to final selection, CONSULTANTS may be required to submit any additional information that Mendocino County may deem necessary to determine the CONSULTANT's qualifications. Should any of the information requested by Mendocino County be considered by the CONSULTANT to be confidential, it must be so stated. Mendocino County will attempt to treat any information submitted by the CONSULTANT as confidential if requested to do so; however, Mendocino County cannot ensure such confidentiality.
- F. Open Procurement
  - 1. The CONSULTANT shall include any latitudes, prohibitions or limitations placed on the purchase of the items presented in the CONSULTANT's Proposal. Items and/or services that CONSULTANT intends to be offered on a unit price basis must be so identified. [The County's objective is to clarify all purchase options.]
  - 2. Mendocino County reserves the right to negotiate changes to the original Proposal(s), including changes in system cost and/or unit price.
  - 3. Mendocino County reserves the right to accept or reject any or all Proposals in whole or in part.
  - 4. Mendocino County reserves the right to negotiate a contract with more than one CONSULTANT at the same time.

## **X. SCOPE OF WORK**

CONSULTANTS shall provide a scope of work which covers the items outlined below along with any additional items that the CONSULTANT deems necessary in order to deliver the necessary services.

### **Purpose**

This RFP announces the County of Mendocino's intent to procure a CONSULTANT to act as a Water Resource Specialist to respond to countywide water needs and to establish a Mendocino County Water Resource Team (MCWRT).

### **Background**

The Mendocino County Water Agency (MCWA) is a special district governed by the Board of Supervisors (BOS), sitting as the Board of Directors. The special district was originally established by an act of the State Legislature in 1949, under the name of the Mendocino County Flood Control and Water Conservation District, to provide a mechanism for local participation in the construction of Coyote Dam

on the East Fork of the Russian River. District revenue is generated from a tax that was established in 1971, which does not exceed \$0.06 per \$100 of assessed valuation. Additional funding has historically included revenue from various grants.

There is no formal definition of duties or authorities for staffing of MCWA in County Code because the Mendocino County Water Agency is in fact a County Dependent District so while in the past MCWA has had a General Manager and Hydrologist, those roles and responsibilities are not required by statute. Discussion regarding the Agency's leadership role (January 20, 2015 – BOS Agenda Item 7a) identified need for a General Manger to provide the Water Agency with direction. Chief Executive Officer, Carmel J. Angelo, was appointed Water Agency General Manager on February 3, 2015. It is assumed that the new Chief Executive Officer continues to carry that ex-officio title.

The BOS, acting as the Mendocino County Water Agency District Board, has given more recent direction on of August 2, 2022, when support for Scenario #1 (BOS Agenda Item 4c) was given. The presentations included hiring a professional consultant with water expertise to create, lead, and prepare for transition a Mendocino County Water Resource Team (MCWRT). Furthermore, the recommendation was for the abovementioned professional consultant to provide a Water Resource Specialist who reports to the BOS and coordinates with the Executive Office; assuming the CEO is still the ex-officio Water Agency General Manager, both would report to the BOS.

### **Work Tasks**

This Scope of Work is intended to serve as a general guide. It is not intended to be a complete list of all tasks necessary to complete the project. Proposers are encouraged to identify potential scope items that have not been specifically discussed in the RFP but could improve the process. The scope is subject to change as a result of negotiations between the selected Proposer and the County.

- 1) CONSULTANT will provide a “project manager lead” who is a qualified Water Resource Specialist (WRS) to establish and lead MCWRT in drought resiliency planning throughout Mendocino County on a multiple groundwater basin/watershed basis. This WRS position has been identified to assist Mendocino County with its immediate water needs for Fiscal Year 2022/2023. WRS will create a MCWRT that will utilize a matrix structure in several departments to continue an ongoing effort to address the water needs of people and communities in our county.

**Deliverable:** CONSULTANT team member(s) who meets following qualifications:

Qualifications:

The position requires a consultant with a graduate degree in any of these disciplines: water resources and policy, irrigation, environmental engineering, watershed management, hydrology, or other closely related field. and experience in water science and management. Knowledge of Mendocino County community water systems as well as watersheds and groundwater basins. Ability to work with different disciplines and departments. Experience in economic and community development including grant applications, administration and execution of grants. Knowledge of state and federal water agencies; personal relationships with their staffs is desired. Knowledge of state and federal water grant programs and their grant cycles. Executive experience leading departments, interdisciplinary teams, stakeholder groups or thematic programs. Proven experience working with complex public policy initiatives and project implementation over time. Extensive experience in social media, GIS software and statistical analysis desired.

## Relationships:

The WRS reports to the County Supervisors assigned to the SB 552-compliant Drought Task Force. This position is also a member of the Mendocino County Office of Emergency Services team.

This position is administratively supported by the CEO Office and interacts with the Grant Division of the Finance Team. Presently the MCWA is a program administered by the Department of Transportation (DOT) for specific mandated tasks and this position will collaborate with their staff as needed. The WRS works directly with a Deputy CEO to implement the Mendocino County water program efforts.

- 2) CONSULTANT will serve as support staff to the SB 552-compliant Drought Task Force. Mendocino County and the State of California have both declared Drought Emergencies and there are mandates in place that require specific actions by counties. A priority is providing support to convene and manage a SB 552-compliant Drought Task Force by the BOS, which has been delegated to the Public Health, Safety and Resources Standing Committee. The goals of this Task Force are to help assess community needs and identify grant opportunities to improve management of water resources and acquire infrastructure to ensure secure and sustainable supplies of water for people, natural resources, and agriculture. CONSULTANT will also make periodic presentations to the BOS as needed.

