

**DEPARTMENT OF TRANSPORTATION AGREEMENT NUMBER 210075, WITH LARRY WALKER ASSOCIATES, IN THE AMOUNT OF \$25,000, FOR THE TERM BEGINNING UPON EXECUTION OF THE AGREEMENT THROUGH APRIL 30, 2022, FOR GRANT WRITING SERVICES**

This Agreement is by and between the COUNTY OF MENDOCINO, hereinafter referred to as the "COUNTY", and Larry Walker Associates, 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 Grant Writing 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 April 30, 2022.

The compensation payable to CONSULTANT hereunder shall not exceed Twenty Five Thousand Dollars (\$25,000) for the term of this Agreement.

**IN WITNESS WHEREOF**

**DEPARTMENT FISCAL REVIEW:** Transportation

**CONSULTANT/COMPANY NAME**

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

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

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

Budgeted:  Yes  No

**NAME AND ADDRESS OF CONSULTANT:**

Budget Unit: 2910

Larry Walker Associates

Line Item: 862189

1480 Drew Avenue, Suite 100

Grant:  Yes  No

Davis, CA 95618

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: \_\_\_\_\_  
DAN GJERDE, Chair  
BOARD OF SUPERVISORS

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

**ATTEST:**

**COUNTY COUNSEL REVIEW:**

CARMEL J. ANGELO, Clerk of said Board

APPROVED AS TO FORM:

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

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

CARMEL J. ANGELO, 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: Mendocino County Water Agency  
340 Lake Mendocino Drive  
Ukiah, CA 95482  
Attn: Amber Fisette

To CONSULTANT: Larry Walker Associates  
1480 Drew Avenue, Suite 100  
Davis, CA 95618  
ATTN: Laura Foglia

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 Grant Writing Services shall not exceed \$25,000 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 County Superior Court, Mendocino County, California.
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

#### **Purpose**

The intent of this Agreement is for Larry Walker Associates (CONSULTANT) to prepare a grant application to accomplish long-term drought resiliency planning throughout Mendocino County on a multiple groundwater basin/watershed basis. Domestic and non-domestic water projects are typically the responsibility of independent, non-County entities (Special Districts, Community Service Districts and Private for profit water purveyors); however, such projects types and specific needs of independent, non-County entities may be analyzed as part of this planning effort. The County of Mendocino (COUNTY) understands the benefit of countywide alignment in the formation of an overall strategic plan to pursue the countywide goal of securing a resilient water future through informed decision making facilitated by expanded and enhanced monitoring programs, conjunctive use of resources, management practices, coordination and cooperation between multiple independent, non-County water supplier entities. The *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan* could provide a framework of data from which to prioritize both COUNTY sponsored projects (when appropriate) or to help define the recommended options for independent, non-County entities also.

This countywide *Strategic Plan* is divided into seven TASKS that the qualified water expert CONSULTANT shall develop as an application(s) for data gathering, analysis, needs studies and proposed project types to meet water supply needs.

#### **Background**

The Mendocino County Water Agency (MCWA) is a special district that encompasses all of Mendocino County and is governed by the Board of Supervisors sitting as the Board of Directors. MCWA encompasses the entire county except that like functions are shared in certain instances by the Mendocino County Russian River Flood Control and Water Conservation Improvement District (RRFC) which was formed within the Mendocino County Flood Control and Water Conservation District (predecessor of MCWA) as a special district in 1955.

Independent, non-COUNTY entities within Mendocino County that provide water, wastewater, and conservation and flood control service providers are referenced herein include the following:

RRFC was formed by voters in 1955, to serve, along with the Sonoma County Water Agency, as the local sponsor for the development of Coyote Dam and Lake Mendocino. RRFC's sphere of influence encompasses the Russian River Watershed. Furthermore, the Ukiah Valley Basin Groundwater Sustainability Agency (UVBGSA) was created by a Joint Powers Agreement (JPA) to serve as the official Groundwater Sustainability Agency for the Ukiah Valley Basin required by the Sustainable Groundwater Management (SGMA) Act of 2014. UVBGSA member agencies are County of Mendocino, City of Ukiah, and the Russian River Flood Control and the Upper Russian River Water Agency (URRWA).

