



**Sites Project Authority
Real Estate Appraisal Services Agreement - Addendum A**

This Addendum A serves as an addendum to the agreement (the “**Agreement**”) entered into by and between the SITES PROJECT AUTHORITY and _____, a firm providing real estate appraisal services, effective on or about _____ (the “**Effective Date**”), and contains terms and conditions that are integral to the Agreement. In the event of a conflict between the terms and conditions of the Agreement and the terms and conditions of this Addendum A, the latter shall control. SITES PROJECT AUTHORITY shall sometimes be referred to herein as “**Authority**”, and _____ shall sometimes be referred to herein as “**Consultant**”. Authority and Consultant may be individually referred to as a “**Party**” or collectively as the “**Parties**.”

PREAMBLE

The Agreement, together with all exhibits and attachments including this Addendum A, replaces and supersedes for all purposes any prior agreement between Authority and Consultant relative to the Services (defined below). The Parties hereby acknowledge and agree that any such prior agreement is hereby terminated and is no longer of any force and effect, except for such terms and conditions as are intended to survive termination thereunder, including without limitation any of Consultant’s warranty and indemnification obligations provided for therein.

ARTICLE 1: SERVICES

- a. **Task Orders.** The scope of Services, the particular tasks that comprise the Services, and the time and budget for performance thereof, shall be set forth in a task order(s) using the form attached hereto and incorporated herein as **Exhibit A** (each, a “**Task Order**”). Each Task Order, as may be amended from time to time by a Task Order Amendment using the form attached hereto as **Exhibit B** (each, a “**Task Order Amendment**”) shall be integral to this Agreement and is incorporated herein by reference. Consultant shall be solely responsible for bearing the costs associated with preparing a Task Order.

- b. **Project Management.**
 - i. **Consultant’s Representative.** _____ (“**Consultant’s Representative**”) is hereby designated as the principal and representative of Consultant authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection herewith. Consultant shall not substitute Consultant’s Representative without first notifying Authority in writing of Consultant’s intent to do so.

 - ii. **Authority’s Agent.** _____ (“**Authority’s Agent**”) is hereby designated to represent Authority and except as otherwise provided herein authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection therewith. Authority may substitute Authority’s Agent at any time upon written notice to Consultant.



ARTICLE 2: TERM OF AGREEMENT

- a. This Agreement shall become effective on the Effective Date, and shall remain in full force or effect until _____, or until the earlier termination of this Agreement in the manner provided for herein (the “**Term**”).
- b. The Term may be extended upon terms mutually agreed upon by the Parties. In order to extend the Term, a Party must communicate its interest in an extension no less than sixty (60) days prior to the expiration of the initial Term or any extended Term.
- c. Either Party may terminate this Agreement at any time with or without cause, by giving sixty (60) days’ written notice to the other Party of the termination.
- d. The Authority may terminate this Agreement at any time prior to expiration of the Term without notice if the Consultant commits any material act of dishonesty, discloses confidential information, is guilty of gross carelessness or misconduct, or unjustifiably neglects their duties under this Agreement, commits any material breach of the terms of this Agreement or acts in any way that has a direct, substantial, and adverse effect on Authority’s reputation. If Authority terminates for cause due to Consultant’s material breach of this Agreement, Authority shall only be liable to compensate Consultant for Services provided up to the date of Consultant’s receipt of the Authority’s notice of termination. Termination of this Agreement by Authority shall not affect Consultant’s obligations or liabilities to Authority other than Consultant’s obligation to continue to render the Services, which shall terminate.
- e. **Suspension of Services.** Authority may order Consultant in writing to suspend, delay or interrupt performance of all or any part of the Services under any Task Order for the convenience of Authority, or for work stoppage beyond the control of Authority (“**Suspension Notice**”). If the performance of the Services is so suspended, delayed or interrupted, Authority shall pay Consultant for Services rendered prior to receipt of the Suspension Notice, and for reasonable charges for documenting the status of such Services as of the date of suspension, but no further payment shall be due unless and until Authority gives written notice that performance of such Services shall be resumed.
- f. **Assumption of Subconsultant Agreement.** In connection with the termination of this Agreement by either Party, the Authority shall have the right but not the obligation to either **(i)** assume a contract entered into by and between Consultant and any of its subconsultants and subcontractors in connection with this Agreement, or **(ii)** enter into a new contract directly with any such subconsultant or subcontractor. If Authority exercises its rights under this **Article 2.g**, Consultant shall, if and as applicable, assign such contracts with such subconsultants as the Authority specifies. Any contract between Consultant and any of its subconsultants and subcontractors entered into in connection with this Agreement shall make express reference to and allocation for Authority’s rights under this **Article 2.g**.

