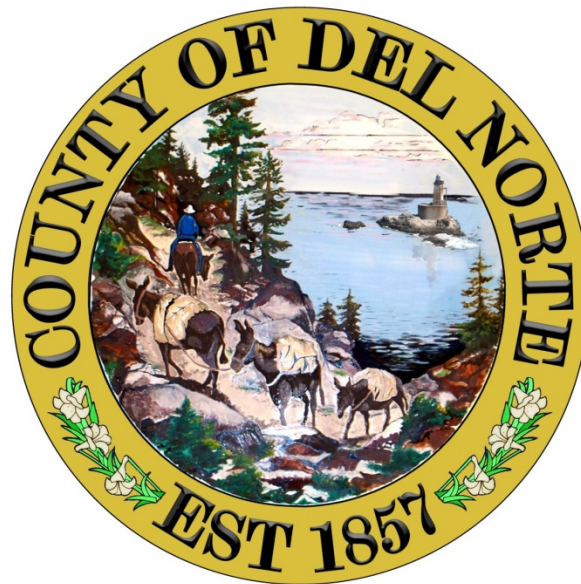


REQUEST FOR PROPOSALS PROFESSIONAL DESIGN

**SERVICES FOR A
METAL STORAGE BUILDING**



Issued by:

County of Del Norte County
Community Development Department
Roads Division
981 H Street, Suite 110
Crescent City, CA 95531

Date Issued:	September 11, 2020
Mandatory Job Walk:	September 24, 2020
Date Proposals Due:	October 14, 2020

1.0 INTRODUCTION

The County of Del Norte is requesting proposals from qualified firms to provide professional services to prepare construction plans for the Metal Storage Building Project. A County Selection Committee will comprehensively rank firms based on, but not limited to, written proposals, qualifications, references, and other relevant information. Contract negotiations will begin with the highest-ranking firm. Pending successful negotiations, the Consultant will enter a professional services contract with the County of Del Norte.

2.0 BACKGROUND

The Roads Division has an existing 40 feet wide by 60 feet long metal storage building located at 500 E. Cooper Avenue, Crescent City, CA. The 16 foot high building is three sided with three open sided bays used for equipment storage. A detached structure approximately 20 feet wide by 22 feet long abuts the structure and shares a common roof. Additionally, there is an internal self-supporting structure in the southeast corner of the building. The structure has an existing concrete foundation and concrete piers at each corner of the building perimeter and at each bay. There is electricity to the building and no plumbing.

Due to the condition of the structure, the Roads Division plans to remove the roof and three sides of the 40 feet wide by 60 feet long building. The internal self-supporting structure will also be removed by County staff.

3.0 PROJECT DESCRIPTION

The Roads Divisions proposes an in-kind replacement of the 40 feet by 60 feet long metal storage building. The project design must incorporate the existing foundation and existing concrete piers into the final plans and specifications. The abutting structure will be reroofed using County labor. Electricity will be required. There are no plans to add plumbing to the replacement building.

The Consultant shall tour the facility and incorporate pertinent information into the Project Specifications. A mandatory single job-walk will be conducted on Thursday, September 24, 2020, at 11:00 AM, 500 E. Cooper Avenue, Crescent City, CA.

4.0 SCOPE OF SERVICES

Each consultant shall prepare a detailed scope of services for the design of this project based, in part and at a minimum, on information presented in this Request for Proposal (RFP), and other available information. The consultant shall provide a cost proposal and schedule associated with the development of a complete set of plans, specifications and estimate (PS&E), needed for the renovations. Consultants are encouraged to include items deemed necessary for this project.

4.1 Background Research

The selected Consultant shall conduct site reconnaissance and meet with appropriate Roads Division staff to identify special requirements.

4.2 Plans Specifications and Estimate

4.2.1 Intermediate Review

The Consultant shall prepare complete PS&E documents, which include design improvement plans, specifications, and engineer's estimate. The PS&E shall be prepared according to the California Building Code (CBC).

