

## SAMPLE CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (this "Agreement") is entered into as of \_\_\_\_\_, 2020 by and between the COUNTY OF AMADOR, a political subdivision of the State of California (the "County") and Cal Engineering & Geology, Inc., a California Corporation (the "Consultant").

### RECITALS

A. The County desires to engage assistance to provide the hereinafter set forth special services.

B. Consultant is in the business of providing consulting services similar to those set forth in this Agreement.

C. County desires to engage Consultant, and Consultant desires to be hired by County, to perform the work described below, upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the performance of the covenants herein contained, the parties agree as follows:

### 1. SERVICES TO BE RENDERED BY CONSULTANT.

- 1.1 Upon request from County, Consultant will provide all equipment, supplies and personnel to perform professional engineering services for the Department of Transportation and Public Works (the "Work"). The Work is more particularly described on Attachment A attached and incorporated by this reference. Consultant shall comply with all applicable Federal, State and local laws relating to Consultant's performance of this Agreement.
- 1.2 Consultant shall perform the Work in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. If County determines that any of the Work is not performed in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the Work and resolve matters of concern; (b) require Consultant to repeat any substandard Work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to section 4 below; or (d) pursue any and all other remedies at law or in equity.
- 1.3 Consultant is authorized to proceed immediately following full execution of this Agreement and delivery and approval of required insurance documents as required by Section 13. Performance of the Work shall be completed within the time required herein or prescribed for an individual task by County; provided, however, that if performance is delayed by earthquake, flood, high water or other act of God, or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by the number of days equal to the number of days of delay.

- 1.4 Consultant shall complete each project assigned by County in accordance with an agreed-upon schedule.
- 1.5 Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- 1.6 Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- 1.7 When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
2. SERVICES TO BE RENDERED BY COUNTY. County agrees to make available to Consultant all existing maps, volume data, procedural or as-built data, existing plans and documents applicable to any assigned project constituting the Work.
3. CHANGES IN SCOPE OF SERVICES. Only the Amador County Board of Supervisors has the authority to agree to any extension of time, change order, change in the scope of work, change in the contract price, or other term or condition affecting either Consultant's or County's duties set forth herein. Adjustments in compensation, if any, shall be determined through negotiation between the parties to the Agreement and are subject to approval by the Board of Supervisors. Consultant acknowledges that no County staff person or County officer other than the Board of Supervisors has the power to amend the terms and conditions of this Agreement. Any change not so authorized in advance in writing by the Board of Supervisors shall be null and void.

Consultant shall only commence work covered by any amendment after the amendment is executed and notification to proceed has been provided by County's Contract Administrator.

4. TERM; TERMINATION OF AGREEMENT. This Agreement shall go into effect on the date of execution by County, and Consultant shall commence work after notification to proceed by the County's Contract Administrator. This Agreement shall terminate upon the earlier of the successful completion of the Work or three (3) years following the date of execution, unless extended in writing by mutual agreement of the parties. Consultant is advised that recommendation for contract award is not binding on the County until the contract is fully executed and approved by County.
  - 4.1 County reserves the right to terminate this Agreement with or without cause on thirty (30) calendar days written notice to Consultant with the reasons for termination stated in the notice.
  - 4.2 County may terminate this Agreement with Consultant should Consultant fail

to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, County may proceed with the work in any manner deemed proper by County. If County terminates this Agreement with Consultant, County shall pay Consultant the sum due to Consultant under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

- 4.3 The maximum amount for which the County shall be liable if the Agreement is terminated is for all services satisfactorily rendered up to the effective date of termination.
5. PROGRESS REPORTS. Consultant shall submit monthly a report containing a detailed statement of all services performed and all work accomplished under this Agreement since Consultant's last monthly report, along with separate invoices for each bridge indicating for each item of the Work the task performed, hours of work expended (in quarter-hour increments), hourly rate or rates of persons performing the task, and copies of receipts for reimbursable materials or expenses, see Attachment "C" for sample Progress Report.
6. COMPENSATION TO CONSULTANT.
  - 6.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. County 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 contract amendment. In no event, will Consultant be reimbursed for overhead costs at a rate that exceeds County's approved overhead rate set forth in the Cost Proposal. In the event, that County determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by County shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in subsection 6.8 shall not be exceeded, unless authorized by contract amendment.
  - 6.2 In addition to the allowable incurred costs, County will pay Consultant a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
  - 6.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
  - 6.4 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.