ARTICLE 3: RESPONSIBILITIES OF THE PARTIES

- a. **Conflict of Interest Code Compliance.** In providing Services the Consultant shall act



consistent with any determination made by the Authority's Executive Director or designated representative that this Agreement requires or permits Consultant to make a governmental decision as specified in 2 CCR 18700.3(a)(1), or serve in a staff capacity as specified in 2 CCR 18700.3(a)(2), and therefore confers on Consultant and select employees of Consultant the status of a "designated employee" or "Consultant" of the Authority for the purposes of Authority's Conflict of Interest Code and the California Political Reform Act. Consultant acknowledges that if the Authority through its Executive Director determines that some of the Consultant's key personnel are a "designated employee" or "Consultant", Consultant shall **(i)** acknowledge and accept said determination, **(ii)** become familiar with the terms of the Political Reform Act, the Authority's Conflict of Interest Code, and the obligations and limitations said laws impose upon Consultant, and **(iii)** not commence any Services provided for herein until Consultant and each of its designated employees has filed a Form 700 Statement of Economic Interest with the Authority. Authority reserves the right to reevaluate the determination under this **Article 3(a)** from time to time, and Consultant acknowledges that said determination is subject to change if and as the Parties amend this Agreement and the nature of the Services. Consultant shall be solely responsible for bearing the costs associated with compliance with Authority's Conflict of Interest Code and the California Political Reform Act.

- b. Consultant's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar conditions. Consultant shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, orders and Authority's rules, regulations and policies relating to the Services ("**Applicable Laws**"). Consultant certifies that its work in furtherance of the Services conforms to the requirements of this Agreement and all Applicable Laws.

- c. **Books and Records**. During the term of this Agreement, Consultant shall keep and preserve accurate and detailed records of all work product, ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the Services and disbursements charged to Authority under this Agreement (collectively, "**Books and Records**") in the manner required under the Authority's Records Keeping Policy. Further, Consultant shall keep and shall preserve accurate and detailed records of all Books and Records for no less than four (4) years after final payment for all Services under this Agreement. Any and all Books and Records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Consultant under this Agreement. During the retention period, Consultant shall give Authority and its agents, during normal business hours, access to such Books and Records. Authority and its agents shall have the right to make copies of any of the said Books and Records.



- d. **Access to Provide Services.** Consultant shall use commercially reasonable efforts to provide Authority with an anticipated schedule of necessary access to Authority's premises and property or any other such premises or property that have been dedicated to the Authority or made available for the Authority's use. Consultant shall perform the Services in a manner that is consistent with Authority's requirements and conditions applicable to the Authority's use of premises or property, and will minimize any interference with the operations of the Authority and its related entities and its agents and other consultants.
- e. Any subconsultant or subcontractor that will provide services shall be listed in the Task Order with a corresponding Hourly Rate Schedule or per Appraisal Report Fee, whichever is applicable. For purposes of this Agreement, a subconsultant or subcontractor shall mean, without exception, any party retained by Consultant to perform any portion of the Services, and such retention by Consultant shall in all cases be subject to the terms and conditions of this **Article 3.e.** Consultant shall not commission the services of any new or additional subconsultant or subcontractor, or any key staff or personnel (as identified in the Statement of Qualifications (SOQ) or Proposal submitted in connection with the associated Request for Qualifications (RFQ) or Request for Proposal (RFP)) without the approval of the Authority, which approval the Authority may withhold or condition in its reasonable discretion to ensure adherence to the terms and conditions of this Agreement, and which approval shall, if granted, be memorialized in the form of a Task Order Amendment. Consultant, any subconsultants and subcontractors, and each of their employees performing the Services shall undergo the process provided for in the Authority's New Consultant Staff Addition Procedure. Consultant shall determine the method, details, and means of performing the Services and may at its own cost, employ such employees, subconsultants and subcontractors as it deems necessary to perform the Services. Authority may not control, direct or supervise Consultant's employees, subconsultants or subcontractors in the performance of the Services, and Authority shall not be liable for any expenses or costs relating to Consultant's employees, subconsultants or subcontractors unless Authority has agreed in writing, prior to the time such expenses or costs are incurred, to reimburse Consultant for such expenses. Consultant shall ensure that any contract entered into with any subconsultant or subcontractor is expressly subject to all applicable terms and conditions of this Agreement, which applicable terms and conditions include, without limitation, those governing insurance, applicable laws, indemnification, ownership of work product, confidentiality and conflicts of interest.