The Consultant shall provide four (4) sets of plans (1 full 36"x24" and 3 half size), one set of specifications, and one engineer's estimate at the 65% and 95% phases to the Project Manager for review and comment. The Consultant will also provide one electronic (PDF format) copy to the Project Manager. With each submittal, the review comments from the previous stage shall be incorporated into the pertinent documents, and a written response to each item shall be prepared in a comment matrix. The original red-line comments from the reviewing agency shall be returned with the succeeding submittal.

The consultant shall provide one electronic (PDF format) check print at 100% design stage for review prior to plotting on mylars.

4.2.3 Building Permit Application and Plan Check

The consultant shall prepare plan check documents based on the Public Works staff review of the 100% PS&E. The consultant shall submit three wet-signed sets of plans (36"x24") and specifications to the Project Manager. These will be submitted to Del Norte County Community Development Department Building Inspection Division together with a completed building permit application for review.

During plan check, the consultant shall respond to all inquiries or comments from the Building Inspection Division and revise the plans and specifications accordingly, until plans are ready to be "red stamped" (approved). The consultant will be expected to address any issues related to the Americans with Disabilities Act (ADA).

4.2.3 Final PS & E

After the plan check is completed, the Consultant shall plot the plans on Mylar, stamp, sign, and submit to the Project Manager. This will become the bid set of plans. Final PS&E submittal shall include:

- One complete plan set of reproducible 24"x36" on Mylar
- Printed, stamped and signed specifications (also in Word and PDF format)
- Printed, final *detailed* cost estimate (also in Excel and PDF format)
- Drawing files in AutoCAD and PDF format, specifications in Word format and cost estimate in Excel format on a CD

4.3 Public Outreach

Public outreach is not anticipated for this project.

4.4 Coordination/Meetings

Consultant will coordinate throughout the project with the County's Project Manager. The consultant will be expected to hold all meetings with the contractor and any other meetings deemed necessary.

4.5 Design Support During Construction

As part of the proposal, consultant shall include bid support services that consist of assisting the County in responding to all Requests for Information (RFI) during the project advertisement phase. Consultant shall also include services for design support during construction. These services include responding to all RFI(s), submittal reviews and approval, altering project plans to address any design flaws or inconsistencies, attendance of the pre-construction meeting, consultation with the construction contractor, and preparation of record drawings. Consultant shall prepare record drawings upon project completion.

5.0 PROJECT GENERAL INFORMATION

5.1 Proposal Submissions

Proposals shall be submitted no later than **4:00 PM** on **Wednesday, October 14, 2020** to:

COUNTY OF DEL NORTE
COMMUNITY DEVELOPMENT DEPARTMENT
981 H STREET, SUITE 110
CRESCENT CITY, CA 95531
ATTN: HEIDI KUNSTAL

The proposal should be firmly sealed in an envelope which will clearly be marked on the outside with "**METAL BUILDING PROJECT – DO NOT OPEN**" for the County of Del Norte. Late Proposals will not be accepted.

5.2 Acceptance or Rejection of Proposal

The County reserves the right to negotiate an agreement with the firm submitting the highest ranking proposal. Also, the County reserves the right to reject any and all proposals or to waive any irregularity in a proposal if it is deemed to be in the best interest of the County. Failure to submit all requested information could be grounds to reject the proposal.

5.3 Proposal Questions and Requests for Clarification

Any question or request for clarification shall be submitted in writing to:

hkunstal@co.del-norte.ca.us

Requests for clarification shall be submitted at least five (5) business days prior to the proposal due date. If a response warrants an addendum to the RFP, such addendum will be posted on the County's Bid Opportunities webpage at least two days prior to the proposal due date. It is the proposer's responsibility to check the website for any addendums or responses to questions. The website address is as follows:

<http://www.co.del-norte.ca.us/businesses/bid-opportunities>

5.4 Causes for Disqualification

Any of the following may be considered cause to disqualify a proposal:

- A. Evidence of collusion among proposers
- B. Any attempt to improperly influence any member of the evaluation panel
- C. A proposer's default or breach of contract in previous work that resulted in termination of that agreement and/or
- D. Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the County.