- 6.5 Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of Consultant's fixed fee will be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, County shall have the right to delay payment or terminate this Contract in accordance with the provisions of Section 4 Term; Termination.
- 6.6 No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.
- 6.7 Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by County's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 contract number and project title. Final invoice must contain the final cost and all credits due County including any equipment purchased under the provisions of Section 11 Equipment Purchase on Attachment C of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to the County's Project Administrator at the address identified in section 23, below.
- 6.8 The total amount payable by the County shall not exceed Fifty Thousand Dollars and No Cents (\$50,000.00).
- 6.9 Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by County's Contract Administrator.
- 6.10 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.
- 6.11 All subcontracts in excess of \$25,000 shall contain the above provisions.

7. SUPERVISION OF THE WORK.

- 7.1 Consultant shall supervise and direct the Work, using Consultant's best skill and attention. Consultant shall be solely responsible for all methods, techniques, sequences and procedures, and shall coordinate all portions of the Work. County will deal only through Consultant, who shall be responsible for the proper execution of the entire Work.
- 7.2 Consultant shall assign only competent personnel to perform any portion of the Work. If at any time County, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform the Work, Consultant shall remove such person or persons immediately upon receiving written notice from County. Except as provided above, 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 County's Contract Administrator.

- 7.3 Consultant shall be responsible to County for the negligent, reckless, or willful misconduct of Consultant's employees, subcontractors, and their agents and employees, and any other persons performing any of the Work under a contract with Consultant.
8. SUBCONTRACTING. Nothing contained in this Agreement or otherwise, shall create any contractual relation between County and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) 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 Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.
- 8.1 Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by County's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- 8.2 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by County.
- 8.3 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all of the provisions stipulated in this Agreement to be Applicable to subconsultants.
- 8.4 Any substitution of subconsultant(s) must be approved in writing by County's Contract Administrator prior to the start of work by the subconsultant(s).
9. CONFERENCES, VISITS TO SITE, INSPECTION OF WORK. In the event it should become necessary for the State or County to hold any conference or visit the site of a project, as a part of any such conference, Consultant shall cooperate fully with the parties involved and shall arrange for qualified representatives of Consultant, upon request of County, to attend any such conference or visit to the site as a part thereof. Consultant and any subconsultant shall permit County, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.
10. ASSIGNMENTS. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
11. CONSULTANT NOT EMPLOYEE OF COUNTY. It is understood that Consultant is not acting hereunder as an employee of County, but solely as an independent contractor. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in this

Agreement, Consultant has no authority or responsibility to exercise any rights or power vested in County. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

12. LICENSES, PERMITS, ETC. Consultant represents and warrants to County that it or its principals have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Consultant to practice its profession and to perform the Work. Consultant represents and warrants to County that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any license, permits, and approvals that are legally required for Consultant or its principals to practice its profession and perform the Work. Consultant further represents and warrants to County that any Subcontractor engaged by Consultant to perform a portion of the Work shall similarly possess all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for the Subcontractor to perform the portion of the Work that is the subject of the subcontract at issue.

13. INSURANCE. Consultant shall procure and maintain for the duration of the contract 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 by the Consultant, its agents, representatives, or employees. Within five (5) business days of award of the Bid to Consultant, Consultant shall furnish to County satisfactory proof that Consultant has the following insurance:

13.1 Minimum Scope and Limit of Insurance: Coverage shall be at least as broad as:

13.1.1 Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

13.1.3 Workers' Compensation insurance 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.

(If Consultant has no employees a Certificate of Exemption from Worker's Compensation Laws must be completed using the County's form and submitted with all other insurance documents).

- 13.1.4 Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

Broader Coverage/Higher Limits: If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or 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 County.

- 13.2 The insurance policies are to contain, or be endorsed to contain, the following provisions:

13.2.1 Additional Insured Status: The County, its officers, officials, employees, 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 both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

13.2.2 Primary Coverage: For any claims related to this contract, the Consultant's insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

13.2.3 Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

13.2.4 Waiver of Subrogation: Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

- 13.3 Self-Insured Retentions: Self-insured retentions must be declared to and approved by the County. The County may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

- 13.4 Acceptability of Insurers: Insurance is to be placed with insurers

authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

13.5 Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

13.5.1 The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

13.5.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

13.5.3 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.

13.6 Verification of Coverage: Consultant shall furnish the County with Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Certificates and endorsements shall refer to the Project or Work. Certificates of Insurance shall list the Certificate Holder as: County of Amador, Attn: Mark Hopkins, Public Works, 810 Court Street, Jackson, Ca 95642. Consultant shall provide all insurance documentation to the Contract Administrator.