ARTICLE 4: INDEPENDENT CONTRACTOR STATUS

- a. **Status as Independent Contractor.** Consultant will act as an independent contractor of the Authority in the performance of the Services under this Agreement. Consultant will be responsible for the payment of all applicable federal, state, and local taxes arising out of or related to Consultant's Services for the Authority. Consultant further agrees to defend, indemnify, and hold the Authority harmless as to any claims or causes of action related to the payment of any federal, state, and local taxes for which Consultant is responsible. Nothing contained in this Agreement shall constitute or be deemed to create between the Authority and Consultant the relationship of employer/employee, it being expressly understood and agreed that the only relationship between Consultant and Authority created herein shall be that of an independent contractor. Without limiting the foregoing, Consultant is not entitled to any rights



or benefits afforded to Authority's employees, if any, including disability or unemployment insurance, workers compensation, medical or life insurance, vacation, holidays, personal leave or any other employment benefit that Authority may provide to its employees from time to time.

- b. **Subcontracting**. Consultant shall not employ or retain independent consultants, associates, or subcontractors to assist in the performance of Consultant's duties hereunder without the prior written consent of the Authority. As to any such subcontract to which Authority has not granted its express prior written consent, Authority shall not have any obligation to recognize, accept, compensate for, or otherwise assume any responsibility for it or for any work performed pursuant to it.

ARTICLE 5: INDEMNITY

- a. **Consultant Indemnification**. Consultant shall indemnify and hold the Authority and its members, and each of their officers, directors, employees, agents, officials, representatives, affiliates, subsidiaries, predecessors, successors, and assigns (collectively, "**Indemnitees**"), from and against any and all claims, demands, liabilities, damages, losses, liens, obligations, costs and expenses, including without limitation attorneys' fees and expenses ("**Claims**") to the extent arising out of related to acts or omissions of the Consultant, its employees, subconsultants, subcontractors, agents or representatives in performing the Services. Consultant's liability under this **Article 5** is limited to the amounts recovered from the insurance that is provided for in **Article 6**.
- b. **Authority Indemnification**. Authority shall indemnify and hold Consultant and its officers, directors, employees and agents harmless from and against any Claims to the extent arising out of related to acts or omissions of the Authority in performing its obligations as provided under this Agreement.
- c. **Limitation on Damages**. In no event shall either Party be liable to the other Party for the payment of any consequential (including lost profits), punitive or exemplary damages.

ARTICLE 6: INSURANCE

- a. All insurance shall be maintained with insurance carriers licensed and approved to do business in California, having a general policyholders rating of not less than an A and financial rating of not less than VII in the most current A.M. Best's Key Rating Guide.
- b. Consultant shall maintain the following insurance:
 - i. **Professional Liability Insurance**. If Authority determines in its reasonable discretion and consistent with industry standards that Consultant should obtain and maintain professional liability insurance, then Consultant shall so obtain and maintain a \$1,000,000 per claim and \$2,000,000 annual aggregate limit professional liability insurance policy, with prior acts coverage sufficient to cover the services performed under this Agreement.