5.5 Insurance Requirements

The proposer must obtain and maintain the required insurance. Proposer should review the Professional Design Services Agreement (Attachment B) which includes insurance requirements.

5.6 Department of Industrial Relations

Please refer to the Professional Design Services Agreement (Attachment B) for registration requirements with the Department of Industrial Relations if the qualifying work is incorporation into the scope of services.

5.7 Product Ownership

Any documents resulting from the performance of work in the contract will become property of the County. This includes all work performed by subconsultants.

6. PROPOSAL CONTENT REQUIREMENTS

The proposal shall contain the following, at a minimum:

- Cover Letter
- Table of Contents
- Executive Summary
- Project Team
- Project Understanding
- Detailed Work Plan
- Examples of experience with similar types of work
- References
- Schedule
- Cost Proposal (In a separate, sealed envelope)

The body of the technical proposal shall not exceed ten (10) pages with a minimum font size of 10. Proposer shall submit four (4) bound sets of the proposal. The maximum allowable length is exclusive of any folder, cover, or section dividers. Proposals shall be no more than fifteen (15) pages, including resumes and the cover letter.

6.1 Cover Letter

The letter shall be signed by an official with the authority to negotiate and contractually bind the firm with the County of Del Norte. Provide name, title, address, email, and telephone number for this officer. Describe any subcontract arrangements or licensing agreements. Include any potential conflict of interest.

6.2 Table of Contents

The proposal should include a table of contents.

6.3 Executive Summary

The Executive Summary shall include a summary of the proposal, emphasizing the approach to be taken and including a work plan, schedule, and description of the capabilities of the Consultant and subconsultants. The summary should convey an understanding of the purpose of the project and the services required for performance.

6.4 Project Team

Describe your team organization including the qualifications of the prime consultant and any sub consultants. Provide an organizational chart of the proposed team structure.

The following should be addressed:

- Demonstrate the firm's experience in each of the areas of expertise needed to successfully complete the project. This should include a description of prior experience in working with public agencies, including working with County staff.
- Ability for project team to perform the proposed work within the time limits of the project, considering their current and projected workload and assignments.
- Ability to provide quality control of all deliverables and be responsive to all issues in a timely manner.
- Provide project team resumes

6.5 Project Understanding

Describe your understanding of the needs of the Metal Building Project.

6.6 Detailed Work Plan

Provide a proposed work plan for development and implementation of the program as described in the Scope of Services. Describe the proposed approach and the activities to be accomplished. Describe how the team will complete each task. Alternative approaches to the project can be submitted if a rationale is given for the suggested changes. Information on software which will be used to prepare all working documents and final documents shall be provided to the County of Del Norte.

6.7 Examples of Experience with Similar Types of Work

Provide examples of projects similar in scope and size to this project.

6.8 References

Provide three client references for the firm, two of which are familiar with the project manager and key personnel. This shall include the name, company, contact information, and description of related work that was provided to the client.

6.9 Conflict of Interest Statement

The proposing Consultant shall disclose any financial, business or other relationship with the County that may have an impact upon the outcome of the

contract or the construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract or the construction project that will follow. The proposing Consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on the construction project.

6.10 Schedule

Provide a schedule with key dates, milestones, and critical path. It is expected that the consultant should be able to complete the plans within two (2) months.

6.11 Cost Proposal

Proposer shall submit a cost proposal in a *separate sealed envelope*. Identify all key members, including Sub-Consultants, in a work chart, including their name, title, hours per task, hourly rate, total hours, direct labor, overhead, and percentage of work by task. Include total fee for all costs to complete all the tasks. The cost proposal is confidential and will be unsealed after all proposals have been reviewed, and the most qualified consultant has been selected.