URRWA, a joint powers agency formed to provide a vehicle for consolidation of its member water districts in the general Ukiah Valley area into a unified regional water agency. Other members of the URRWA JPA include Calpella County Water District (CWD), Millview CWD, Redwood Valley CWD, and Willow CWD.

Mendocino County Inland Water and Power Commission (IWPC), is a joint powers agency that includes RRF, Mendocino County, the City of Ukiah, Redwood Valley CWD, and Potter Valley Irrigation District. The agency was formed to facilitate coordination between the Potter Valley Irrigation District and Pacific Gas & Electric (PG&E) regarding the Potter Valley Project. The Potter Valley Project is owned by PG&E and is regulated by the Federal Energy Regulatory Commission (FERC); a relicensing effort is currently in the beginning stages. The IWPC is also actively participating in that process.

Other independent, non-COUNTY entities within Mendocino County that provide water, wastewater, and conservation and flood control service providers that are referenced herein include the following:

Brooktrails Township Community Services District  
City of Ukiah  
City of Willits  
Potter Valley Irrigation District  
Rogina Water Company Inc.  
Willow County Water District-Calpella  
Willow County Water District-Redwood Valley  
Willow County Water District-Willow  
Willow County Water District-Millview  
Willow County Water District-Hopland  
Willow County Water District-River Estates  
North Gualala Water Company  
Irish Beach Water District  
Elk County Water District  
Point Arena Water Works  
Covelo Community Services District  
City of Fort Bragg  
Surfwood Mutual Water Corporation  
City of 10,000 Buddhas  
Mendocino City Community Services District  
Westport County Water District  
Laytonville Community Water District

**Scope of Work**

CONSULTANT shall develop a grant application on behalf of COUNTY for the 2021 Urban and Multibenefit Drought Relief Program, administered by the California Department of Water Resources (DWR), which covers the items outlined below, along with any additional items

CONSULTANT deems necessary in order to deliver the services in accordance with DWR application requirements.

### **Work Tasks**

Generally, this *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan* will study and measure water supply information countywide and integrate, by reference, any available data from Independent, non-County entities; but not necessarily endorse or implement specific Independent, non-County entities' projects.

#### **Task 1. Conduct information gathering in major groundwater basins regarding water supplies and aquifer recharge.**

- a. Upper Eel Watershed, Little Lake Valley, and Sherwood Valley Groundwater Basins and Watershed.
- b. Big-Navarro-Garcia Watershed, Anderson Valley, and Coastal Groundwater Basins and Watershed. – Includes update of 1984 DWR Study.
- c. South Fork Eel and Lower Eel, and Laytonville Groundwater Basins and Watershed.
- d. Middle Fork Eel, Covelo Round Valley, Williams Valley, and Eden Valley Groundwater Basins and Watershed.
- e. Upper Russian River Watershed, Ukiah Valley, Redwood Valley, Potter Valley, and Sanely Valley Groundwater Basins - includes integration of UVBGSAs Groundwater Sustainability Plan.

**Task 1 Work Product:** Completed findings section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*.

#### **Task 2 Establish groundwater monitoring baseline facilities and data collection to improve understanding of groundwater and surface water flow and quality to enhance decision making and planning capabilities and ensure water protection.**

- a. Install wells.
- b. Record data from 2022 to the March 31, 2026, end of UMB grant eligible expenditures.
- c. Decommission well(s) with grant funds unless a sustainable method is identified by transfer of facility to ongoing responsible party.

This task improves preparedness against future drought and supports drought resiliency against future droughts by improving the common understanding of water resources and enhancing planning and decision-making capabilities within given watersheds through monitoring, measurements, public outreach and engagement, and data collection.

