

## STANDARD AGREEMENT FOR PROFESSIONAL SERVICES FOR

### Construction Management Services and special testing services

This Agreement ("Agreement") is made this \_\_\_\_\_ day of November 2024, by and between the Sewerage Commission – Oroville Region ("SC-OR") and \_\_\_\_\_, ("Consultant").

**1. Scope of Services: Subject to the terms and conditions set forth in this Agreement,** Consultant shall perform the services as described in Exhibit A, "Scope of Work" and incorporated herein, at the time and place and in the manner specified therein. Consultant shall provide all staffing and materials necessary to perform the work as outlined in the Scope of Work.

**2. Time of Performance:** The services of Consultant are to commence upon execution of this Agreement and shall be continue until November 1, 2026. This agreement may be extended for one (1) six (6) month period.

**3. Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.**

**4. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that SC-OR, in its sole discretion, at any time during the term of this Agreement, requests in writing the reassignment of any such persons to ensure Consultant performs services in accordance with the Standard of Performance, Consultant shall, immediately upon receiving SC-OR's request, reassign such persons.**

**5. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided herein above and to satisfy Consultant's obligations hereunder.**

**6. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.**

**7. Compensation and Reimbursement:** For Consultant's performance of Scope of Work, Consultant shall be paid in accordance with the rates listed in Exhibit B attached hereto and incorporated herein, for a total not to exceed \$ \_\_\_\_\_. This dollar amount is not a guarantee that SC-OR will pay that full amount to Consultant but is merely a limit of potential City expenditures under this Agreement. If services in addition to those required by Scope of Work, are required, the rates listed in Exhibit B will be utilized for compensation calculation. Any request for additional compensation or expenses requiring SC-OR payment to exceed the "not-to-exceed" maximum amount payable in Exhibit B shall not be approved or allowed unless consultant obtains SC-OR's written approval prior to incurring the additional expenses or performance of additional work. In the event payments equal the "not to exceed" amount, Consultant shall complete all services required under this Agreement without further compensation or cost reimbursement. Payment by SC-OR under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the SC-OR at the time of payment.

**Consultant and SC-OR acknowledge and agree that compensation paid by SC-OR to Consultant under this Agreement is based upon Consultant's estimated costs of providing services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further**

**agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. SC-OR therefore has no responsibility for such contributions beyond compensation required under this Agreement.**

**8. Method of Payment:** Consultant shall submit monthly billings to SC-OR during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Billings will be on a monthly basis on a percentage completed by task. Notwithstanding any provisions of this Agreement, payment to the Consultant shall not relieve the Consultant of liability to SC-OR for damages sustained by SC-OR because of any breach of this Agreement by the Consultant, and SC-OR may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due SC-OR from Consultant is determined. Invoices shall contain the following information, unless specifically waived by SC-OR:

- **Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;**
- **The beginning and ending dates of the billing period;**
- **A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;**
- **At SC-OR's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;**
- **The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;**
- **The Consultant's signature.**

**SC-OR shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. SC-OR shall pay undisputed invoices that comply with the above requirements within 30 days from the receipt of the invoice.**

**Consultant shall submit its final invoice within 60 days of completing its services. Consultant's failure to submit its final invoice within this 60 day period shall constitute Consultant's waiver of any further billings to, or payments from, SC-OR.**

**Reimbursable expenses, if any, are specified in Exhibit B and included in the total compensation. Expenses not listed in Exhibit B are not chargeable to, or reimbursable by, SC-OR.**

**Consultant is solely responsible for the payment of all federal, state, and local taxes, including employment taxes, incurred under this Agreement.**

**Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written authorization from SC-OR.**

**Ownership and Confidentiality of Documents:** All plans, reports, drawings, electronic files, designs, data, graphics, studies, documents and other writings or incidental work product prepared by and for Consultant, and by and for subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall be the property of the SC-OR, and the SC-OR shall have the sole right to use such materials

in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such materials to SC-OR in orderly fashion upon request, or if not previously provided, upon completion of the scope of services or termination of this Agreement and prior to release of the retention. Without the prior written consent of SC-OR, Consultant shall keep confidential and not disclose to any person, other than Consultant's subcontractors, all data and information generated by Consultant in the performance of services, or furnished to Consultant by SC-OR and marked confidential; provided, however, this provision shall not apply to data or information which are in the public domain, or previously known to Consultant, or required to be disclosed by an order issued by a court, administrative agency or other authority with proper jurisdiction.