**Deliverables:** CONSULTANT will prepare agenda items and materials for Drought Task Force meetings and BOS meetings that inform the Task Force, BOS, CEO, and public of current water conditions, needs, and grant opportunities to ensure that our communities and stakeholders have sustainable water supplies for their needs.

- 3) CONSULTANT will maintain and refine an existing list of identified water needs that consist of both data gaps (extent of ground water resources in multiple basins) and infrastructure that will help communities and stakeholders remedy water resiliency and supply. CONSULTANT will organize five (5) volunteers from the many water stakeholders who participated in the Drought Emergency Ad Hoc Committee (became the SB 552 compliant Drought Task Force) and WAIP Steering Committee. It is envisioned that these five volunteers will be selected by supervisorial district then formed into a “Technical Advisory Committee” (TAC) to provide recommendations to the BOS for projects to support, based on the list mentioned above. CONSULTANT will coordinate and lead TAC meetings as needed.

**Deliverable:** CONSULTANT will maintain an updated list of community water needs identifying specific agency or area; a contact person and their contact information; and potential funding sources and assistance to solve the need. CONSULTANT will, based on recommendations from each of the five County Supervisors, appoint a five-member panel to review and advise MCWRT.

- 4) CONSULTANT will coordinate with NCEs, as directed by BOS based on recommendations from TAC, to advance water planning and infrastructure projects including but not limited to providing technical assistance and preparing grant applications. CONSULTANT will work with state and federal grant programs to identify funding sources and solutions to solve specific needs. CONSULTANT will initiate grant writing for specific identified projects both with internal grant writing capabilities and consultants when warranted.

**Deliverable:** CONSULTANT will prepare up to five (5) grant applications for NCEs.

- 5) CONSULTANT will be the Mendocino County contact person for State Water Resource Agencies until a permanent county staff is identified by CONSULTANT and is also prepared for transition after the CONSULTANT contract is complete.

**Deliverable:** CONSULTANT contact and or meet with various officials and keep a log of contacts with summary of items discussed and tasks accomplished or to accomplish.

- 6) CONSULTANT will work with existing County departments to define resources to sustain and support the Water Resources Team (MCWRT), which may include identifying grant opportunities for Water Agency ongoing programs or projects.

**Deliverable:** CONSULTANT to define and budget those portions of County Department resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.

- 7) CONSULTANT will reach written agreement (approved through County system) with UCCE to provide office space, administrative support, and technical support for MCWRT.

**Deliverable:** Approved Agreement with UCCE. CONSULTANT to define and budget those portions of UCCE resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.

- 8) CONSULTANT will seek opportunities for collaboration with UC Water and Climate Change Advisor (in recruitment) housed in Mendocino County, UC Soils and Irrigation Advisor (cross-county assignment with Sonoma County), and Water Specialists at UC Davis, UC Berkeley and UC Riverside Environmental Health (wells and domestic water supply, regulations).

**Deliverable:** CONSULTANT to define and budget those portions of UCCE resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.

- 9) CONSULTANT will prepare for and transition MCWRT staff to perform current MCWA duties performed by DOT staff (presently addressing NPDES, Quagga mussel prevention, California Statewide Groundwater Elevation Monitoring (CASGEM), Ukiah Valley Basin Groundwater Sustainability Agency (UVBGSA) participation) after the CONSULTANT contract is complete.

**Deliverable:** CONSULTANT to define and budget those portions of DOT resources expected for ongoing UCCE activities (e.g. staff time & equipment) and build the appropriate budget.

- 10) CONSULTANT will interface with Executive Office (EO): Prevention, Recovery, Resiliency, & Mitigation (PRRM), Office of Emergency Services (OES), Finance Team, Contracts and Grants personnel, for planned ongoing function.

**Deliverable:** CONSULTANT to define and budget those portions of EO/PRRM resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.



- 11) CONSULTANT will prepare for and transition MCWRT staff to interface with Planning and Building Services (PBS) in water planning for community development and permitting functions.

**Deliverable:** CONSULTANT to define and budget those portions of P&BS resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.

- 12) CONSULTANT will prepare for and transition MCWRT staff to interface with Public Health Department – Division of Environmental Health (EH) Services in water planning for community development and permitting functions.

**Deliverable:** CONSULTANT to define and budget those portions of EH resources expected for ongoing MCWRT activities (e.g. staff time & equipment) and build the appropriate budget.

The successful CONSULTANT will provide examples of previous projects for local government reorganization where they used a “matrix” approach to creating a team utilizing staff from multiple departments to perform its intended function. The CONSULTANT will, based on operational knowledge gained during the contract period, determine the amount of time and resources needed from each MCWRT member agency then build an ongoing MCWRT budget. As described above, the BOS has authorized one-time “startup” funds of up to \$250,000 for CONSULTANT and MCWRT efforts. Following FY 2022-2023, it is expected CONSULTANT will have prepared MCWRT to assume management of the Water Agency responsibilities currently performed by DOT staff and the corresponding Water Agency budget, which collects approximately \$160,000 per year in tax revenue to support existing programs. Thus, beginning in FY 2023-2024, MCWRT will assume ALL Water Agency responsibilities (both County staff & ongoing contracts), using the existing tax revenue along with any program or project specific grants identified through the work tasks, with no ongoing subsidy from County General Fund.

