

MEMORANDUM OF AGREEMENT
BETWEEN
MILLVIEW COUNTY WATER DISTRICT
AND
COUNTY OF MENDOCINO

THIS AGREEMENT, ENTERED INTO EFFECT ON AUGUST 18TH 2020, is a Memorandum of Agreement which identifies and sets forth the joint and individual responsibilities of the Millview County Water District, hereinafter referred to as MILLVIEW and the County of Mendocino, hereinafter referred to as COUNTY in the replacement of Bridge No. 10C0065, North State Street at Ackerman Creek Bridge, and the relocation of public water main and associated features (the "public water main") within the right of way of North State Street, County Road 104, in the vicinity of Mile Post 0.97 and within the utility bays of said bridge, in the Ukiah community of Mendocino County; the replacement of said bridge and relocation of said public water main is hereinafter referred to as the PROJECT.

It is hereby agreed between MILLVIEW and COUNTY as follows:

1. The aforementioned public water main utility and associated features, at the aforementioned location, shall be relocated pursuant to the plans and technical specifications prepared by Luhdorff and Scalmanini for MILLVIEW and pursuant to the plans and specifications of the bridge, structural components, and related appurtenances as prepared by Quincy Engineering for COUNTY.
2. Upon PROJECT completion, the public water main shall be the sole property and responsibility of MILLVIEW.
3. COUNTY shall incorporate the MILLVIEW public water main utility design into its project bid solicitation for the Ackerman Creek Bridge Replacement Project, Federal

Project Number BHLS-5910(081). Work concerning the public water main shall be configured as additive bid items in the COUNTY project contractor bid documents, so as to separate said utility work from other road work components of the PROJECT. MILLVIEW shall provide COUNTY a listing of the bid items and estimated quantities, cost estimates, plans and technical specifications to be incorporated in the contractor bid solicitation documents. COUNTY shall notify MILLVIEW when COUNTY begins to advertise for bids for the bridge replacement and the public water main work.

4. COUNTY is the PROJECT construction contract awarding agency for both COUNTY bridge and MILLVIEW public water main work. COUNTY, however, may decline to proceed with MILLVIEW bid-alternative utility portion of work if MILLVIEW does not provide its approval and concurrence with COUNTY's selected low bidder contractor and any other required contractor submittals, or if MILLVIEW fails to respond and provide timely input to COUNTY on PROJECT issues. COUNTY shall inform MILLVIEW by telephone message, email and USPS letter of bid opening date and bid results within 24 hours after bid date. MILLVIEW shall provide timely authorization of their bid-alternative utility portion of work but not longer than 10 days after COUNTY's notice to MILLVIEW, or COUNTY will presume MILLVIEW is proceeding with utility portion of work by other methods; in which case MILLVIEW is subject to COUNTY demand to relocate utilities pursuant to Street and Highways Code (SHC) 1463.
5. Both parties agree that award of the applicable PROJECT construction contract shall be based on the lowest responsive, responsible proposal for the COUNTY base bid bridge replacement work — excluding the proposed costs for the public water main utility work, i.e., the additive bid items for the MILLVIEW utility work. In the event that MILLVIEW wishes to disapprove its portion of the contract additive bid utility work, MILLVIEW can reject the COUNTY's contractor additive bid at the time of contract award and proceed with separate methods to repair their utilities pursuant to Street and Highways Code (SHC) 1463. Once MILLVIEW agrees to participate in

the COUNTY'S contract work, MILLVIEW shall be obligated to pay all costs to complete the additive bid item for the MILLVIEW public water main utility work.