SC-OR waives any and all claims against Consultant based upon reuse of these documents or materials for any other project not the subject of this Agreement or any unauthorized changes by the SC-OR or any third party under SC-OR direction.

**9. Independent Contractor:** It is understood that Consultant, in the performance of the services pursuant to this Agreement, shall act as and be an independent contractor and shall not act as an agent or employee of the SC-OR.

Consultant shall obtain no rights to retirement benefits or other benefits which accrue to SC-OR's employees, and Consultant hereby expressly waives any claim it may have to any such rights. All employees, agents, contractors, subcontractors hired or retained by the Consultant are performing in that capacity for and on behalf of the Consultant and not SC-OR. SC-OR shall not be obligated in any way to pay any wage claims or other claims made against the Consultant by any such employee, agent, contractor or subcontractor, or any other person resulting from the performance of this Agreement.

Except as SC-OR may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of SC-OR in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind SC-OR to any obligation whatsoever.

**10. Conflict of Interest:** No member, officer, or employee of the SC-OR or its designees or agents, and no other public official of such locality or localities who exercise any functions or responsibilities within respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the program assisted under this Agreement. No congressional representative and no resident commissioner shall receive any benefit from this project.

**11. Professional Ability of Consultant:** Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instruments, facilities, and other resources necessary to provide the SC-OR with the services contemplated by this Agreement.

**12. Hold Harmless/Indemnification: To the fullest extent permitted by law,** Contractor shall indemnify, defend with counsel acceptable to SC-OR, save, protect and hold harmless SC-OR, its elected and appointed officials, officers, employees, agents and volunteers (collectively, "SC-OR") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, consultants, or any person under its direction or control and shall make good to and reimburse SC-OR for any expenditures, including reasonable attorney's fees, the SC-OR may make by reason of such matters and, if requested by SC-OR, shall defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the SC-OR or any other person; provided, however, that Contractor shall not be required to indemnify or defend SC-OR for the proportion of Liability a court

determines is attributable to the negligence or willful misconduct of the SC-OR.

If such indemnification becomes necessary, the SC-OR Counsel for the SC-OR shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the SC-OR. This indemnification clause shall survive the termination or expiration of this Agreement.

Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damage or claims for damages whether or not such insurance policies shall be determined to apply.

**13. Insurance: Before beginning any services under this Agreement,** Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the Agreement, the following insurance policies with insurers licensed in the State of California and possessing a Best's rating of no less than A. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall be fully responsible for the acts and omissions of its subcontractors or other agents. The policies or certificates thereof shall provide that thirty (30) days prior to cancellation or material change in the policy, notices of the same shall be given to the SC-OR by certified mail, return receipt requested, for all of the following stated insurance policies:

- a. **Workers' Compensation Coverage:** Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance in accordance with the laws of the State of California for all of the subcontractor's employees.
- b. **General Liability Coverage:** Consultant, at its own cost and expense, shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury and \$100,000 per occurrence for property damage.
- c. **Automobile Liability Coverage:** Consultant, at its own cost and expense, shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) for each occurrence of bodily injury and \$100,000 per occurrence for property damage.
- d. **Professional Liability:** Consultant, at its own cost and expense, shall maintain professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per claim with an aggregate limit of two million dollars (\$2,000,000). Contractor agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement and any extensions thereof.
- e. **General Requirement:** If a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
- f. **Policy Endorsements:** Each insurance policy, except Workers' Compensation and Professional Liability, shall be endorsed with the following specific language:
  - 1) The SC-OR, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or

equipment furnished in connection with such work or operations.

- 2) This policy shall be considered primary insurance as respects the SC-OR, its elected or appointed officers, officials, employees, agents and volunteers (to the extent of the Consultant's negligence in the performance of its services under this Agreement) and shall include no special limitations to coverage provided to additional insured. Any insurance maintained by the SC-OR, including any self-insured retention the SC-OR may have, shall be considered excess insurance only and shall not contribute with it.
- 3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
- 4) The insurer waives all rights of subrogation against the SC-OR, its elected or appointed officers, officials, employees, agents and volunteers.
- 5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the SC-OR, its elected or appointed officers, officials, employees, agents or volunteers.
- 6) The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' written notice has been received by the SC-OR.