7.0 PROPOSAL EVALUATION

The Consultant Selection Process will follow the timeline shown below:

<u>Event</u>	<u>Date</u>
Post Request for Proposals	9/11/2020
Mandatory Job Walk	9/24/2020 @ 11:00 AM
Written Questions submitted by	10/2/2020
Responses to Written Questions	10/7/2020
Proposals Due	10/14/2020 @ 4:00 PM
Negotiations	10/19/2020 – 10/30/2020
Board of Supervisors Awards Design Contract	11/10/2020 Estimated

The dates listed above are tentative.

7.1 Proposal Evaluation

The selection committee will evaluate all proposals. This is a qualifications based selection, so ranking will be in accordance with the attached Project Evaluation Process (See Attachment C).

7.2 Negotiations

County staff will begin negotiations with the highest ranked firm. If an agreement cannot be reached after a reasonable period of time, as determined by the County, Then the County will terminate negotiations with the number one ranked firm and negotiations will

be opened with the second ranked firm. The compensation discussed with one prospective Consultant will not be disclosed or discussed with another Consultant.

The selected consultant will be expected to enter into a Professional Services Contract with the County. Proposers should direct their attention to Attachment B for the most current insurance and indemnification language. It is expected that the successful proposer will accept these terms without modification.

The contract shall not be in force until the Board approves the contract and the Board Chair signs it. Work performed before the issuance of a Notice to Proceed cannot be paid by the County.

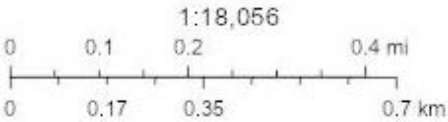
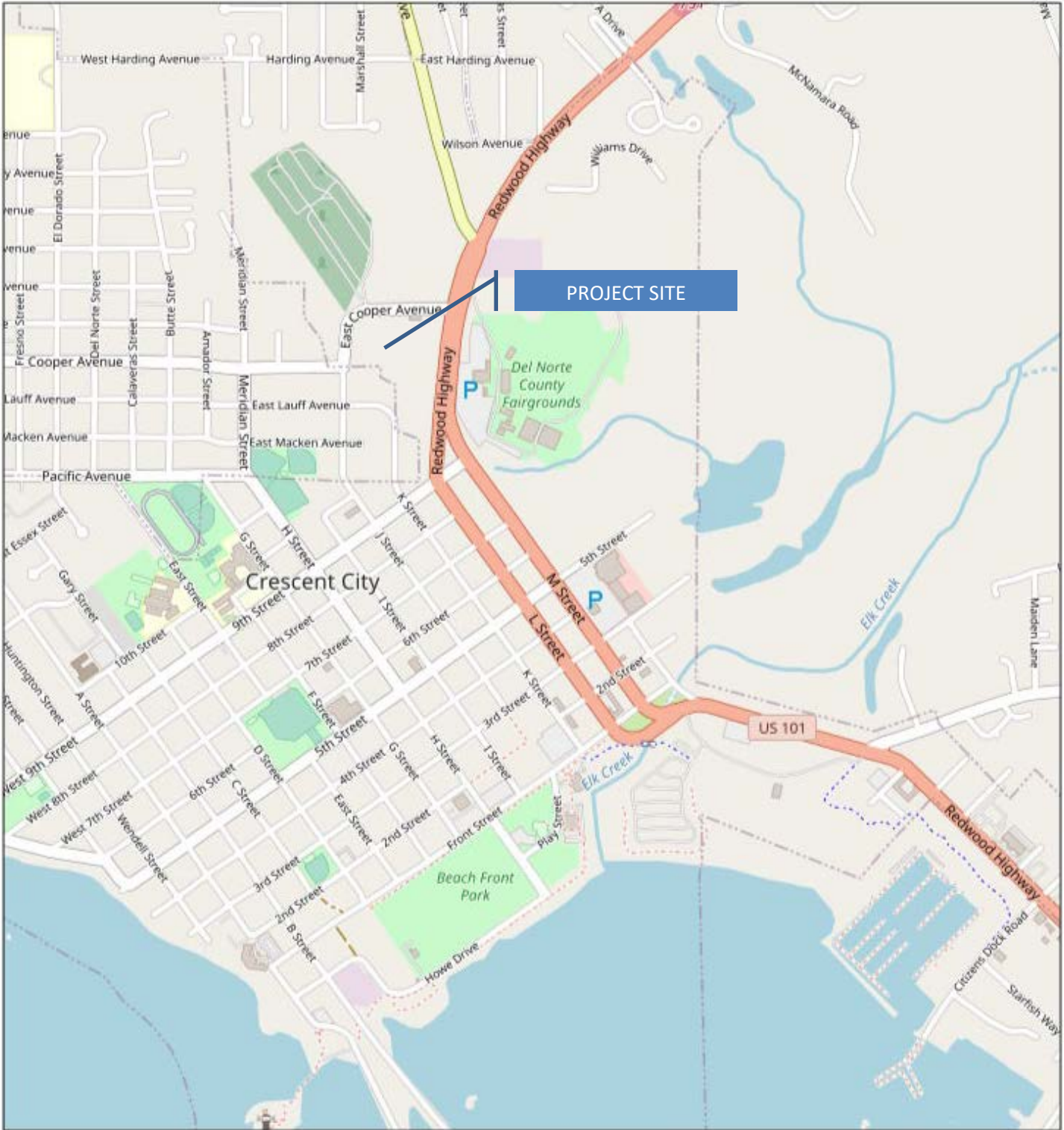
ATTACHMENTS:

Attachment A – Vicinity Map

Attachment B – Professional Services Contract

Attachment C – Proposal Evaluation Process

ATTACHMENT A



AGREEMENT FOR PROFESSIONAL DESIGN SERVICES
METAL STORAGE BUILDING PROJECT

ARTICLE I INTRODUCTION

- A. This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:

Incorporated in the State of _____

The Project Manager for the "CONSULTANT" will be _____.

The name of the "LOCAL AGENCY" is as follows:

County of Del Norte

The Contract Administrator for LOCAL AGENCY will be _____.

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated **DATE**. The approved CONSULTANT's Cost Proposal is attached hereto (Attachment I) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT. Acceptance of insurance required by this Agreement does not relieve CONSULTANT from indemnification liability. Indemnification shall apply to all damages or claims for damages caused by CONSULTANT's activities regardless if any insurance is applicable or not.

- D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of LOCAL AGENCY.
- E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from LOCAL AGENCY under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S MEETINGS

- A. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III STATEMENT OF WORK

The CONSULTANT shall furnish the following services in a professional manner.

The Scope of Services is attached as Attachment II.

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on _____, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on **DATE**, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this AGREEMENT will be based on actual cost. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY's approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.
- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.

- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal and Caltrans, Division of Accounting, Travel Guide, Chapter 12 Non-State Employee Travel, Consultants/Contractors Travel Policy.
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- F. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Community Development Department
Attn: Heidi Kunstal, Contract Administrator
981 H Street, Suite 110
Crescent City, CA 95531
707-464-7254

- G. The total amount payable by LOCAL AGENCY shall not exceed \$_____.
- H. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT, except as provided in Section XI.C. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

Section A, Section B, Section C, and Section D of this Article shall take precedence over Section E.

- E. If in the opinion of LOCAL AGENCY, CONSULTANT fails to perform the services required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, LOCAL AGENCY may terminate this Agreement immediately, upon notice. In such event, LOCAL AGENCY shall pay to CONSULTANT only for the services performed in accordance with this agreement up to and including the date of termination, less the amount of any damages sustained by LOCAL AGENCY as a result of CONSULTANT's breach of this Agreement.

At any time for any reason, upon thirty days written notice to CONSULTANT, LOCAL AGENCY may terminate this Agreement and pay only for those services and material rendered as of the date when termination is effective, however, LOCAL AGENCY shall not in any manner be liable for lost profits which might have been made by CONSULTANT had CONSULTANT completed the services required by this Agreement. The foregoing is cumulative and does not affect any right or remedy which LOCAL AGENCY may have in law or equity.