6. MILLVIEW shall be responsible for providing inspection of the public water main work. However, construction management and general direction to COUNTY's Contractor shall remain with the COUNTY for all portions of the project, including the additive public water main work; MILLVIEW's construction management staff shall coordinate its functions and responsibilities with COUNTY. COUNTY'S contractor pay quantities for the public water main work shall be verified by MILLVIEW, and MILLVIEW shall provide the verification of COUNTY'S contractor pay quantities to COUNTY in a timely manner in order to facilitate the prompt payment authorization to the Contractor. If it is necessary for MILLVIEW to issue change orders, such actions shall be accomplished through COUNTY's process. MILLVIEW shall promptly inform COUNTY of its observations and opinions and cooperate fully with COUNTY in crafting and issuing such orders. MILLVIEW's Board of Directors or designated officers shall review any of the abovementioned contract submittals and provide written comments or revised submittals no later than ten (10) days after drafts are made available for review or COUNTY will proceed as if approved.
7. MILLVIEW shall reimburse COUNTY the cost of construction for the public water main work. The cost of construction shall be the sum of all the actual quantity of constructed bid items times the bid unit prices for the public water main work plus the cost for approved change orders and any costs related to approved claims resulting from the public water main work. Reimbursement to COUNTY shall be timely made, but shall occur not longer than 90 days after COUNTY pays their contractor.
8. This Agreement does not change any ownership aspects of the road, bridge, and public water main system maintenance responsibilities that existed before the PROJECT.

9. Neither COUNTY nor any officer or employee thereof shall be responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by MILLVIEW under or in connection with any work, authority or jurisdiction conferred upon MILLVIEW and arising under this Agreement. It is understood and agreed that MILLVIEW, shall fully defend, indemnify and hold harmless COUNTY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by MILLVIEW under this Agreement. Neither MILLVIEW nor any officer or employee thereof shall be responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction conferred upon COUNTY and arising under this Agreement. It is understood and agreed that COUNTY, shall fully defend, indemnify and hold harmless MILLVIEW and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY under this Agreement.
10. No alteration of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
11. COUNTY shall have the right to terminate this Agreement and all work on the PROJECT in the event that COUNTY determines, in its sole discretion, that the cost of completing the PROJECT exceeds the grant or other funding sources available for the PROJECT or that circumstances have changed such that completion of PROJECT will require excessive expenditure of COUNTY resources. COUNTY may exercise this right at any time by providing written notice of same to MILLVIEW.

12. COUNTY and MILLVIEW will cooperate in the enforcement of any performance bonds, maintenance bonds, contracts, or other obligations of third parties related to the project. In the event, however, that such cooperation requires anything other than a *de minimus* expenditure of COUNTY resources or staff time, the parties shall first reach agreement by which MILLVIEW shall compensate COUNTY for such expenditure that is related to public water main work. COUNTY may, in its sole discretion, satisfy all obligations under this Paragraph through valid assignment, subrogation, or other conveyance to MILLVIEW of the rights to be enforced.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement the day and year first above written.

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW: Transportation

ADN, Dill 7/30/20
HOWARD N. DASHIELL, Director DATE

Budgeted: ☒ Yes ☐ No

Budget Unit: 3041

Line Item: 2184

Grant: ☒ Yes ☐ No

Grant No.: FHWA BHLS-5910(081)

COUNTY OF MENDOCINO

By: John Haschak
JOHN HASCHAK, Chair
BOARD OF SUPERVISORS
AUG 20 2020

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: Sandrey Deu
Deputy
AUG 20 2020

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

CARMEL J. ANGELO, Clerk of said Board

By: Sandrey Deu
Deputy
AUG 20 2020

INSURANCE REVIEW:

By: Carmel J. Angelo
Risk Management

EXECUTIVE OFFICE/FISCAL REVIEW:

APPROVAL RECOMMENDED

By: [Signature]
Deputy CEO

MILLVIEW TOWNSHIP COMMUNITY SERVICES DISTRICT:

By: David H. Reibking

NAME AND ADDRESS OF AGENCY:

Millview County Water District

151 Laws Avenue

Ukiah, California 95482

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

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
County Counsel

By: Man / Lisa
Deputy

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: _____