### **Services to be Provided by County**

COUNTY will make appropriate staff available for meetings and site visits(s) and provide additional support services as described under Assumptions and Responsibilities of County.

### **Schedule**

- Draft Work Plan with Implementation Recommendations: 4 months after written notice to proceed.
- Final Work Plan with Implementation Recommendations: 1 month after receiving County’s comments on drafts.

### **Assumptions and Responsibilities of County**

- CONSULTANT is expected to provide support staff to accomplish the work tasks. The County anticipates dedicating no more than 500 County staff hours to support work tasks throughout the term of the Agreement.
- It is assumed there is publicly-available data, and it will be sufficiently detailed and accurate for the purposes of this work.
- The County will provide access to the project site(s) (if needed), available data, reports and information related to the project.
- The County will protect CONSULTANT-supplied digital information or data, if any, from contamination, misuse, or changes.

## **Compensation**

CONSULTANT must itemize all costs, including per hour costs, chargeable to the County as described in this Section, in a separate Cost Proposal. Prices quoted shall be valid for at least ninety (90) days following the proposal submission deadline and if a contract is entered into as a result of this RFP, shall become fixed for the term of the contract.

COUNTY shall review CONSULTANT's Cost Proposal and proceed with brief discussions and negotiations to arrive at a fair and reasonable price and schedule for the Work. The COUNTY understands that the CONSULTANT we select may propose a different format Scope of Work and later iterations of Scope Cost negotiations can be revised to a FINAL Scope and Cost in the FINAL CONTRACT.

**Cost Basis** – All work performed by CONSULTANT is to be on a unit basis, with a “not to exceed” amount being applied and progress billing against the not to exceed amount based on the CONSULTANT Rate Schedule and hours tracked. The appropriate not to exceed amount shall be determined jointly by COUNTY and CONSULTANT based on negotiations.

The County shall be the sole arbiter in the determination of equality. The County reserves the right to reject any proposals and to accept the proposal or proposals which in its sole and absolute judgment shall, under all circumstances, best serve the interests of the County.

[END OF SCOPE OF WORK]

## **XI. FORMAT OF TECHNICAL PROPOSAL**

**Proposals submitted in response to this RFP should include the following elements:**

- A. Project understanding and a description of the process/approach to be used in providing the services described in Section X, Scope of Work, of this RFP. Be specific and address all elements including timing of implementation.
- B. A description of CONSULTANT's experience in providing the requested services.
- C. A list of key personnel, including full name, position, licenses or degrees held and a brief summary of relevant experience as related to proposed services; organization chart; list of Board of Directors (if applicable); licenses (where appropriate).
- D. A description of the experience/qualifications of all persons who may perform services under contract. Staff resumes that cover all experience and educational background may be used. All personal information provided will be maintained in confidence as allowed by law.
- E. Timeline indicating implementation schedule and training schedule (if applicable).
- F. Any exceptions to the terms and conditions as specified in “Attachment E” to this RFP. The terms and conditions not specifically identified will be considered acceptable to CONSULTANT.
- G. A detailed cost proposal.
- H. Additional documents or other material, as appendices, in support of the proposal. The proposal, however, must reference any additional material or documentation.
- I. Upon specific request of the County, CONSULTANT shall provide consent and waiver

forms permitting County to obtain personal employment/professional qualification information about CONSULTANT who may perform services under this contract from third parties, and releasing third parties from any and all liability for disclosing such information to County.

## **XII. RESERVED**

## **XIII. RESERVED**

## **XIV. CONTRACT**

A. Time is of the essence in awarding the contract. The County reserves the right to cancel any intent to award and proceed to the next CONSULTANT if the selected CONSULTANT has not signed the agreement within two weeks after the notification of intent of award.

### **B. Execution of Contract**

1. Upon the acceptance of a CONSULTANT's Proposal, County will prepare and submit a contract to the successful CONSULTANT for signature. (See sample CONSULTANT Agreement, as Attachment D, which contains required contractual language.) In the event that the successful CONSULTANT fails, neglects or refuses to execute the contract within a specified number of days after receiving a copy of the contract from County, County may at its option terminate and cancel its action in awarding the contract and the contract shall become null and void and of no effect.

2. Incorporated by reference into the contract which is to be entered into by County and the successful CONSULTANT pursuant to this Proposal will be (a) all of the information presented in or with this Proposal and the CONSULTANT's response thereto, and (b) all written communications between County and the successful CONSULTANT whose Proposal is accepted.

### **C. No Assignment**

Assignment by the successful CONSULTANT to any third party of any contract based on the Proposal or any monies due shall be absolutely prohibited and will not be recognized by County unless approved in advance by County in writing.

### **D. Force Majeure**

Neither party shall be liable to the other for any failure or delay in rendering performance arising out of causes beyond its control and without its fault or negligence. Such causes may include, but not be limited to, acts of God or the public enemy, freight embargoes, and unusually severe weather; but the failure or delay must be beyond its control and without its fault or negligence. Dates or times of performance will be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

## **XV. REJECTION OF PROPOSALS**

The RFP does not commit the County to award a contract, to pay any costs incurred in the preparation of the proposal to this request, or to procure or contract for services or supplies. The

County reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel the RFP in part or in its entirety, if it is in the best interest of the County to do so. The County may require the proposer selected to participate in negotiations, and to submit such proposal as may result from negotiations.