CONSULTANT may terminate its duties under this Agreement upon thirty (30) days written notice to the LOCAL AGENCY if CONSULTANT is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by LOCAL AGENCY.

These terms are effective until terminated by either party. The LOCAL AGENCY reserves the right, in its sole discretion, to terminate CONSULTANT's access to any or all of the confidential information and the related services or any portion thereof at any time, without notice.

ARTICLE VII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY or any duly authorized representative of the State government having jurisdiction under State laws or regulations (including the basis of State funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE VIII RECORDS, AUDIT AND REVIEW

CONSULTANT shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONSULTANT's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. LOCAL AGENCY shall have the right to audit and review all such documents and records at any time during CONSULTANT's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00) CONSULTANT shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONSULTANT shall participate in any audits and review, whether by LOCAL AGENCY or the State, at no charge to LOCAL AGENCY.

If federal, state or other regulatory audit exceptions are made relating to this Agreement, CONSULTANT shall reimburse all costs incurred by LOCAL AGENCY associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from LOCAL AGENCY, CONSULTANT shall reimburse the

amount of the audit exceptions and any other related costs directly to LOCAL AGENCY as specified by LOCAL AGENCY in the notification.

ARTICLE IX SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

ARTICLE X STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region_Map_Construction_7-8-15.pdf). These wage rates are made a specific part

of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representative's at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

- c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
 - F. Penalty
 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to-apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XI CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete the statements of economic interest, Form 700, as required by the Del Norte County Conflict of Interest Code.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XII REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XIII PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
 - 1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer

or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.

2. 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 AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
 - C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XIV NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XV DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal or state agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal or state agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

ARTICLE XVI INSURANCE

CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, his agents, representatives, employees or subconsultants.

- A. Minimum Scope of Insurance Coverage shall be at least as broad as:
1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 3. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
 4. Professional Liability (Errors and Omissions) Insurance appropriate to the CONSULTANT's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONSULTANT maintains higher limits than the minimums shown above, the LOCAL AGENCY requires and shall be entitled to coverage for the higher limits maintained by the CONSULTANT. Any available insurance proceeds in excess of the

specified minimum limits of insurance and coverage shall be available to the LOCAL AGENCY.

B. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured – LOCAL AGENCY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. Primary Coverage – For any claims related to this Agreement, the CONSULTANT's insurance coverage shall be primary insurance as respects the LOCAL AGENCY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the LOCAL AGENCY, its officers, officials, employees, agents or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
1. Notice of Cancellation – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the LOCAL AGENCY.
2. Waiver of Subrogation Rights – CONSULTANT hereby grants to LOCAL AGENCY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the LOCAL AGENCY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the LOCAL AGENCY has received a waiver of subrogation endorsement from the insurer.
3. Deductibles and Self-Insured Retention – Any deductibles or self-insured retentions must be declared to and approved by the LOCAL AGENCY. The LOCAL AGENCY may require the CONSULTANT to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
4. Acceptability of Insurers – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
5. Verification of Coverage – CONSULTANT shall furnish the LOCAL AGENCY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the LOCAL AGENCY before work commences. However, failure to obtain the required documents prior to the

work beginning shall not waive the CONSULTANT's obligation to provide them. The CONSULTANT shall furnish evidence of renewal of coverage throughout the term of the Agreement. The LOCAL AGENCY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

6. Failure to Procure Coverage – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, LOCAL AGENCY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by LOCAL AGENCY as a material breach of contract.
7. Subconsultants – CONSULTANT shall require and verify that all subconsultants maintain insurance meeting all the requirements stated herein, and CONSULTANT shall ensure that LOCAL AGENCY is an additional insured on insurance required from subconsultants.
8. Claims Made Policies – If any of the required policies provide coverage on a claims-made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims- made policy form with a Retroactive Date prior to the contract effective date, the CONSULTANT must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
9. Special Risks or Circumstances – LOCAL AGENCY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONSULTANT agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of LOCAL AGENCY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of LOCAL AGENCY.