- ii. **Automobile Liability Insurance.** Consultant shall maintain, as applicable, owned, and/or hired and non-owned Automobile Liability Insurance covering all use of all automobiles, trucks and other motor vehicles utilized by Consultant in connection with this Agreement with a combined single limit for bodily injury and property damage of \$1,000,000, or limit carried, whichever is greater.
- iii. **Workers Compensation Insurance.** When applicable, Consultant shall maintain Workers Compensation Insurance, including Employer's Liability, at a minimum limit acceptable to the Parties for all persons whom Consultant may employ in performing the Services. Such insurance shall be in strict accordance with the requirements of the most current and applicable Workers Compensation Insurance Laws in effect from time to time. Consultant shall furnish to Authority confirmation of Consultant's experience modification rate, which the Authority may request from time to time.
- iv. **Commercial General Liability (CGL) Insurance.** Commercial General Liability Insurance, including coverage for bodily injury and property damage liability arising out of premises, operations, products, and completed operations in addition to advertising injury and personal injury liability coverage with a limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate limit.

Non-owned and hired automobile liability coverage applies by endorsement to this policy with a limit of \$1,000,000 bodily injury and property damage per occurrence and \$1,000,000 general bodily injury and property damage aggregate limit.

With respect to the Services performed by Consultant, Commercial General Liability policy shall be primary to similar insurance of the Authority and shall waive subrogation against Authority.
- v. **Subconsultant and Subcontractor Insurance.** Consultant shall not allow any subconsultants or subcontractors to commence or perform any Services until Consultant obtains from such subconsultant or subcontractor the same insurance required to be carried by Consultant under this **Article 6**, or such additional coverage that the Authority may require of the subconsultant or subcontractor, or in such other amounts as Authority might agree to or require in Authority's discretion. Any such modification to a subconsultant's or subcontractor's insurance requirements shall be reflected in a written instrument signed by Authority's Contract Administrator. Consultant shall also obtain from any subconsultant or subcontractor an indemnification in form and substance identical to the indemnification set forth in **Article 5** for the benefit of Consultant and the Authority. Upon request, Consultant shall deliver to Authority certificates and endorsements issued by each subconsultant's or subcontractor's insurance carrier applicable to Authority showing such policies in force for the specified period, but Authority has the right to require subcontractors or subconsultants to submit for Authority's review certified policies.



- c. **Evidence of Insurance.** As evidence of specified insurance coverage, Consultant shall deliver to Authority certificates and endorsements issued by Consultant's insurance carrier applicable to Authority showing such policies in force for the specified period. Such evidence shall be delivered to Authority on or before the Effective Date. Each policy and certificate shall be subject to reasonable approval by Authority and shall provide that such policy shall not be subject to cancellation without 30 days notice in writing to be delivered by certified mail to Authority at the address set forth in **Article 11.j**. Should any policy expire or be canceled before the expiration of the Term, or such later date as necessary pursuant to a Contractor's post-Term obligations to Authority, and Consultant fails immediately to procure other insurance as specified, Authority reserves the right, but shall have no obligation, to procure such insurance and to deduct the cost thereof from any sum due Consultant under this Agreement.
- d. All such policies specified in the **Article 6** shall, as applicable, contain or be endorsed with the provision that coverage shall not be cancelled by the insurance company in coverage without thirty (30) days prior written notice to the Authority.
- e. Consultant may request in writing to Authority that Authority waive insurance requirements or liability amounts set forth herein. Authority may grant or deny any such requests in its sole discretion.
- f. Authority, and its directors, officers, and authorized agents shall be added as an additional insured by additional insured coverage endorsements CG 2010 04 13 and CG 2037 04 13, or equivalent additional insured coverage endorsements, on Coverages specified in **Articles 6.b.i, 6.b.ii, 6.b.iv and 6.b.v**.