Any proposal submitted during this RFP process becomes the property of the County. The County will not be liable for nor pay costs incurred by the respondent in the preparation of a response to this RFP or any other costs involved including travel. If the selected CONSULTANT has a fixed place of business in the unincorporated territory of Mendocino County, the CONSULTANT will be required to obtain a County business license, if not already held.

## **XVI. GENERAL CONDITIONS**

While the intent of the County is to award the contract to the selected CONSULTANT, it reserves the right to both either withdraw and/or not award a contract at any time it so desires. Costs incurred in the preparation of response to this RFP will not be reimbursed.

The County has a standard contract service agreement. The successful firm will be required to agree to the terms contained within. Any issues with the insurance coverage should be mentioned in the response to the Request for Proposals.

### Limitations

- 1) The CONSULTANT should expect to have access only to the public records and public files of local government agencies in preparing the proposal or reports. The CONSULTANT should not anticipate any compilation, tabulation, or analysis of data, definition or opinion, etc., unless volunteered by a responsible official of that agency.
- 2) The County has the authority to terminate the contract upon written notice to the CONSULTANT at any time during the period of the contract if the County finds that the CONSULTANT's performance is not satisfactory.
- 3) Contract payments will be made on the basis of satisfactory performance by the CONSULTANT as determined by the County. Final payment to the CONSULTANT will only be made when the County finds that the work performed by the CONSULTANT to be satisfactory and the final work product and documents submitted meet the tasks of the project and is accepted by the County.
- 4) The CONSULTANT should expect to comply with recent requirements of SB 854. Certain portions of the work under this contract may be subject to Department of Industrial Relations (DIR) registration (FEE \$400.00 plus) and submittal of electronic certified payroll. CONSULTANT is responsible to determine those portions of the work to be performed which are subject to prevailing wages and make the necessary reports both in writing to the County and electronic to the DIR.

## **XVII. INSURANCE REQUIREMENTS**

CONSULTANT will be required to furnish to County certificates of insurance evidencing at the minimum the following:

1. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Worker's Compensation and Employer's Liability: Worker's compensation limits as required by the labor code of the State of California.
4. Professional Liability Insurance (Errors and Omissions) in the amount of \$500,000 (minimum).

## **XVIII. LIST OF ATTACHMENTS**

- Attachment A – Proposal Evaluation Form
- Attachment B – Certificate of Non-collusion
- Attachment C – Proposal Summary Fact Sheet and Statement of Responsibility
- Attachment D – Sample CONSULTANT Agreement
- Attachment E – Exceptions to RFP

County of Mendocino Department of Transportation  
**Establish Mendocino County Water Resource Team – MCWRT**

Proposal Evaluation Form

CONSULTANT Name: \_\_\_\_\_

This proposal will be judged based on service capabilities and experience of the prospective CONSULTANT and all persons who will be providing services under contract. The following are the critical areas of the proposals that will be evaluated by the Selection Committee.

1. Adequacy of the described plan and approach to deliver requested services as described in this Request for Proposal.
2. Experience of CONSULTANT in providing services and quality of work.
3. Status of Professional Certification including whether the CONSULTANT meets the minimum requirements to provide service.

	Value*	Score	Notes
A. Completeness of response	10points		
B. Compliance with RFP	10 points		
C. Organization capacity to perform the work	10 points		
D. Staff capacity to perform the work	10 points		
E. Technical criteria	15 points		
F. Implementation plan and schedule	5 points		
G. Proximity to Mendocino County	5 points		
H. Relevant experience	20 points		
I. References	5 points		
J. Overall proposal	5 points		
K. Cost Proposal	5 points		

<b>Evaluation Total (Maximum 100)</b>	
---------------------------------------	--

\* Higher scores are better

Evaluated By: \_\_\_\_\_

Project Manager: \_\_\_\_\_

Signature: \_\_\_\_\_

Initial: \_\_\_\_\_

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

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

Request for Proposal

**ATTACHMENT B**  
**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies, under penalty of perjury, that this proposal has been made in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

\_\_\_\_\_  
(Name of Proposer)

\_\_\_\_\_  
(Signature of Authorized Agent)

\_\_\_\_\_, 2021  
Date

**ATTACHMENT C  
PROPOSAL SUMMARY FACT SHEET  
AND STATEMENT OF RESPONSIBILITY**

1. Applicant Firm Name: \_\_\_\_\_
2. Executive Director: \_\_\_\_\_
3. Contact Person: \_\_\_\_\_ 4. Title: \_\_\_\_\_
5. Address \_\_\_\_\_
6. Telephone Number: \_\_\_\_\_
7. Authorized Representative's Signature: \_\_\_\_\_
8. Name and Title: \_\_\_\_\_

Certifications:

1. Are you incorporated?      YES ( )      NO ( )

If YES, date of incorporation: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

2. Tax Identification Number: \_\_\_\_\_

Please list the official name of the firm as submitted to the IRS:

\_\_\_\_\_

3. Fictitious name or names, if any, under which you are doing business:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



4. Do you agree to comply with specifications, RFP instructions, draft contract requirements and other pertinent references contained in this RFP?

YES ( ) NO ( )

5. Do you agree that the proposal will stand firm and will not be withdrawn for a period of 45 days after the proposal is opened?

YES ( ) NO ( )

6. Do you certify that all statements in the proposal are true? This shall constitute a warranty, the falsity of which shall entitle the County to pursue any remedy authorized by law, and shall include the right, at the option of the County, of declaring any contract made as a result thereof to be void.