Rural areas rely heavily on domestic wells and groundwater for their supply. Groundwater supplies more than a third of agricultural demands and is the secondary source of supply for municipal and



small water purveyors. Groundwater is not monitored frequently enough and with sufficient spatial coverage to provide an accurate assessment of the conditions.

Accordingly, this task seeks to expand monitoring, measurement, and data collection to provide an enhanced assessment of water resources conditions in major groundwater basins at all times through:

- Sampling of about 20 groundwater wells quarterly throughout each sub-watershed proposed as the monitoring networks. Groundwater levels will be measured at these wells and they will be monitored for water quality parameters that include nitrate, iron, manganese, boron, and specific conductivity;
- Expanding the spatial coverage and well depth distribution of the network by instrumenting monitoring, agricultural, and domestic wells with continuous groundwater level measurement devices using public outreach and community engagement;
- Conducting outreach and technical assistance for small drinking water suppliers;
- Development and implementation of an isotope study to fully evaluate the movement of water throughout each sub-basin to better represent and characterize underflow wells; and
- Training local staff and residents in data collection and field procedures to promote local independence and more rapid response to future droughts.

This project will be led by the COUNTY through the March 31, 2026, end of UMB grant eligible expenditures, utilizing grant funds and beyond the March 31, 2026, only with the cooperation and coordination of Independent, non-County entities which agree to accept responsibility for the facilities.

**Task 2 Work Product:** Completed Groundwater Monitoring section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*. If data collection is to continue beyond the March 31, 2026, end of UMB grant eligible expenditures, it will be accomplished through the cooperation and coordination of the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private well owners who would benefit from such data. Sustainable ongoing maintenance funding mechanisms are discussed in Task Number (No.) 7 below.

### **Task 3. Develop Drought Mitigation Plan.**

Drought mitigation planning is an important tool that will be used to identify and quantify the impacts to Mendocino County's watersheds' water supplies caused by extended periods of dry weather. Once these impacts have been characterized, triggers tied to variables such as precipitation, runoff, and other factors such as the quantity of water in storage will be developed to minimize stress to water resources, and plan for the appropriate level of use during dry periods.

A Drought Mitigation Plan will be developed to address this aspect of water management in Mendocino County's watersheds including determination of drought status and what tiers of drought would trigger specific actions and adjustments. With the unprecedented changes in climate

that have recently been observed, the Drought Mitigation Plan will be a critical document that may inform other projects and management decisions. The plan will:

- Be evidence-based and community-led and owned through partnerships with local governments, regional organizations, communities, and industries;
- Build on existing and ongoing planning in the region, including local drought resiliency plans, urban water management plans, and the Upper Russian GSP;
- Identify actions to prepare for future droughts, with a sharp focus on the human right to water, and protection of all beneficial users of water;
- Bring people together to share their local knowledge and perspectives;
- Draw out regional needs and priorities to inform future investments; and,
- Provide access to best practice data and information to make better decisions.

This project will use and access evidence and data provided by Task No.(s) 1 & 2, and will benefit Mendocino County's Watersheds by facilitating the ability to identify and plan for the impacts of drought and getting them into a stronger position to adapt to changes and take advantage of opportunities as they arise. This project will be led by the COUNTY with the cooperation and coordination of the Independent, non-COUNTY entities in each respective region of the County.