ARTICLE XVII CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XVIII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XIX DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Community Development Department Director, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XX INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXI SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

ARTICLE XXII OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of LOCAL AGENCY, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, LOCAL AGENCY shall be entitled to, and CONSULTANT shall deliver to LOCAL AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to LOCAL AGENCY which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by LOCAL AGENCY.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of

LOCAL AGENCY without restriction or limitation upon its use or dissemination by LOCAL AGENCY.

- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by LOCAL AGENCY for another project or project location shall be at LOCAL AGENCY's sole risk.
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the LOCAL AGENCY shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXIII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXIV CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT

to further disclose such information, or disseminate the same on any other occasion.

- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of LOCAL AGENCY or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, LOCAL AGENCY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, LOCAL AGENCY's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXV NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXVI EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXVII RETENTION OF FUNDS

- A. The LOCAL AGENCY shall hold retainage from the CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by LOCAL AGENCY, of the AGREEMENT work, and pay retainage to CONSULTANT based

on these acceptances. The CONSULTANT, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the AGREEMENT work by the LOCAL AGENCY. Federal law (49 CFR §26.29) requires that any delay or postponement of payment over thirty (30) calendar days may take place only for good cause and with LOCAL AGENCY's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Business and Professions Code §7108.5. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant.

ARTICLE XXVIII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

_____, Project Manager

LOCAL AGENCY:

COUNTY OF DEL NORTE

Heidi Kunstal _____, Contract Administrator

981 H STREET, SUITE 110

CRESCENT CITY, CA 95531

ARTICLE XXIX ATTORNEY'S FEES

Article I shall take precedence over Article XXIX.

If any action at law or in equity, excepting an action for declaratory relief, is brought to enforce provisions of this Agreement by reason of the alleged failure of the other to perform or keep any provision or this Agreement to be performed or kept, the prevailing party in such action or proceeding (including appeal) shall be entitled to recover court costs, reasonable litigation costs including discovery expenses and expert witness fees, and reasonable attorney's fees (including reasonable value of services rendered by attorney's employed by LOCAL AGENCY) which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled. As used herein, the "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

ARTICLE XXX INDEPENDENT CONTRACTOR

It is understood that CONSULTANT, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the LOCAL AGENCY. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to LOCAL AGENCY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

CONSULTANT is not a designated employee within the meaning of the Political Reform Act because CONSULTANT:

- a. Will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the LOCAL AGENCY or of any LOCAL AGENCY official, other than normal agreement monitoring; and
- b. Possesses no authority with respect to any LOCAL AGENCY decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(B)(2).)

ARTICLE XXXI SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE XXXII CONTROLLING LAW VENUE

This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the LOCAL AGENCY.

ARTICLE XXXIII LICENSES

CONSULTANT represents and warrants to LOCAL AGENCY 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 LOCAL AGENCY 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.

ARTICLE AUTHORITY TO ENTER AGREEMENT

CONSULTANT has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

ARTICLE XXXV PROFESSIONAL ABILITY OF CONSULTANT

LOCAL AGENCY has relied upon the professional training and ability of CONSULTANT to perform the services hereunder as a material inducement to enter into this Agreement. CONSULTANT shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by CONSULTANT under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT's field of expertise.

ARTICLE XXXVI CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXVII SIGNATURES

COUNTY OF DEL NORTE

(Name of CONSULTANT)

Gerry Hemmingsen, Chair

(Name of Signer)

Date:_____

Date:_____

Approved as to form:

Joel Campbell-Blair, County Counsel

ATTACHMENT I
COST PROPOSAL

(TO BE TAKEN FROM RFP RESPONSE)

ATTACHMENT II
SCOPE OF SERVICES

(TO BE TAKEN FROM RFP RESPONSE)

Metal Building Project
PROPOSAL EVALUATION PROCESS

All proposals will be evaluated by a County Selection Committee (Committee). The Committee may be composed of County staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the County Contract Administrator/Project Manager only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by Proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of Proposer.