YES ( ) NO ( )

7. Do you agree to provide the County with any other information the County determines is necessary for accurate determination of your qualifications to provide services?

YES ( ) NO ( )

8. Do you agree that the proposal amount includes all costs incident to the proposed contract?

YES ( ) NO ( )

To the best of my knowledge and belief, the information provided in this initial determination of responsibilities is true and correct.

\_\_\_\_\_  
**PRINTED NAME  
OF AUTHORIZED  
REPRESENTATIVE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**SIGNATURE**

**ATTACHMENT D – SAMPLE CONSULTANT AGREEMENT**  
**COUNTY OF MENDOCINO**  
**STANDARD SERVICES AGREEMENT**

This Agreement is by and between the COUNTY OF MENDOCINO, hereinafter referred to as the “COUNTY”, and \_\_\_\_\_, hereinafter referred to as the “CONSULTANT”.

**WITNESSETH**

WHEREAS, pursuant to Government Code Section 31000, COUNTY may retain independent contractors to perform special services to or for COUNTY or any department thereof; and,

WHEREAS, COUNTY desires to obtain CONSULTANT for its [Services]; and,

WHEREAS, CONSULTANT is willing to provide such services on the terms and conditions set forth in this AGREEMENT and is willing to provide same to COUNTY.

NOW, THEREFORE it is agreed that COUNTY does hereby retain CONSULTANT to provide the services described in Exhibit “A”, and CONSULTANT accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A     Definition of Services
- Exhibit B     Payment Terms
- Exhibit C     Insurance Requirements
- Exhibit D     Mendocino County ePayables Information

The term of this Agreement shall be from the date this Agreement becomes fully executed by all parties (the “Effective Date”), and shall continue through \_\_\_\_\_, 2021.

The compensation payable to CONSULTANT hereunder shall not exceed [Spelled out Contract Amount] (\$[Numerical Amount]) for the term of this Agreement.

**IN WITNESS WHEREOF**

**DEPARTMENT FISCAL REVIEW:** Transportation

CONSULTANT/COMPANY NAME

\_\_\_\_\_  
HOWARD N. DASHIELL, Director      DATE

By: \_\_\_\_\_

Budgeted:  Yes    No

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

Budget Unit:   2910  

NAME AND ADDRESS OF CONSULTANT:

Line Item:   862189  

\_\_\_\_\_

Grant:  Yes    No

\_\_\_\_\_

Grant No.: \_\_\_\_\_

\_\_\_\_\_

**COUNTY OF MENDOCINO**

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

By: \_\_\_\_\_  
TED WILLIAMS, Chair  
BOARD OF SUPERVISORS

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

**ATTEST:**

DARCIE ANTLE, Clerk of said Board

**COUNTY COUNSEL REVIEW:**

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,  
County Counsel

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

By: \_\_\_\_\_  
Deputy

DARCIE ANTLE, Clerk of said Board

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

By: \_\_\_\_\_  
Deputy

**INSURANCE REVIEW:**

**EXECUTIVE OFFICE/FISCAL REVIEW:**

By: \_\_\_\_\_  
Risk Management

By: \_\_\_\_\_  
Deputy CEO

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

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

**Signatory Authority:** \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; **\$50,001+ Board of Supervisors**

**Exception to Bid Process Required/Completed**  \_\_\_\_\_

**Mendocino County Business License: Valid**

**Exempt Pursuant to MCC Section:** \_\_\_\_\_

## **GENERAL TERMS AND CONDITIONS**

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that CONSULTANT is an Independent Contractor. CONSULTANT is not the agent or employee of the COUNTY in any capacity whatsoever, and COUNTY shall not be liable for any acts or omissions by CONSULTANT nor for any obligations or liabilities incurred by CONSULTANT.

CONSULTANT shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

CONSULTANT shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which COUNTY may incur because of CONSULTANT's failure to pay such amounts.

In carrying out the work contemplated herein, CONSULTANT shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as Independent Contractors and shall not be treated or considered in any way as officers, agents and/or employees of COUNTY.

CONSULTANT does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with all applicable federal, state and County laws, including but not limited to prevailing wage laws, ordinances, regulations, titles, departmental procedures and currently approved methods and practices in his/her field and that the sole interest of COUNTY is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the COUNTY determines that pursuant to state and federal law CONSULTANT is an employee for purposes of income tax withholding, COUNTY may upon two (2) week's written notice to CONSULTANT, withhold from payments to CONSULTANT hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the furthest extent permitted by law (including without limitation California Civil Code sections 2782 and 2782.8, if applicable), CONSULTANT shall assume the defense of, indemnify, and hold harmless the COUNTY, its officers, agents, and employees, from and

against any and all claims, demands, damages, costs, liabilities, and losses whatsoever alleged to be occurring or resulting in connection with the CONSULTANT'S performance or its obligations under this AGREEMENT, unless arising out of the sole negligence or willful misconduct of COUNTY. "CONSULTANT'S performance" includes CONSULTANT'S action or inaction and the action or inaction of CONSULTANT'S officers, employees, agents and subcontractors.

3. INSURANCE AND BOND: CONSULTANT shall at all times during the term of the Agreement with the COUNTY maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. WORKERS' COMPENSATION: CONSULTANT shall provide Workers' Compensation insurance, as applicable, at CONSULTANT's own cost and expense and further, neither the CONSULTANT nor its carrier shall be entitled to recover from COUNTY any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

CONSULTANT affirms that s/he is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for the Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code and CONSULTANT further assures that s/he will comply with such provisions before commencing the performance of work under this Agreement. CONSULTANT shall furnish to COUNTY certificate(s) of insurance evidencing Worker's Compensation Insurance coverage to cover its employees, and CONSULTANT shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of subcontractors' employees.