13.7 Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that County is an additional insured on insurance required from subcontractors.

13.8 Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

14. OWNERSHIP OF PLANS AND DATA.

14.1 Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in County; and no further agreement will be necessary to transfer ownership to County. Consultant shall furnish County all necessary copies of data needed to complete the review and approval process.



- 14.2 It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- 14.3 Consultant is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by County of the machine-readable information and data provided by Consultant under this Agreement; further, Consultant is not liable for claims, liabilities, or losses arising out of, or connected with any use by County of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by Consultant.
- 14.4 Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- 14.5 County may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA 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.
- 14.6 Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Section.
15. INDEMNIFICATION. For all liability NOT arising out of its professional services, Consultant agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless County and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts of any person or entity under the control of the Consultant and for any costs or expenses (including but not limited to attorneys' fees) incurred by County on account of any claim except where such indemnification is prohibited by law. Consultant's indemnification obligation applies to County's active as well as passive negligence but does not apply to County's sole negligence or willful misconduct.
- For liability arising out the performance of its professional services under this Agreement, Consultant agrees to indemnify and hold harmless County and its officers, officials, employees, and volunteers from and against liability for damages to the extent caused by the negligent acts, errors or omissions of the Consultant. Under its indemnity obligation Consultant shall reimburse County for the proportionate share of reasonable defense costs to the degree of fault of the engineer as determined by a court or arbitration. Consultant's indemnification obligation does not apply to County's negligence or willful misconduct.
16. PUBLIC RECORDS ACT DISCLOSURE. Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section

6250 et seq.). Exceptions to public disclosure may be those documents or other information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed by County to be required by law or by court order.

17. RESPONSIBILITY FOR ERRORS. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County, regarding any services rendered under this Agreement at no additional cost to the County. In the event an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates, and other professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting with regard to the correction.

18. NON-DISCRIMINATION. Consultant shall provide all services under this Agreement without discrimination, and shall not discriminate against any employee or applicant for employment.

19. CONFLICT OF INTEREST.

19.1 Consultant shall disclose any financial, business, or other relationship with the County that may have an impact upon the outcome of this Agreement, or any ensuing County construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing County construction contract, which will follow.

19.2 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. Any subcontract entered into by Consultant relating to this Agreement, shall bind the subcontractor to all of the provisions of this Section in any such subcontract, and substituting the name of the subcontractor in place of the word "Consultant" where it appears in this Section.

19.3 Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions this Section.

19.4 Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.

19.5 Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any

construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

**20. ALCOHOL-FREE AND DRUG-FREE WORK PLACE POLICY.**

20.1 That while performing any services pursuant to the Contract, being present on any County property, or using any County equipment, the Contractor, its employees, sub-contractors and agents (1) Shall not be in any way be impaired because of being under the influence of alcohol or a drug; (2) Shall not possess, consume, or be under the influence of alcohol and/or an illegal drug; and (3) Shall not sell, offer, or provide alcohol or an illegal drug to another person.

20.2 If Contractor, or any employees, sub-contractors violate any of the above provisions, the County may terminate the Contract immediately.

21. COVENANT AGAINST CONTINGENT FEES. Consultant warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this contract 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, County has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

22. NOTICES. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Postal Services, certified with return receipt requested, with postage prepaid and addressed as follows:

To Consultant: Cal Engineering & Geology, Inc.  
785 Ygnacio Valley Road  
Walnut Creek, California 94596

To County: Department of Transportation and Public Works  
Project Administrator  
810 Court Street  
Jackson, CA 94642

With a copy to: Office of the County Counsel  
810 Court Street  
Jackson, CA 95642

The address to which notice shall or may be mailed, as aforesaid, to either party shall or may be changed by written notice given by such party or the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

23. CONTRACT EXECUTION. Each individual executing this Agreement on behalf of Consultant represents that he or she is fully authorized to execute and deliver this Agreement.
24. CONSTRUED PURSUANT TO CALIFORNIA LAW; VENUE. The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. Venue for all litigation relative to the formation, interpretation, and performance of this Agreement shall be in Amador County, California.
25. INCORPORATION OF AGREEMENTS AND AMENDMENTS. This Agreement contains all agreements of the parties with respect to any matter mentioned herein. No other Agreement or understanding pertaining to any such matter shall be effective, unless in writing signed by the party to be charged. This Agreement may be modified by the parties hereto only in writing and signed by both parties.
26. SEVERABILITY. The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.
27. TIME OF ESSENCE. Time is hereby expressly declared to be the essence of this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Agreement.
28. RETENTION OF RECORDS/AUDIT. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code section 8546.7; the Consultant, subconsultants, and the County shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the Contract, or the termination date of the Contract, whichever is later. The state, the State Auditor, County, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the Consultant and its certified public accountants (CPA) work papers that are pertinent to the Agreement and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

