

**SECOND AMENDMENT
AGREEMENT FOR CONSULTANT SERVICES
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
MARK THOMAS AND COMPANY, INC.
FOR FISCAL YEARS 2021-2022 THROUGH 2026-2027**

This First Amendment to the Agreement for Consultant Services dated March 8, 2022, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Mark Thomas and Company, Inc., a California corporation, hereinafter referred to as "CONSULTANT," is entered into this ____ day of _____, 2023.

WHEREAS, on March 8, 2022, COUNTY and CONSULTANT entered into an Agreement for Consultant Services regarding the provision of on-call engineering and/or environmental services ("Consultant Services Agreement"); and

WHEREAS, on July 19, 2022, COUNTY and CONSULTANT amended the Consultant Services Agreement in order to adjust the rates of compensation set forth therein; and

WHEREAS, the parties now desire to amend certain provisions of the Consultant Services Agreement in order to modify the maximum amount payable set forth therein.

NOW THEREFORE, the parties mutually agree as follows:

1. Article V - Allowable Costs and Payments of the Consultant Services Agreement is hereby amended to read as follows:

ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead expenses and fees. These rates are not adjustable for the performance period set forth in this Agreement. CONSULTANT will be reimbursed within thirty (30) calendar days after COUNTY's receipt of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for actual incurred direct costs, other than salary costs, that are identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through the issuance of Task Orders that have been approved by COUNTY's Contract Administrator.
- D. After a project to be performed under this Agreement is identified by COUNTY, COUNTY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a COUNTY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person,

any anticipated reimbursable expenses, overhead costs and fees, if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both COUNTY and CONSULTANT.

- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal. CONSULTANT shall be responsible for any future adjustments to prevailing wage rates, including, without limitation, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT will also be responsible for paying the appropriate rate, including, without limitation, escalations that take place during the terms of the Agreement.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT shall be responsible for transportation and subsistence costs in excess of applicable state rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an amendment to this Agreement for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not perform any work or services until this Agreement has been approved by COUNTY, and notification to proceed has been issued by COUNTY's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this Agreement.
- J. A Task Order is of no force or effect until returned to COUNTY and signed by an authorized representative of COUNTY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by COUNTY.
- K. CONSULTANT will be reimbursed within thirty (30) calendar days after COUNTY's receipt of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number, project title and Task Order number. Credits due COUNTY that include any equipment purchased under the provisions of Article XI – Equipment Purchase of this Agreement, must be reimbursed by CONSULTANT prior to the expiration or termination of this Agreement. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:

COUNTY: Humboldt County Department of Public Works – Engineering Division
Attention: Tony Seghetti, Contract Administrator
1106 Second Street
Eureka, California 95501

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement.
 - M. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by an amendment thereto.
 - N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
 - O. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
 - P. The total amount payable by COUNTY for all Task Orders resulting from this Agreement shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00). It is understood and agreed that there is no guarantee, either expressed or implied, that this dollar amount will be authorized under this Agreement.
2. Except as modified herein, the Consultant Services Agreement dated March 8, 2022 shall remain in full force and effect. In the event of a conflict between the provisions of this Second Amendment and the original Consultant Services Agreement, or any prior amendments, the provisions of this Second Amendment shall govern.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have entered into this Second Amendment as of the first date written above.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND

(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

MARK THOMAS AND COMPANY, INC.:

By:  _____

Date: 6/29/2023

Name: James D. Howell

Title: CFO

By:  _____

Date: 6/29/2023

Name: Sasha Dansky, PE

Title: Vice President

COUNTY OF HUMBOLDT:

By: _____

Date: _____

Steve Madrone, Chair
Humboldt County Board of Supervisors

INSURANCE REQUIREMENTS APPROVED:

By: _____

Date: _____

Risk Management