5. CONFORMITY WITH LAW AND SAFETY:
  - a. In performing services under this Agreement, CONSULTANT shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. CONSULTANT shall indemnify and hold COUNTY harmless from any and all liability, fines, penalties and consequences from any of CONSULTANT's failures to comply with such laws, ordinances, codes and regulations.
  - b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with CONSULTANT's performance of this Agreement, CONSULTANT shall immediately notify Mendocino County Risk Manager's Office by telephone. CONSULTANT shall promptly submit to COUNTY a written report, in such form as may be required by COUNTY of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of CONSULTANT's sub-contractor, if any; (3) name and address of CONSULTANT's liability insurance carrier; and (4) a detailed

description of the accident and whether any of COUNTY's equipment, tools, material, or staff were involved.

- c. CONSULTANT further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the COUNTY the opportunity to review and inspect such evidence, including the scene of the accident.
6. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to CONSULTANT as provided in Exhibit "B" hereto as funding permits.

If COUNTY over pays CONSULTANT for any reason, CONSULTANT agrees to return the amount of such overpayment to COUNTY, or at COUNTY's option, permit COUNTY to offset the amount of such overpayment against future payments owed to CONSULTANT under this Agreement or any other agreement.

In the event CONSULTANT claims or receives payment from COUNTY for a service, reimbursement for which is later disallowed by COUNTY, State of California or the United States Government, which disallowance is due to the actions or omissions of CONSULTANT, the CONSULTANT shall promptly refund the disallowance amount to COUNTY upon request, or at its option COUNTY may offset the amount disallowed from any payment due or that becomes due to CONSULTANT under this Agreement or any other agreement.

All invoices, receipts, or other requests for payment under this contract must be submitted by CONSULTANT to COUNTY in a timely manner and consistent with the terms specified in Exhibit B. In no event shall COUNTY be obligated to pay any request for payment for which a written request for payment and all required documentation was first received more than six (6) months after this Agreement has terminated, or beyond such other time limit as may be set forth in Exhibit B.

7. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the CONSULTANT.
8. OWNERSHIP OF DOCUMENTS: CONSULTANT hereby assigns the COUNTY and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the COUNTY, the CONSULTANT, the CONSULTANT's subcontractors or third parties at the request of the CONSULTANT (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

CONSULTANT shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. CONSULTANT agrees to take such further steps as may be reasonably requested by COUNTY to implement the aforesaid assignment. If for any

reason said assignment is not effective, CONSULTANT hereby grants the COUNTY and any assignee of the COUNTY an express royalty – free license to retain and use said Documents and Materials. The COUNTY’s rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not CONSULTANT’s services as set forth in Exhibit “A” of this Agreement have been fully performed or paid for.

The COUNTY’s rights under this Paragraph 8 shall not extend to any computer software used to create such Documents and Materials.

9. CONFLICT OF INTEREST: The CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement.
10. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender’s account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Facsimile transmission: When sent by facsimile to the facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that, (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient’s time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To COUNTY: COUNTY OF MENDOCINO

Ukiah, CA 95482  
Attn:

To CONSULTANT: [Name of CONSULTANT]  
[Number and Street]  
[City, State, Zip Code]

ATTN:

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

11. USE OF COUNTY PROPERTY: CONSULTANT shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
12. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: CONSULTANT certifies that it will comply with all Federal, State, and local laws, rules and regulations pertaining to nondiscrimination in employment.
  - a. CONSULTANT shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, pregnancy, disability, sex, sexual orientation, gender identity, ancestry, national origin, age, religion, Veteran's status, political affiliation, or any other factor prohibited by law.
  - b. CONSULTANT shall, if requested to so do by the COUNTY, certify that it has not, in the performance of this Agreement, engaged in any unlawful discrimination.
  - c. If requested to do so by the COUNTY, CONSULTANT shall provide the COUNTY with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.
  - d. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.
  - e. The CONSULTANT shall include the provisions set forth in this paragraph in each of its subcontracts.
13. DRUG-FREE WORKPLACE: CONSULTANT and CONSULTANT's employees shall comply with the COUNTY's policy of maintaining a drug-free workplace. Neither CONSULTANT nor CONSULTANT's employees shall unlawfully manufacture, distribute, dispense, possess or



use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any COUNTY facility or work site. If CONSULTANT or any employee of CONSULTANT is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the CONSULTANT, within five days thereafter, shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

14. ENERGY CONSERVATION: CONSULTANT agrees to comply with the mandatory standards and policies relating to energy efficiency in the State of California Energy Conservation Plan, (Title 24, California Administrative Code).
15. COMPLIANCE WITH LICENSING REQUIREMENTS: CONSULTANT shall comply with all necessary licensing requirements and shall obtain appropriate licenses. To the extent required by law, CONSULTANT shall display licenses in a location that is reasonably conspicuous. Upon COUNTY's request, CONSULTANT shall file copies of same with the County Executive Office.

CONSULTANT represents and warrants to COUNTY that CONSULTANT and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

16. AUDITS; ACCESS TO RECORDS: The CONSULTANT shall make available to the COUNTY, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the COUNTY, and shall furnish to the COUNTY, within sixty (60) days after examination, its authorized agents, officers or employees such other evidence or information as the COUNTY may require with regard to any such expenditure or disbursement charged by the CONSULTANT.