- g. **Deductibles and Self-insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by the SC-OR. At the SC-OR's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- h. **Evidence of Insurance and Endorsements:** Consultant shall provide evidence of required insurance with original endorsements to SC-OR as may be required by the Risk Manager. Evidence of such insurance shall be filed with the SC-OR on or before commencement of performance of this Agreement. Current proof of insurance shall be kept on file with the SC-OR at all times during the term of this Agreement.
- i. **Unsatisfactory Policies:** If at any time any of the said policies or endorsements shall be reasonably unsatisfactory to the SC-OR Risk Manager, as to form or substance, or if a company issuing such policy shall be reasonably unsatisfactory to the SC-OR Risk Manager, the Consultant shall promptly obtain a new policy, submit the same to the SC-OR Risk Manager for approval and submit a certificate thereof as herein provided.
- j. **Failure to Comply:** Upon failure of the Consultant to furnish, deliver or maintain such insurance and evidence of the same as above provided, this Agreement, at the election of the SC-OR, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement.
- k. **Wasting Policies:** No policy required herein shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).
- l. **Waiver of Subrogation:** Consultant hereby agrees to waive subrogation which any insurer or contractor may require from Consultant by virtue of the payment of any loss. Consultant agrees to

obtain any endorsements that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not SC-OR has received a waiver of subrogation endorsement from the insurer. The Worker's Compensation policy shall be endorsed with a waiver of subrogation in favor of SC-OR for all work performed by Consultant, its employees, agents, and subcontractors.

- m. Subcontractor. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that SC-OR, its officers, officials, employees, agents, and volunteers are covered as additional insured on all coverages.
- n. Excess Insurance. If Consultant maintains higher insurance limits than the minimums specified herein, SC-OR shall be entitled to coverage for the higher limits maintained by the Consultant.
- o. Remedies. In addition to any other remedies SC-OR may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, SC-OR may, at its sole option: 1) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; 2) order Consultant to stop work under this Agreement and withhold any payment that becomes due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; and/or 3) terminate this Agreement.

**14. Compliance with Laws:** Consultant shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Consultant's performance under this Agreement. Specifically, Consultant shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

**15. Licenses:** Consultant represents and warrants to SC-OR that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to SC-OR that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession.

**16. Controlling Law Venue:** This Agreement and all matters relating to it shall be governed by the laws of the State of California and in any action brought relating to this Agreement, this Agreement shall be deemed to have been made and is to be performed in the SC-OR of Tuolumne.

**17. Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**18. No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

**19. Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

**20. Written Notification:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either delivered personally,

transmitted by facsimile machine or sent prepaid, first-class United States mail. Any such writing shall be addressed or transmitted to the other party at the address, location or facsimile number set forth below. Either party may change its address, location or facsimile number by notifying the other party of the change. Notice shall be deemed received when (1) delivered personally, (2) transmitted by facsimile, or (3) 48 hours from the time of deposit in a United States mail box if mailed as provided in this paragraph.

**SC-OR:**

**Consultant:**

Primary: Glen Sturdevant  
Manager  
Organization: SC-OR  
Address: 2880 South 5<sup>th</sup> Avenue  
Oroville, CA 95965  
  
Phone: (530) 534-0353

**21. Consultant's Books and Records:**

- a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to SC-OR for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to Consultant.
- b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- c. Any records or documents required to be maintained pursuant to this Agreement shall, be made available for inspection or audit, at any time during regular business hours, upon written request by the SC-OR Administrator, SC-OR Counsel, SC-OR Auditor, the State Office of Housing and Community Development or a designated representative of any of these officers. Copies of such documents shall be provided to the SC-OR for inspection at SC-OR Administration Center when it is practical to do so. Otherwise unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- d. Where SC-OR has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, SC-OR may, by written request by any of the above-named officers, require that custody of the records be given to the SC-OR and that the records and documents be maintained in SC-OR offices. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

**22. Entire Agreement:** This Agreement constitutes the complete and exclusive statement of agreement between the SC-OR and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement. The Consultant has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and material needed, and its making of this Agreement is based on such independent investigation and research.

**23. Amendments:** This Agreement may be modified or amended only in writing executed by both Consultant and SC-OR and approved as to legal form by the SC-OR Counsel.

**24. Waiver:** No failure on the part of SC-OR to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder. A waiver by SC-OR of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

**25. Litigation Expenses and Attorney's Fees:** Should it become necessary for a party to this Agreement to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees, discovery expenses, court costs and expert witness fees.