**Task 3 Work Product:** Completed Drought Mitigation section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*.

**Task 4. Conduct feasibility study with preliminary designs for pilot recharge projects to improve groundwater supply reliability and surface flow conditions.**

Prolonged drought can deplete the County's groundwater basins and watershed surface storage and jeopardize the access of many communities that rely on it for drinking water and irrigation. This project identifies locations for Flood-Managed Aquifer Recharge (Flood-MAR) to increase groundwater storage in the shallow aquifer layers. There are several areas across the County, such as reclaimed mines and gravel pits and current spreading basins that would require minimal infrastructural improvements to recharge the underlying aquifer. This project will:

- Identify and prioritize potential recharge locations within the County through public and regional outreach and based on water availability, infrastructural feasibility, and other implementation factors;
- Conduct a geophysical study on the top priority areas to identify the options that provide the most geologically suitable locations for recharging the aquifer by storm water river diversions;
- Upon selection of the most suitable options, contracting or purchasing these tracts of land will be quantified to implement pilot recharge projects and conduct additional studies with the goal of implementing effective recharge basins; and
- Conduct pilot recharge projects and corresponding field studies, explore the influences of artificial recharge on water movement into aquifers, groundwater and surface water quality, and infiltration capacity. This will include, but is not limited to, installing additional monitoring wells, streamflow gauges, soil moisture sensors, and conducting local isotope studies.

This project improves preparedness against future drought by expanding monitoring networks and improving groundwater flow and surface flow measurements. This project will be led by COUNTY with the cooperation and coordination of the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private well owners who would benefit from such ground water recharge.

**Task 4 Work Product:** Completed pilot recharge projects with preliminary designs section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*. If pilot project work is to continue beyond the March 31, 2026, end of UMB grant eligible expenditures, it will be accomplished through cooperation and coordination with the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private well owners who would benefit from such ground water recharge. Sustainable ongoing maintenance funding mechanisms are discussed in Task No. 7 below.

**Task 5. Improve drought resiliency through a well inventory, well evaluations, and recommendations for deepening and/or well installation facilitation.**

Domestic wells in some areas are at various levels of risk for well outages and water quality issues due to their shallower depths compared to agriculture and municipal wells, which tap into deeper water-bearing units. A domestic well inventory and well deepening program will assist in overall water management and provide a more reliable source of water for stressed areas of the County.

Depletion of groundwater levels up to the levels observed during the previous historic drought can lead to additional dry wells depending on the level of depletion. Any domestic wells that were reported dry in accordance to the California Department of Water Resources Household Water Supply Shortage Reporting System are candidates for investigation. The actual well failure rate may be higher due to the general under-reporting of well outages. Moreover, there is a known lack of well inventory, well construction information, and well depth – a high priority data gap. It is imperative to conduct a comprehensive well survey to be able to respond to the immediate needs of domestic users of groundwater during this drought and to be able to plan and prepare for future droughts.

This well survey will include public outreach by direct mailing, online advertising, booths at local fairs and public events, and a targeted field survey of selected wells. In-person outreach will be conducted by local members of the community. Due to the severity of the current drought and the possible under-reporting of well outages, this task is critical to support identification of possible failing wells.

In conjunction with, and following the well inventory program, the County will implement a well evaluation program to mitigate immediate impacts of drought on domestic users and reduce the risk and improve preparedness for future droughts. In consideration of the fact that public funds may not be appropriately used for privately owned wells, or may be subject to means testing, it is anticipated that this program may be limited to evaluation and recommendations made by a consultant to Independent, non-COUNTY entities AND/OR –area private well owners who would undertake their own project within the limitations of possible grant-subsidized assistance. This activity will entail providing preliminary designs for deepening existing dry wells to access the deeper depth of aquifers and available water, along with site recommendations for drilling of new and backup supply wells for shallow domestic well owners.

This project will be led by COUNTY with the cooperation and coordination of the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private well owners who would benefit from such well evaluations.

**Task 5 Work Product:** Completed well inventory, well evaluation recommendations with preliminary designs for deepening and well installation section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*. If non-grant funded pilot projects or other publicly funded activities is to continue beyond the March 31, 2026, end of UMB grant eligible expenditures, it will be accomplished through the cooperation and coordination with the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private well owners who would benefit from such activities. Sustainable ongoing maintenance funding mechanisms are discussed in Task No. 7 below.