ARTICLE 7: CONFIDENTIALITY AND PROPRIETARY INFORMATION

- a. Consultant and its subconsultants and subcontractors acknowledge that notwithstanding Authority's status as a governmental entity, Authority may nevertheless be authorized from time to time under Applicable Laws to assert privilege and/or claims of confidentiality to select information exchanged between the Parties or produced in connection with or as a result of this Agreement ("**Confidential Information**"). Consultant shall require that its subconsultants and subcontractors shall therefore treat all information exchanged between the Parties or produced in connection with or as a result of this Agreement as Confidential Information, shall prepare, handle, store and transmit all such information in accordance with Authority's labeling and distribution policies, shall take all reasonably appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, loss and theft, and shall not directly or indirectly, use, reveal, publish or disclose any such information without Authority's prior written consent. Consultant agrees to abide by the confidentiality terms of this Agreement and acknowledges that they are designed to protect Authority's and the public's vital interests. Consultant further acknowledges that Authority will treat any violation of the confidentiality terms of this Agreement as a matter of the highest importance, and will vigorously pursue any and all legal and equitable rights and remedies to protect its interest hereunder. This could include a civil action leading to money damages and/or criminal prosecution against Consultant.



Consultant's confidentiality obligations shall survive expiration or earlier termination of this Agreement.

- b. The product of all Services performed under this Agreement (for purposes of this **Article 7**, the "**Work**"), including without limitation all notes, reports, documentation, drawings, works, work-in-progress and deliverables and other documents prepared by Consultant or any of its agents, employees, representatives, subconsultants or subcontractors in the performance of the Services or otherwise prepared for Authority under this Agreement shall be the sole property of the Authority, and Consultant hereby assigns all right, title and interest in the copyright or other ownership claim in the Work, and all extensions and renewals thereof, to Authority, and agrees to provide all assistance reasonably requested by Authority in the establishment, preservation and enforcement of any copyright or other ownership claim in the Work. Consultant retains no right to use the Work and agrees not to challenge the validity of the Authority's ownership in the Work. All Work and any Confidential Information shall be conspicuously marked "DRAFT" or "PRIVILEGED AND CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION AND/OR ATTORNEY WORK PRODUCT", or "INTERNAL DELIBERATIVE PROCESS DOCUMENTS", as applicable, unless requested to do otherwise by Authority.
- c. Consultant agrees that, upon termination of this Agreement with Authority, voluntary or otherwise, Consultant shall return all Authority property, including all Confidential Information, including all copies thereof, then in its or its employees' possession or control; provided, however, that Consultant may retain one electronic copy of information the Consultant relied upon to perform the Services, which copy shall remain subject to the terms and conditions of **Article 7.a**.

ARTICLE 8: NON-SOLICITATION

- a. For the period of two (2) years after expiration or termination of this Agreement for any reason, Consultant shall not interfere with any relationship between the Authority and any of its members, employees, consultants, agents, representatives or suppliers by persuading, enticing, or attempting to persuade or entice any such member, employee, contractor, consultant, agent, representative, or supplier to disengage from the Project.
- b. For the period of two (2) years after expiration or earlier termination of this Agreement for any reason, within a fifty (50) mile radius of the Authority's main office or satellite office, Consultant shall not use or access the Confidential Information in any manner to solicit or attempt to solicit, either for itself or for a third party, any of the Authority's members, employees, consultants, agents, representatives or suppliers with the intent or purpose of providing services to those members, employees, consultants, agents, representatives or suppliers which are the same or similar as those provided to the Authority.