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

**26. Execution in Counterparts:** This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In enforcing this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**27. Assignment & Subcontracting:** The parties recognize that a substantial inducement to SC-OR for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the prior written consent of SC-OR. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of SC-OR. If SC-OR consents to such subcontract, Consultant shall be fully responsible to SC-OR for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between SC-OR and subcontractor nor shall it create any obligation on the part of SC-OR to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

**28. Termination:** This agreement may be terminated as follows by SC-OR at SC-OR's option upon Consultant's failure, refusal or neglect to perform the duties hereunder or for any reason satisfactory to SC-OR provided, however, Consultant shall be given thirty (30) days written notice of such termination. This agreement may be terminated by the Consultant upon SC-OR failure, neglect or refusal to make any payment as required hereunder. This agreement may be terminated by either party with a thirty (30) day intention notice. Consultant shall be entitled to compensation for services performed acceptably up to the effective date of termination.

**29. Survival:** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between SC-OR and Consultant, including but not limited to the provisions of Section 13, shall survive the termination of this Agreement.

**30. Delegation:** The SC-OR Manger, or their designee, is authorized to take any action permitted or required by the SC-OR in implementing the provisions of this Agreement.

**31. Paragraph headings:** Paragraph headings shall not affect the scope, meaning, intent, or applicability of the provisions of the paragraph.

**32. Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**33. Funding Availability:**

- a. It is mutually agreed that if the SC-OR budget of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the SC-OR shall have no liability to pay any funds whatsoever to Consultant or to furnish any other considerations under this Agreement and Consultant shall not be obligated to perform any provisions of this Agreement.
- b. If funding for this project is reduced or deleted by the SC-OR budget for purposes of this program, the SC-OR shall have the option to either cancel this Agreement with no liability occurring to the SC-OR or offer an Agreement amendment to Consultant to reflect the reduced amount.
- c. If funding for this project is reduced or deleted by the State of California Housing and Community Development (HCD), the SC-OR shall have the option to either cancel this Agreement with no liability occurring to the SC-OR or offer an Agreement amendment to the Consultant to reflect this reduced amount.

**34. Community Development Block Grant Provisions:**

- a. The Consultant agrees to:
  - 1) Perform the work in accordance with all applicable federal, State and local requirements including housing and building codes, such as environmental, building, planning, zoning, health and safety, relocation labor, fair employment, and historic preservation;
  - 2) Comply with the federal and State CDBG requirements included in Exhibit "D";
  - 3) Where applicable, maintain at least the minimum State required worker's compensation insurance for those employees who will perform all or any part of the CDBG-funded work;
  - 4) Maintain, if legally required, unemployment insurance, disability insurance and liability insurance reasonable to compensate for inquiries or damages related to the activities of this contract;
  - 5) Keep all program records for at least five years after the contract and any and all amendments expire and have been closed out by the funding agency or three years after the completion and resolution of any audits or lawsuits, whichever is later,
  - 6) Allow the State of California HCD, HUD or other State or federal agencies to access all relevant records for grant monitoring or auditing purposes.

- 7) If applicable, comply with all CDBG requirements regarding copyrights, patents and rights in data.
  - 8) Comply with the Child Support Compliance Act (Chapter 8 commencing with Section 5200 of Part 5 of division 9 of the Family Code).
  - 9) Include the Anti-Lobbying certificate as Exhibit "C".
- b. SC-OR agrees to monitor Contractor for compliance with State Grant Agreement.

**35. Options upon Breach by Consultant** If Consultant materially breaches any of the terms of this Agreement, SC-OR's remedies shall include, but not be limited to, the following:

- a. Immediately terminate the Agreement;
- b. Retain any other work product prepared by Consultant pursuant to this Agreement;
- c. Retain a different Consultant to complete the work described in Exhibit A not finished by Consultant;
- d. Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that SC-OR would have paid Consultant if Consultant had completed the work. The remedies mentioned in this Agreement are not exclusive of any other right, power or remedy permitted by law. SC-OR's failure or delay in exercising any remedy shall not constitute a waiver of such remedy or preclude the further exercise of SC-OR's rights.

**IN WITNESS WHEREOF**, the parties have caused this Agreement, consisting of \_\_\_\_\_ including this page, to be

**Consultant**

**SC-OR**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

**Approved as to Legal Form:**

\_\_\_\_\_  
**Date**

Attachments:

- Exhibit A- Scope of Work
- Exhibit 8- Budget
- Exhibit C- Anti-Lobbying Certification

**SCOPE OF  
WORK**

The Construction Management services required for this project includes but is not limited to the following tasks:

**1. Design Development and Construction Document Services**

- Review of building Design and functions
- Review and make recommendations of the plans and specifications as to: buildability, trade conflicts and consistency
- Evaluate alternative methods and materials, if needed for value engineering purposes
- Conduct outreach efforts to potential contractor and subcontractors.  
Provide evaluation of the construction schedule.

