

**HCAOG CONSULTANT SERVICES CONTRACT
FOR PREPARATION OF THE _____**

This is a contract, entered into on _____, in Eureka, California, between the HUMBOLDT COUNTY ASSOCIATION OF GOVERNMENTS, hereinafter called HCAOG, and _____, hereinafter referred to as CONSULTANT.

HCAOG may retain independent contractors to perform special, technical, expert, or professional services. Consultant is equipped, staffed, licensed, and prepared to provide such services.

HCAOG and CONSULTANT agree as follows:

1. CONSULTANT'S DUTIES:

- A. Term of agreement. CONSULTANT is hereby engaged to prepare the -----
-----as detailed in HCAOG'S Request for Proposal (RFP) and as defined by CONSULTANT in their proposal and cost proposal, subject to a refined scope of work (SOW) submitted to HCAOG. Work shall commence upon signing this contract, and shall thereafter be diligently pursued to completion.
- B. Scope of Work. The project scope shall be that presented and described in HCAOG's RFP documents, and the CONSULTANT'S responding proposal, including the cost proposal, and refined SOW meeting all statutory transportation planning and environmental requirements, consistent with the needs of HCAOG, its member entities, and the California Transportation Commission. Any modifications to the project scope as defined above shall occur in writing and shall require approval from CALTRANS.

All provision of services under this contract, attached as Attachment 'A', shall be performed in conformance with the HCAOG RFP and incorporated herein by this reference, the Protest Procedures & Dispute Resolution Process is attached hereto as Attachment 'B', the CONSULTANT'S proposal dated-----, which is attached hereto as Attachment 'C', the CONSULTANT'S cost proposal, which is attached hereto as Attachment 'D' and a refined SOW, which is attached hereto as Attachment 'E' and also incorporated herein by this reference.

- C. Amendment of Scope of Work. HCAOG shall have the right to amend the SOW within the contract by written notification to the CONSULTANT. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the contract. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notification.
- D. Personnel. CONSULTANT shall furnish sufficient qualified personnel to commence work upon execution of this contract, and to complete all work within the schedule period generally specified in the CONSULTANT'S proposal and the refined SOW by final

completion date of _____. CONSULTANT'S proposal contains pages detailing personnel to perform project tasks. The personnel so designated to perform project tasks are specifically made a part of this agreement. Any requests for changes in personnel shall be submitted in writing and require approval from HCAOG. Work shall commence as per Attachment C.

- E. Correction of Work. The performance of services or acceptance of information furnished by CONSULTANT shall not relieve the CONSULTANT from obligation to correct any defective work subsequently discovered and all incomplete, inaccurate or defective work shall be remedied by the CONSULTANT on demand without cost to HCAOG.
- F. Completion of Work. CONSULTANT shall be relieved of the duty to complete work only if the contract is terminated.
- G. Project Products. The CONSULTANT shall submit deliverables, detailed in Section IV of the RFP. The consultant shall also provide electronic and hard copy originals suitable for reproduction of all products to become the property of HCAOG.
- H. Title to Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions, equipment and other final work products compiled by the CONSULTANT under the contract shall be vested in HCAOG and CALTRANS, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of HCAOG. HCAOG shall indemnify, defend and hold CONSULTANT harmless against claims, losses, liabilities and costs (including reasonable attorney's fees) arising out of the use of such documents, data, or materials by HCAOG or any party using them with the express written consent of HCAOG other than the CONSULTANT or the subcontractors of CONSULTANT acting pursuant to its direction. Such indemnification shall not apply where damages, liabilities, or costs are caused by the sole negligence or willful misconduct of CONSULTANT.
- I. Employment Practices. CONSULTANT shall not discriminate in its performance under the contract either directly or indirectly on the grounds of race, color, religion, sex, age, disability, or national origin in his employment practices, and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to the aforesaid factors. The CONSULTANT will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21).
- J. Records of Performance. CONSULTANT shall maintain adequate records of contract performance and make these records available for inspection, audit, and copying by HCAOG during the contract period and for a period of three (3) years from the date of final payment.

2. HCAOG'S DUTIES:

HCAOG agrees to pay the CONSULTANT for the time and materials designated in the cost proposal, previously referenced as Attachment 'D' and incorporated herein, with the total fee not to exceed _____.