## 29. AUDIT REVIEW PROCEDURES.

- 29.1 Any dispute concerning a question of fact arising under an interim or post audit of the Agreement that is not disposed of by agreement, Shall be reviewed by the County's Auditor.
- 29.2 Not later than 30 days after the issuance of the final audit report, Consultant may request a review by the County's Auditor of unresolved audit issues. The request for review will be submitted in writing.
- 29.3 Neither the pendency of a dispute nor its consideration by County will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.
- 29.4 Consultant and subconsultant contracts, including cost proposals and ICR, are subject to audit and reviews, such as, but not limited to, a contract audit, an incurred cost audit, an ICR audit, or a CPA ICR audit work paper review. If selected for an audit or review, the contract, cost proposal, and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 DFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by County contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated in the contract by this reference if directed by County at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state, or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF AMADOR

CONSULTANT: Cal Engineering & Geology, Inc.

BY: \_\_\_\_\_  
Chairman, Board of Supervisors

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Federal I.D. No.: \_\_\_\_\_

APPROVED AS TO FORM:  
GREGORY GILLOTT, AMADOR COUNTY  
COUNSEL

ATTEST:  
JENNIFER BURNS, CLERK OF THE  
BOARD OF SUPERVISORS

BY: \_\_\_\_\_

BY: \_\_\_\_\_

## ATTACHMENT A – SCOPE OF WORK

(Provide a summary of the work to be provided here)

1. Includes all services specified in the County of Amador RFP Number XX-XX (Title of RFP here) and;
2. Cal Engineering & Geology, Inc. response to RFP XX-XX dated XXXX XX, 202X attached herein and;
3. Revised Statement of Work Dated XXXX XX, 202X and; (If Applicable)
4. Revised Cost Proposal Dated XXXX XX, 202X and; (If Applicable)
5. This Agreement

These documents are hereby made a part of and incorporated herein by reference into this contract.

## ATTACHMENT B - COST PROPOSAL

Total compensation to Consultant will be made monthly on a time-and-materials basis (or task related basis) with cost-not-to-exceed Fifty Thousand Dollars and No Cents (\$50,000.00) in accordance with Cost Proposal dated XXXX XX, 20XX submitted by Cal Engineering & Geology, Inc. see attached.

The Cost Proposal and Fee Schedule attached hereto, constitute the full and complete understanding and agreement of the parties with respect to the Services to be provided by Cal Engineering & Geology, Inc.; and they supersede any prior or contemporaneous understanding or agreement, whether written, oral or communicated in any other type of medium, between the parties relating thereto. No amendment or modification of any provision of this Agreement shall be binding unless made in writing and signed by the parties hereto.

The California Constitution requires that any County contract that extends beyond the current fiscal year must be subject to future appropriations.

### ADDITIONAL WORK

When the County requests additional work to be performed Consultant shall provide monthly invoices which will include an itemization of expenses for which reimbursement is being requested for. The invoice shall include for each item of the Work performed, hours of work expended (in quarter-hour increments), a detail of work performed, hourly rate or rates of persons performing the task, and copies of receipts for reimbursable materials or expenses.

### HOURLY LABOR RATES

- |   |           |               |
|---|-----------|---------------|
| • | Job Class | \$XXX.00/hour |
| • | Job Class | \$XXX.00/hour |

### EXPENSES AND SUBCONTRACTORS

Reimbursement for owned automobiles used in connection with the Work will be at the rate of .54 cents per mile. Reimbursement for direct outside expenses (such as maps, photographs, reproductions, etc.) will be at cost.

Reimbursement for subcontractor expenses will be at cost.

These documents are hereby made a part of and incorporated herein by reference into this contract.



ATTACHMENT C

Consultant Name  
Project Name / Number  
PROGRESS REPORT  
Period: Date

ACCOMPLISHMENTS THIS PERIOD:

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ACCOMPLISHMENTS FOR NEXT PERIOD:

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PENDING ISSUES/RECOMMENDATIONS FOR RESOLUTION:

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SCHEDULE:

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Progress This Period: XX%

Progress To-Date: \_\_\_\_\_ XX.X%

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Prepared by: (Name of Consultant Project Manager)

Date: Mo, Day, Year