**2. Facility Construction Management Services**

- Provide a construction management plan document
- Assist with the bidding process including assisting in vetting the proposal amount, contractor and subcontractors.
- Provide construction contract administration
- Provide facilitation of weekly construction meetings and issue minute meeting notes.
- Provide project record keeping including logs and other tracking methods.
- Work with the Architect, SC-OR and Consultants on the review and processing of Submittals, RFI's, payment applications and proposed change orders.
- Provide construction observation and field reports as needed.
- Coordinate inspection and testing services for the project
- Provide monthly cost control and schedule evaluation
- Provide quality assurance and control
- Issue Notices of Non-conformance as needed
- Provide coordination regarding punch list preparation and final inspections
- Assist with Substantial Completion and Final Completion process and paperwork

**3. Special Testing Services**

- Assist the SC-OR's Construction Manager, Architect, SC-OR staff, SC-OR Grant Consultants and Contractor in the development and implementation of a Quality Assurance Plan for the project
- Provide all testing and inspection as required as by the 2019 California Building Code.
- Provide all structural tests and special inspections as required by Chapter 17 of the 2019 California Building Code
- Provide all testing and inspection as required by Contract Documents and additional tests or inspections as required by the Owners Project Manager
- Provide all soils analysis, compaction testing and excavation inspections as required by Chapter 18 of the 2019 California Building Code

- Provide qualified personnel at site
- Certification of Building Pad following rough grading  
Concrete testing and inspection, concrete mix design review, concrete placement inspection, sampling and cylinder testing
- Rebar reinforcement inspections, ties, overlaps, and clearance requirements.
- Steel fabrication, welding and bolt testing and inspection
- Perform specified inspecting, sampling, and testing of products in accordance with specified standards and report all compliant and non-compliant test findings
- Ascertain compliance of materials and mixes with requirements of Contract Documents
- Promptly notify Owner's Project Manager and Contractor of observed irregularities or non-conformance of work or products
- Attend pre-construction meeting and progress meetings, when requested
- Prepare, cure, store, and transport project samples to the laboratory as required and in compliance with specified standards
- All work must conform to the requirements of all applicable laws, codes, ordinances, and regulations
  
- Testing and Inspection Agency is not authorized to:
  - a. Release, revoke, alter, or enlarge on the requirements of the contract documents
  - b. Approve or accept any portion of the Work, or;
  - c. Perform any duties of the Contractor

### **PERFORMANCE PENALTY PROVISIONS**

- A penalty of \$50 per day for each business day a required deliverable associated with a task order exceeds the agreed upon task order completion date will be assessed against accounts payable to the consultant under this agreement. The penalty shall be limited to the dollar amount for the deliverable delayed, agreed to by both the consultant and the SC-OR or \$1,000 whichever is less. The consultant shall not be assessed a penalty for delays due to circumstances not subject to its control.
  
- Requests for services from the SC-OR will come in the form of an email or memo from the SC-OR. The request will describe the scope of work, deliverables, budget and schedule. The completion of each task order shall constitute a separate deliverable. Failure to meet the delivery date or failure to achieve each task deliverable specified in each task order shall result in a \$25/per day reduction in each invoice for each business day delinquent.
  
- Failure to complete the deliverable by the due date will result in a 5% reduction of the deliverable amount for each business week beyond the due date.
  
- Payments will not be processed until the payment schedule is submitted and approved by the SC-OR.

- If costs are disallowed from Housing and Urban Development, a financial penalty will be assessed to consultant in the amount of disallowed costs attributable to consultants' actions, errors or omissions.

Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.

**BUDGET**

If additional work is required, rates listed below will be utilized.

- Hourly Rate of Proposed Key Staff (Please list each staff person assigned to this project)

Consultant agrees to meet all administrative milestones set forth in any State NDR-CDBG contracts made part of this agreement.

ANTI-LOBBYING CERTIFICATION

The undersigned certifies, to the best of his or her knowledge or belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, " Disclosure Form to Report Lobbying," in accordance with its instructions.

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Signature

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Date