The CONSULTANT shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the CONSULTANT in the performance of this Agreement. If such books and records are not kept and maintained by CONSULTANT within the County of Mendocino, California, CONSULTANT shall, upon request of the COUNTY, make such books and records available to the COUNTY for inspection at a location within County or CONSULTANT shall pay to the COUNTY the reasonable, and necessary costs incurred by the COUNTY in inspecting CONSULTANT's books and records, including, but not limited to, travel, lodging and subsistence costs. CONSULTANT shall provide such assistance as may be reasonably required in the course of such inspection. The COUNTY further reserves the right to examine and reexamine said books, records and data during the four (4) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the COUNTY, and the CONSULTANT shall in no event dispose

of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for four (4) years after the COUNTY makes the final or last payment or within four (4) years after any pending issues between the COUNTY and CONSULTANT with respect to this Agreement are closed, whichever is later.

17. DOCUMENTS AND MATERIALS: CONSULTANT shall maintain and make available to COUNTY for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 8 of this Agreement. CONSULTANT's obligations under the preceding sentence shall continue for four (4) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by COUNTY), and CONSULTANT shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following the COUNTY's last payment to CONSULTANT under this Agreement.
18. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
19. TERMINATION: The COUNTY has and reserves the right to suspend, terminate or abandon the execution of any work by the CONSULTANT without cause at any time upon giving to the CONSULTANT notice. Such notice shall be in writing and may be issued by any county officer authorized to execute or amend the contract, the County Chief Executive Officer, or any other person designated by the County Board of Supervisors. In the event that the COUNTY should abandon, terminate or suspend the CONSULTANT's work, the CONSULTANT shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to CONSULTANT for its [Services] shall not exceed \$[Contract Amount] payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment or lack of funding.
20. NON APPROPRIATION: If COUNTY should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the products set forth in this Agreement, or other means of performing the same functions of such products, COUNTY may unilaterally terminate this Agreement only upon thirty (30) days written notice to CONSULTANT. Upon termination, COUNTY shall remit payment for all products and services delivered to COUNTY and all expenses incurred by CONSULTANT prior to CONSULTANT'S receipt of the termination notice.
21. CHOICE OF LAW: This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
22. VENUE: All lawsuits relating to this contract must be filed in Mendocino

23. WAIVER: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
24. ADVERTISING OR PUBLICITY: CONSULTANT shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of COUNTY in each instance.
25. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between COUNTY and CONSULTANT relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. This Agreement may not be modified except by a written document signed by both parties. In the event of a conflict between the body of this Agreement and any of the Exhibits, the provisions in the body of this Agreement shall control.
26. HEADINGS: Herein are for convenience of reference only and shall in no way affect interpretation of this Agreement.
27. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
28. ASSURANCE OF PERFORMANCE: If at any time the COUNTY has good objective cause to believe CONSULTANT may not be adequately performing its obligations under this Agreement or that CONSULTANT may fail to complete the Services as required by this Agreement, COUNTY may request from CONSULTANT prompt written assurances of performance and a written plan acceptable to COUNTY, to correct the observed deficiencies in CONSULTANT's performance. CONSULTANT shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of COUNTY's request and shall thereafter diligently commence and fully perform such written plan. CONSULTANT acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

29. SUBCONTRACTING/ASSIGNMENT: CONSULTANT shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the COUNTY's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. Only the department head or his or her designee shall have the authority to approve subcontractor(s).
  - c. CONSULTANT shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between CONSULTANT and its subcontractors.
30. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 8), and Conflict of Interest (Paragraph 9), shall survive termination or expiration for two (2) years.
31. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
32. INTELLECTUAL PROPERTY WARRANTY: CONSULTANT warrants and represents that it has secured all rights and licenses necessary for any and all materials, services, processes, software, or hardware ("CONSULTANT PRODUCTS") to be provided by CONSULTANT in the performance of this AGREEMENT, including but not limited to any copyright, trademark, patent, trade secret, or right of publicity rights. CONSULTANT hereby grants to COUNTY, or represents that it has secured from third parties, an irrevocable license (or sublicense) to reproduce, distribute, perform, display, prepare derivative works, make, use, sell, import, use in commerce, or otherwise utilize CONSULTANT PRODUCTS to the extent reasonably necessary to use the CONSULTANT PRODUCTS in the manner contemplated by this agreement.

CONSULTANT further warrants and represents that it knows of no allegations, claims, or threatened claims that the CONSULTANT PRODUCTS provided to COUNTY under this Agreement infringe any patent, copyright, trademark or other proprietary right. In the event that any third party asserts a claim of infringement against the COUNTY relating to a CONSULTANT PRODUCT, CONSULTANT shall indemnify and defend the COUNTY pursuant to Paragraph 2 of this AGREEMENT.

In the case of any such claim of infringement, CONSULTANT shall either, at

its option, (1) procure for COUNTY the right to continue using the CONSULTANT Products; or (2) replace or modify the CONSULTANT Products so that that they become non-infringing, but equivalent in functionality and performance.

33. ELECTRONIC COPIES:

The parties agree that an electronic copy, including facsimile copy, email, or scanned copy of the executed Agreement, shall be deemed, and shall have the same legal force and effect as, an original document.

34. COOPERATION WITH COUNTY

Contractor shall cooperate with County and County staff in the performance of all work hereunder.