ARTICLE 9: COMPENSATION

- a. **Compensation.** For each Task Order, Authority shall pay Consultant compensation for the Services as follows:
- i. **Services Per Budget.** Consultant's total compensation for the Services is budgeted at the amount identified in each Task Order ("**Budget**").
 - ii. **Services Exceeding Budget.** Consultant shall not continue to perform the Services in excess of the Budget or the amount allocated for each individual task identified in each Task Order without the prior written approval of the Authority's Contract Administrator, as reflected in a Task Order Amendment. Consultant shall not be entitled to compensation in excess of the Budget, as might be amended from time to time in the Authority's reasonable discretion.
 - iii. **Fees Paid by Authority.** Except as specifically provided in a Task Order, Authority shall pay the cost of fees, zoning and annexation application fees, assessment fees, and other fees, permits, bonds, premiums, title company charges, and all other charges not specifically covered by the terms of this Agreement which are required to use or apply, but not perform or produce, the Services or work product.
 - iv. **Rates.** The hourly rates ("**Rates**") or per appraisal report fee ("**Appraisal Report Fee**") shall remain in effect for twelve months from the Effective Date, or until such later date as the Services are completed ("**Change Date**"). After the Change Date, Consultant shall not increase the Rates or Appraisal Report Fee without at least 30 days written notice from Consultant to Authority, and there must be at least twelve months between increases in the Rates or Appraisal Report Fee. If the Authority approves the Rates or Appraisal Report Fee increase, the new Rates or Appraisal Report Fee shall apply only to that portion of Services remaining to be completed after the Change Date.
- b. **Application for Payments.**
- i. In consideration of the services provided by the Consultant under this Agreement, the Authority agrees to make payment to the Consultant upon the submission to the Authority of invoices with properly certified Invoice Cover Letter for submission of the final appraisal reports accepted by the Authority and for other services furnished in accordance with the description of services in the Task Order(s). The payment will constitute full payment to the Consultant for services and for supplies, materials, and equipment used or furnished by the Consultant and expenses incurred by the Consultant in connection with the performance of such services under each Task Order.
 - ii. Consultant shall submit invoices and Invoice Cover Letter no later than 30 days after submission of the final appraisal reports accepted by the Authority. The reasonable cost to prepare the invoice and Invoice Cover Letter shall be reimbursable to Consultant. Each invoice, along with the Invoice Cover Letter, shall be submitted electronically as directed by the Authority. Authority shall pay the amount requested, and not disputed



by Authority, no later than thirty (30) days following Authority's receipt of the invoice and Invoice Cover Letter.

- iii. Consultant's Project Manager shall sign and date the standard Invoice Cover Letter to certify that the invoice has been reviewed and that **(i)** the labor, service and materials, if any, covered by the invoice have actually been furnished and performed, **(ii)** any liens which arise as a result of applicable law have been released or waived to the extent of the invoice and **(iii)** all subconsultants, subcontractors, suppliers or other persons performing work for Consultant have been paid in full for any labor, materials or services included in the invoice.
- iv. Consultant's other obligations and liabilities, including without limitation, the obligations set forth in **Articles 5 and 7**, shall survive final payment, as well as the expiration or earlier termination of this Agreement.

ARTICLE 10: DISPUTE RESOLUTION

- a. **Meet and Confer**. The Parties agree to undertake good faith efforts to resolve any dispute arising under or in connection with this Agreement within sixty (60) days of such disputed item arising prior to resorting to formal means of dispute resolution. If any dispute is not capable of resolution by and among the representatives of each Party authorized to administer this Agreement, Consultant's principal and the Authority's board chair or his/her authorized representative (who shall be the Executive Director of the Authority or a member of the Authority Board) shall meet and confer in an effort to resolve any such dispute. If such efforts between Consultant's principal and the Authority's designee do not result in resolution of the dispute within thirty (30) days of their commencement, the Parties shall have such other remedies available to them as are provided for in this Agreement or as otherwise exist at law or in equity. No other means of dispute resolution, including arbitration and litigation, shall be available to the Parties unless they have exhausted the process provided for in this **Article 10.a**.
- b. **Mediation**. After efforts in **Article 10.a** are exhausted, the Parties may agree to resolve the dispute with the help of a mutually agreed-upon mediator. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the Parties. If it proves impossible to arrive at a mutually satisfactory solution through mediation, the Parties agree to submit the dispute to a mutually agreed-upon arbitrator. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator. The arbitrator's decision shall be final and binding on both Parties. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

ARTICLE 11: MISCELLANEOUS

- a. **Governing Law**. This Agreement shall be governed by the laws of the State of California. Any action instituted under this Agreement shall be brought only in the Colusa County, California, Superior Court.