**Task 6. Improve drought resiliency through preliminary designs for Independent, non-COUNTY entities’ infrastructure upgrades such as replacement of aging water conveyance lines and installation or rehabilitation of water holding facilities.**

Increased off-stream surface water storage projects are a potential strategy to augment water supply by diverting and storing surface water that would otherwise exit as runoff. This water, captured during the wet season and periods of increased surface runoff, would be stored and then used during dry periods that may cause seasonal depletions, to supplement groundwater pumping or surface water diversion. Storage of this water can be achieved through the construction of small-scale reservoirs (e.g., agricultural ponds or site-specific ponds), or utilization of storage tanks or catchments. The stored water can be used to supplement supply to agricultural operations, as well as domestic or municipal uses. A consideration for off-stream storage is to beware of potential off-stream ponding consequences, such as invasive species, and possible stranding of important species.

**Task 6 Work Product:** Completed preliminary designs for system upgrades section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*. If non-grant funded system upgrades or other publicly funded activities are to continue beyond the March 31, 2026, end of UMB grant eligible expenditures, it will be accomplished through the cooperation and coordination with the Independent, non-COUNTY entities – local water agencies and districts – AND/OR –area private land owners who would benefit from such activities. Sustainable ongoing maintenance funding mechanisms are discussed in Task No. 7 below.

**Task 7. Determine Funding Mechanisms and Options.**

- a. Identify funding needs and develop projected budget for implementation of projects identified in the Plan.
- b. Identify internal/external funding options for implementation of projects identified in the Plan.

**Task 7 Work Product:** Completed Funding Mechanisms and Options section of *Mendocino County Drought Water Resiliency, Management, and Enhancement Strategic Plan*.

**Schedule**

- Prepare 2021 Urban Multi-Benefit Drought Relief Program UMB Grant Application for submittal by December 17, 2021.

[END OF DEFINITION OF SERVICES]

## **EXHIBIT B**

### **PAYMENT TERMS**

CONSULTANT shall be compensated on a time-and-expense basis, not to exceed Twenty-Five Thousand Dollars (\$25,000), in accordance with the Schedule of Rates, included as Attachment 1 to Exhibit B. This fee shall not be exceeded without the prior written authorization from COUNTY. CONSULTANT will submit invoices no more than once every thirty (30) days, detailing the specific services provided and clearly explaining any incidental charges.

[END OF PAYMENT TERMS]

## ATTACHMENT 1 TO EXHIBIT B



## LARRY WALKER ASSOCIATES RATE SCHEDULE EFFECTIVE JULY 1, 2021 – JUNE 30, 2022

TITLE	RATE \$/Hour	REIMBURSABLE COSTS
Administrative	\$ 96	<b>Travel:</b>
Contract Coordinator	\$133	Local mileage
AR/AP Manager	\$133	Transportation
Graphic Designer	\$123	Auto rental
Senior Graphic Designer	\$160	Fares
Project Staff I-C	\$128	Room
Project Staff-1-B	\$155	Subsistence <sup>(1)</sup>
Project Staff I-A	\$180	Breakfast
Project Staff II-B	\$192	Lunch
Project Staff II-A	\$215	Dinner
Senior Staff	\$249	Incidentals
Associate	\$279	<b>Report Reproduction and Copying:</b>
Vice President	\$304	Per color copy, in-house
Executive Vice President	\$317	The rate for each meal as follows: <sup>(1)</sup>
Senior Executive	\$333	Actual expense
President	\$333	Per black and white copy, in-house
		Per binding, in-house
		<b>Special Postage and Express Mail:</b>
		Actual expense
		<b>Other Direct Costs:</b>
		Actual Expense
		<b>Daily Equipment Rental Rates:</b>
		Single parameter meters & equipment
		Digital flow meter
		Multi-parameter field meters & sondes
		Dye/tracer mapping or residence time
		Multi-parameter continuous remote sensing
		<b>Subcontractors:</b>
		Actual Expense plus 10% fee

*Note: <sup>(1)</sup> Charged when overnight lodging is required.*

## 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)