35. PERFORMANCE STANDARD

CONSULTANT shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in CONSULTANT's profession. County has relied upon the professional ability and training of CONSULTANT as a material inducement to enter into this Agreement. CONSULTANT hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable Federal, State, and local laws, it being understood that acceptance of CONSULTANT's work by County shall not operate as a waiver or release. If County determines that any of CONSULTANT's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require CONSULTANT to meet with County to review the quality of the work and resolve matters of concern; (b) require CONSULTANT to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of paragraph 19 (Termination) or (d) pursue any and all other remedies at law or in equity.

36. ATTORNEYS' FEES

In any action to enforce or interpret the terms of this agreement, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

[END OF GENERAL TERMS AND CONDITIONS]

## **EXHIBIT A**

### **DEFINITION OF SERVICES**

CONSULTANT shall provide the following services:

[END OF DEFINITION OF SERVICES]

**EXHIBIT B**

**PAYMENT TERMS**

[END OF PAYMENT TERMS]

## EXHIBIT C

### INSURANCE REQUIREMENTS

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude COUNTY from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law. Insurance requirements shall be in addition to, and not in lieu of, CONSULTANT's indemnity obligations under Paragraph 2 of this Agreement.

CONSULTANT shall obtain and maintain insurance coverage as follows:

- a. Combined single limit bodily injury liability and property damage liability - \$1,000,000 each occurrence.
- b. Vehicle / Bodily Injury combined single limit vehicle bodily injury and property damage liability - \$500,000 each occurrence.

CONSULTANT shall furnish to COUNTY certificates of insurance evidencing the minimum levels described above.

[END OF INSURANCE REQUIREMENTS]



## EXHIBIT D

### MENDOCINO COUNTY EPAYABLES INFORMATION

The County of Mendocino is currently making credit card payments to all of our vendors and suppliers who qualify. To qualify, vendors need to currently accept credit card payments. To achieve this more efficient form of payment, the County has partnered with Bank of America and their ePayables credit card program. This electronic initiative will yield many benefits to its participants:

- Expedited receipt of cash – electronic credit card payments provide cash flow benefits by eliminating mail and paper check float
- Elimination of check processing costs
- Remittance data transmitted with payment for more efficient back-end reconciliation
- No collection costs associated with lost or misplaced checks
- Reduced exposure to check fraud
- More efficient handling of exception items
- Fits with existing accounting software – requires no purchase of software, no modifications to existing accounts receivable system and no change to bank accounts.
- Going green with paperless electronic credit card payments help conserve the environment by eliminating printing and mailing of paper checks.

For information regarding the payment process, please email [Auditorap@mendocinocounty.org](mailto:Auditorap@mendocinocounty.org).

Additional information regarding the Bank of America Program is also available at:

[http://corp.bankofamerica.com/business/ci/landing/epayables-vendors?cm\\_mmc=sb-general- -vanity- -sg01vn000r\\_epayablesvendors- -na](http://corp.bankofamerica.com/business/ci/landing/epayables-vendors?cm_mmc=sb-general--vanity--sg01vn000r_epayablesvendors--na)

**EXHIBIT E - SAMPLE INVOICE**

(Provide a header with CONSULTANT's name, address and telephone number)

**INVOICE**

County of Mendocino  
 Department of Transportation  
 340 Lake Mendocino Drive  
 Ukiah, CA 95482

Invoice No.: 123  
 Date: 17 December 2117  
 CONSULTANT C2F23  
 Contract No.:

Attn: Howard N. Dashiell  
 MCDOT Project No.: XXXX  
 Project Name: XXXXXXXXXXXX

MCDOT Contract No.: 123456

Services Period: 1Apr17-30Apr17  
 Services Performed:

**CONSULTANT Charges**

Staff classification	Name	Hours	Unit Rate	Total
Project Manager	John Jones	1.00	\$25.65	\$25.65
Senior Engineer	etc.	1.87	\$15.65	\$29.27
Biologist				
	Direct Cost Subtotal			\$54.92
	Indirect Cost Rate		103.57%	<u>\$56.88</u>
	Direct and Indirect Costs Subtotal			\$111.80
	Fixed Fee			<u>\$18.29</u>
				\$130.09

**Reimbursables**

Mileage				\$0.64
Shipping				<u>\$17.51</u>
	Reimbursables Subtotal			\$18.15

(Your firm name) Invoice Total \$148.24

**SubCONSULTANT Charges**

SubCONSULTANT 1, Invoice 1				\$1,250.00
SubCONSULTANT 1, Invoice 2				\$500.00
SubCONSULTANT 2				\$250.00
	<b>Total Due This Invoice</b>			<b><u>\$2,148.24</u></b>

**Billing Status**

Contract Amount	Previously Invoiced	Amount of This Invoice	Invoiced to Date	Amount Remaining	Per Cent Invoiced
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Signed: \_\_\_\_\_  
 Name

ATTACHMENT E  
EXCEPTIONS TO RFP

Company Name:

Representative:

Title:

Address:

Phone: \_\_\_\_\_

Email:

**I have reviewed the RFP and General Contract Terms in their entirety and have the following exceptions: (Please identify and list your exceptions by indicating the section or paragraph and page no. as applicable. Be specific about your proposed exception(s) to content, language, or omissions. Add as many pages as required.)**

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Authorized Representative: \_\_\_\_\_

(Printed name)

Signature: \_\_\_\_\_

Date