The Committee will evaluate each proposal meeting the qualification requirements set forth in this RFP. Proposers should bear in mind that any proposal that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the County's requirements as set forth in this RFP.

Upon completion of the evaluation and selection process, only the cost proposal from the most qualified consultant will be opened to begin cost negotiations. All unopened cost proposals will be returned at the conclusion of procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

Evaluation Criteria

Proposals will be evaluated according to each Evaluation Criteria, and scored on a zero to five point rating. The scores for all the Evaluation Criteria will then be multiplied according to their assigned weight to arrive at a weighted score for each proposal. A proposal with a high weighted total will be deemed of higher quality than a proposal with a lesser-weighted total. The final maximum score for any project is five hundred (500) points.

Rating Scale		
0	Not Acceptable	Non-responsive, fails to meet RFP specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of proposal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFP.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFP specification. This will be the baseline score for each item with adjustments based on interpretation of proposal by Evaluation Committee members.
4	Above Average/Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFP requirements and expectations.

5	Excellent/ Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFP specification.
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The Evaluation Criteria Summary and their respective weights are as follows:

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
6	Conflict of Interest Statement	Pass/Fail
2	Qualifications & Experience	20
3	Project Approach	20
4	Understanding of Work	20
5	Schedule of Work	15
7	Local Presence	10
8	References	15
Subtotal:		100

1. Completeness of Response (Pass/Fail)

- a. Responses to this RFP must be complete. Responses that do not include the proposal content requirements identified within this RFP and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.

2. Conflict of Interest Statement (Pass/Fail)

- a. Discloses any financial, business or other relationship with the County that may have an impact upon the outcome of the contract or the construction project.
- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
- c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.

3. Qualifications & Experience (20 points)

- a. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to prepare design improvement plans, specifications and engineer's estimates (PS & E).

4. Project Approach (20 points)

- a. Describes familiarity of project and demonstrates understanding of work completed to date and project objectives moving forward

- b. Roles and Organization of Proposed Team
 - i. Proposes adequate and appropriate disciplines of project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team is relevant to County needs.
- c. Project and Management Approach
 - i. Team is managed by an individual with appropriate experience in similar projects. This person's time is appropriately committed to the project.
 - ii. Project team and management approach responds to project issues. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
- d. Roles of Key Individuals on the Team
 - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.
- e. Working Relationship with County
 - i. Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
 - ii. Team leadership understands the nature of public sector work and its decision-making process.
 - iii. Proposal responds to need to assist County during the project.

5. Understanding of Work (20 points)

- a. Detailed Scope of Services to be Provided
 - i. Proposed scope of services is appropriate for the work.
 - ii. Scope addresses all known project needs and appears achievable in the timeframes set forth in the project schedule.
- b. Project Deliverables
 - i. Deliverables are appropriate to schedule and scope set forth in above requirements.
- c. Cost Control and Budgeting Methodology
 - i. Proposer has a system or process for managing cost and budget.
 - ii. Evidence of successful budget management for a similar project.

6. Schedule of Work (15 points)

- a. Schedule shows completion of the work within or preferably prior to the County overall time limits as specified in Section 6.10 of the RFP.
- b. The schedule serves as a project timeline, stating all major milestones and required submittals needed to accomplish the scope of services.

7. Local Presence (10 points)

- a. A statement addressing firm's ability to establish an office within the County or within 150 miles of the County.

8. References (15 points)

- a. Provide as reference the name of at least three (3) agencies you currently or have previously consulted for in the past three (3) years.

Weighted scores for each Proposal will be assigned utilizing the table below:

No.	Evaluation Criteria	Rating (0-5)	Weight	Score (Rating Weight)
1	Completeness of Response	N/A	Pass/Fail	Pass/Fail
2	Conflict of Interest Statement	N/A	Pass/Fail	Pass/Fail
3	Qualifications & Experience		20	
4	Project Approach		20	
5	Understanding of Work		20	
6	Schedule of Work		15	
7	Local Presence		10	
8	References		15	
Total:			100	