



MONITOR CONTRACT AGREEMENT

The Parties to this CONTRACTOR agreement, made this **day of December 2022**, are **City of Arcata**, (hereinafter "**CLIENT**"), and the **Wiyot Tribe** (hereinafter "**CONTRACTOR**"), who agree as follows:

- 1. Description of Services:** **CLIENT** hereby retains **CONTRACTOR** to provide the services described in the **ATTACHMENT - Description of CONTRACTOR Services and Activities** and incorporated herein.
- 2. Duration:** The term of this Agreement shall be for the period of **December 1, 2022 through June 30, 2023**. **CONTRACTOR** retains the option to renew this **CONTRACTOR** Agreement as necessary and prudent on an annual or more often basis.
- 3. Compensation:** **CONTRACTOR** will be compensated **\$85.00** per monitor per hour, with a two-hour minimum charge, for services provided under this Contract. The Client as well agrees to pay mileage to and from site at the current GSA rate of **.625** per mile. **CONTRACTOR** agrees to submit invoices for services rendered in accordance with the schedule contained in the *Description of CONTRACTOR Services and Activities*.
- 4. Claims For Compensation:** **CONTRACTOR** agrees that he shall not be entitled to and shall not claim compensation for services performed under this contract for any hours or any working day if he received other compensation for the same hours or same working day, and the source of such other compensation has been federal government provided funds. It is further agreed by the **CONTRACTOR** that any claim for compensation submitted in violation of this clause shall, if paid, be recoverable by **CLIENT**.
- 5. Warranty, Indemnity, and Hold Harmless:** **CONTRACTOR** warrants and represents that he has every legal right to enter into the Agreement and to perform in accordance with its terms, and that he is not and will not become a party to any Agreement with anyone else which would be in violation of the rights granted to **CLIENT** hereunder. **CONTRACTOR** will indemnify and hold **CLIENT** harmless from and against any losses, damages, and liabilities, including reasonable attorney's fees. **CLIENT** makes no warranty, indemnity, or hold harmless Agreement.
- 6. CONTRACTOR Status:** It is understood and agreed between the parties that the **CONTRACTOR** is engaged by **CLIENT** solely in the capacity of an independent **CLIENT**, and that **CLIENT** shall not be obligated to withhold any federal, state, or local taxes from fees paid to **CONTRACTOR**, nor shall **CLIENT** have any liability for such withholding. Further, any required public liability, public damage, and/or Worker's Compensation Insurance shall be the sole responsibility of the **CONTRACTOR**.

7. **Confidential Information:** **CONTRACTOR** will not disclose directly or indirectly to or use for the benefit of any third party, any secret or confidential information, knowledge, programming code, or data acquired by virtue of its relationship with **CLIENT**, or developed through this contract with **CLIENT**, without the prior written approval of **CLIENT**. It is understood and agreed by the parties that the obligations of this paragraph shall survive the expiration or termination of this Agreement.
8. **Non-Assignability:** This Agreement may not be assigned or transferred by the **CONTRACTOR** without the prior written approval by the Executive Director of **CLIENT**. **CLIENT** reserves the right to assign or transfer the services and activities to be performed under this Agreement to another party, especially in the event that the **CONTRACTOR** fails to meet the performance requirements, timelines, and/or satisfactorily accomplish the defined tasks as specified and agreed to herein.
9. **Authority:** **CONTRACTOR's** authority to act under this Agreement, may be suspended upon written or verbal notice by the Executive Director of **CLIENT** or his designee. If verbal notice is given it shall be confirmed in writing within five (5) working days.
10. **Termination:** This Agreement may be terminated at any time, with or without cause, by either party, upon notice in writing as hereinafter provided. Any such termination shall be effective ten (10) days after receipt of such written notice mailed to either party at its designated address through registered mail.
11. **Arbitration:** Any controversy or claim arising out of or relating to the compensation to be paid by **CLIENT** or the **CONTRACTOR** for the services rendered or materials ordered or received, pursuant to the terms of this Agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof. Any party to this Agreement may submit to arbitration any said controversy or claim. The party requesting arbitration shall be solely liable for the cost incurred for the Arbitrator.
12. **Complete Agreement:** This Agreement constitutes the entire understanding between the parties, and no amendment or modification hereof shall be effective unless reduced to writing and signed by both parties.
13. **Severability:** Should any provision of this Agreement be held invalid or unenforceable, such a holding shall not affect the validity or enforceability of any other provision hereof.
14. **Applicable Law:** This Agreement shall be governed by the laws of the State of California.

In consideration of the mutual promises of the parties this Agreement is executed on the date first above written, in duplicate, intending each duplicate to be an original.

CONTRACTOR:
 Wiyot Contractor

 Typed Name

CLIENT:

 Typed Name

 Signature

 Signature

Date: _____

Date: _____

CONTRACTOR Address:

1000 Wiyot Dr.

Loleta, CA 95551

*EIN # 94-2714533

(*For Federal and State Tax reporting purposes.)

CLIENT Address:

736 F Street

Arcata, CA 95521

EIN # 86-2186507

ATTACHMENT

Description of Client and CONTRACTOR Services and Activities

<p><i>Scope of Work:</i></p>	<p><i>Client:</i> <i>Client will provide a project description with each request for monitoring services. Client will provide at least five (5) working days' notice before a Monitor is needed at the project site. If monitoring services must be cancelled, 24 hours' notice will be given to the THPO, and the Monitor assigned to the project. If there is to be no activity on any given day, due to inclement weather or other situations, the Client shall notify the THPO and the assigned monitor.</i></p> <p><i>Contractor:</i> <u><i>The Contractor shall provide services of a Tribal Cultural Monitor(s) ("Monitor") for designated Client project on an as-needed basis, as requested by the Client. Client will provide Project description along with each request for monitoring services. The Contractor may recommend assignment of additional Monitors, based upon the project needs.</i></u></p> <p><u><i>Cultural Monitor will oversee and inspect native ground-disturbing activities for the presence of cultural resources and or human remains. *If any cultural resources become unearthed during monitoring, the monitor will call attention to the discovery, and all work will stop within a 100-foot radius. The monitor will then contact Wiyot Tribe THPO to assess the significance of the resource. If Human Remains become unearthed, the State Law requires. The Client shall comply with the provisions of the California Health and Safety Code 7054 and 7050.5 and the California Public Resources Code Section 5097.9 and 5097.99, Including contacting the Humboldt County Corner (707)445-7242 and the NAHC (Native American Heritage Commission). Discovery of Human Remains must be kept confidential from the public. Human Remains will NOT be removed from the site. If possible, the contracting parties will make all attempts to ensure the burial grounds remain intact. All decisions regarding Wiyot Cultural Resources and or Human Remains shall be at the discretion of the Wiyot Contractor's THPO. Suppose contracting parties discover and cannot stabilize Wiyot's human remains and cultural resources in the excavation area. In that case, the Wiyot Contractor's THPO will take control and possession of the human remains and resources for proper care on behalf of the Wiyot Tribe.</i></u></p>
<p><i>Completion Schedule:</i></p>	

<i>Compensation:</i>	
<i>Authorized Contacts:</i>	<i>CLIENT: Karen Diemer, City Manager, 736 F Street, Arcata, CA 95521 (707) 822-5953</i> <i>CONTRACTOR: Ted Hernandez, Cultural Director, Wiyot Contractor, 1000 Wiyot Dr. Loleta, CA 95551, (707) 733-5055, Cell: (707)499-3089, ted@wiyot.us</i>