HCAOG may make progress payments to CONSULTANT, based upon CONSULTANTS submittal of invoices as detailed in Section VIII of the RFP, certifying to partial completion of the work. HCAOG shall pay CONSULTANT within 30 days following the date of each applicable invoice. If HCAOG contests or questions any invoice, HCAOG will contact CONSULTANT within such 30-day period. Invoices will not be paid more frequently than a monthly basis.

3. GENERAL CONDITIONS:

A. Time.

1. Time is of the essence of this agreement. CONSULTANT shall complete all work under this contract on or before _____.

B. Insurance.

1. CONSULTANT shall take out and maintain, throughout the period of this agreement, comprehensive general liability insurance with minimum limits of \$1,000,000.00 combined single limit (CSL), covering all bodily injury and property damage arising out of its operation under this agreement.
2. CONSULTANT shall provide automobile insurance covering all bodily injury and property liability incurred during the performance of this agreement with minimum coverage of \$1,000,000.00 per accident CSL. Such automobile insurance coverage shall include non-owned vehicles.
3. CONSULTANT shall take out and maintain errors and omissions insurance to protect HCAOG from damage or loss to the extent caused by any negligent act, error or omission of CONSULTANT or any person employed by CONSULTANT. Such insurance shall be maintained in full force and effect during this entire term of this agreement in an amount not less than \$500,000.00.
4. The CONSULTANT shall, throughout the period of this contract, maintain in full force and effect a policy of workers compensation insurance covering all its employees and volunteers as required by the State of California.
5. Each such policy of insurance required shall not be cancelled except after thirty (30) days with prior written notice from HCAOG.
6. HCAOG shall be named as an additional insured on the general liability and automobile liability policies.

- #### **C. Waiver or Modification Ineffective Unless in Writing.**
- No waiver or modification of this CONTRACT or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this

CONTRACT, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provision of this paragraph may not be waived except as herein set forth.

- D. Relationship of Parties. The parties intend that CONSULTANT, in performing services herein specified, shall act as an independent contractor and shall have control of the firm's work and the manner in which it is performed. They shall be free to contract for similar services to be performed for others while they are under contract with HCAOG. CONSULTANT is not to be considered an agent or employee of HCAOG, and is not entitled to participate in any pension plans, workers' compensation insurance, or similar benefits that HCAOG provides for its employees.
- E. Laws to be Observed. Throughout the term of this agreement, the consultant shall use the standard of care in its profession to keep himself fully informed of and shall make every reasonable effort to comply with applicable state and Federal laws and county municipal ordinances and regulations which in any manner affect those engaged or employed in the work, the use of equipment, safety requirements, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. CONSULTANT shall at all times make every reasonable effort to observe and comply with, and shall cause all his agents, subcontractors, and employees to make every reasonable effort to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. If CONSULTANT becomes aware of a conflict of such laws, CONSULTANT will contact HCAOG in writing, and the parties shall work cooperatively to resolve the conflict.
- F. Severability. The unenforceability, invalidity, or illegality of any provision, covenant, or term of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.
- G. Attorneys' Fees and Costs. If either party initiates any action at law or in equity to enforce or interpret the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs in addition to any other relief to which it may otherwise be entitled.
- H. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight delivery service. Any such notice shall be delivered in the following manner:

Marcella Clem, Executive Director
Humboldt County Association of Governments
611 "I" Street, Suite B, Eureka, CA 95501

Notices required to be given to CONSULTANT shall be addressed to the following:

Name of Project Manager
Consultant Company Name
Consultant Address
Consultant City, State and Zip Code

- I. Right to Terminate/Suspend Agreement. At any time and for any reason, HCAOG shall have the right to terminate or cancel the Agreement with 10 days prior written notice. In such event, HCAOG shall pay the CONSULTANT such equitable proportion of the total remuneration for the work actually done by the CONSULTANT at the time of such discontinuance bears to the whole of the work required to be done by the CONSULTANT under the terms of the Agreement.

- J. Documents, data, reports, graphs, maps (Work Products”) created by the CONSULTANT shall be considered the property of HCAOG. CONSULTANT shall not be held liable for any re-use or modification of the HCAOG owned Work Products for purposes outside of this agreement. All Work Products created by the CONSULTANT shall not be reused by the CONSULTANT without written permission from HCAOG.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed this ____ day of _____ 2016.

LEGAL COUNSEL REVIEW

HCAOG

David Tranberg, Attorney-at-Law Date

Marcella Clem, Executive Director Date

CONSULTANT (consultant must have two signatories)

By _____

Date

Attest:

By _____

Date