- b. **Amendment.** This Agreement shall not be amended except by written agreement signed by both Parties.
- c. **Successor and Assigns.** This Agreement and the covenants and conditions contained herein shall apply and be binding upon and inure to the benefit of the permitted administrators, executors, legal representatives, assignees, successors, agents and heirs of each Party hereto.
- d. **Assignments.** This Agreement is not assignable by Consultant without the consent of the Authority, which consent the Authority may grant or withhold for any or no reason in its sole discretion. Any such purported assignment without prior written consent by the Authority shall be null and void. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge either Party from any obligation under this Agreement.
- e. **No Third-Party Beneficiaries.** Except for rights of indemnitees specifically referenced in this Agreement, no provision of this Agreement is intended to create or grant claims or rights of action against Authority for the benefit of any third parties.
- f. **Integration.** This Agreement is intended to be the final, complete, and exclusive statement of the terms of Consultant's terms of service to the Authority. This Agreement supersedes all other prior or contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the Services of Consultant to the Authority, and it may not be contradicted by evidence or any prior or contemporaneous statements or agreements. To the extent the practices, policies, or procedures of the Authority, now or in the future, apply to Consultant and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.
- g. **Waiver.** A waiver by either the Authority or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.
- h. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be and remain valid, binding and enforceable to the fullest extent permitted by law.
- i. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same instrument.
- j. **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given **(i)** if delivered by hand and actually received by the Party addressee, on the date of such receipt, or **(ii)** if mailed by domestic certified or registered mail, postage prepaid, on the third business day after the date postmarked or **(iii)** if sent by overnight courier of recognized standing, on the date of such receipt. The foregoing notwithstanding, the Parties agree that day-to-day communications concerning routine matters under this Agreement should be communicated electronically using such e-mail addresses as the Parties may provide to one another from time to time. Addresses for notice to the Parties are as shown below, or as subsequently modified by written notice given pursuant to this



Article 11.j.

Authority’s Contract Administrator:

Sites Project Authority
Attn: Joe Trapasso
Program Operations Manager
P.O. Box 517 (if by USPS)
122 Old Hwy 99W (if by courier)
Maxwell, CA 95955
Telephone: 530-387-1102
Email: jtrapasso@sitesproject.org

Consultant’s Representative:

Attn: _____

Telephone: _____

Email: _____

- k. **Representation by Attorney.** The Parties expressly represent and warrant that they have had the opportunity to receive, and/or have received independent legal advice from their respective attorneys with respect to the advisability and effect of entering into this Agreement.
- l. **Attorney’s Fees.** In the event of litigation for breach of this Agreement, or arising out of or related to this Agreement, the prevailing party shall be entitled to reasonable attorney’s fees, expert fees, and costs incurred.
- m. **Captions.** Any paragraph captions are for reference only and shall not be considered in construing this Agreement.
- n. **Electronic Communications.** During the course of this Agreement, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer software and Internet access. Contractor and the Authority acknowledge that the Internet is routinely victimized by the creation and dissemination of so-called viruses, or similar destructive electronic programs. Contractor and Authority view the issues raised by these viruses seriously and each has invested in commercially available document and e-mail scanning software that identifies and rejects files containing known viruses. Contractor agrees to update its system with its software vendor’s most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the Parties may occasionally reject a communication. The Parties acknowledge that this occurrence is to be expected as part of the ordinary course of



business. Because the virus protection industry is generally one or two steps behind new viruses, neither Party can guarantee that its respective communications and documents will be virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each Party will use commercially reasonable efforts to assure that its communications are virus free, neither Party warrants that its documents will be virus free. Each Party agrees to advise the other if it discovers a virus in its system that may have been communicated to the other Party.

- o. **No Partnership.** The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any other similar arrangement between the parties to this Agreement. Consultant's only relationship with Authority is that of an independent contractor.
- p. **Further Assurances.** The Parties shall execute such further documents and take such further actions as may be necessary to fully perform under this Agreement.
- q. **Remedies.** Any remedies reserved to the Parties in this Agreement shall not be exclusive remedies.
- r. **Covenant Against Contingent Fees.** Consultant agrees that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. In the event of a breach or violation of this covenant, Authority shall have the right to terminate this Agreement pursuant to **Article 2**, or, in its discretion, to deduct from Consultant's compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.
- s. **Entire Agreement.** This Agreement, including the Exhibits, together with any SOQ or RFQ, RFP or Proposal represents and contains the entire agreement and understanding between the Parties relating to the Services, and all previous statements or understandings, whether express or implied, oral or written, relating to those subject matters are fully and completely extinguished and superseded by this Agreement.