

**NAPA COUNTY AGREEMENT NO. 220242B**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 8<sup>th</sup> day of February, 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “COUNTY”, and Cardno, Inc., a Delaware corporation, whose mailing address is 2890 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833, hereinafter referred to as “CONTRACTOR”;

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to secure engineering services needed for the design, permitting and project delivery of a replacement culvert where Campbell Creek crosses under Dry Creek Road; and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein.

**TERMS**

**NOW, THEREFORE**, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2025, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to COUNTY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention).
2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit “A”, attached hereto, in addition to the Request for Proposals and CONTRACTOR’s proposal, incorporated by reference herein.
3. **Compensation.**
  - (a) **Rates.** In consideration of CONTRACTOR’s fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit “B”, attached hereto and incorporated by reference herein.

(b) Expenses. Travel, direct costs, and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the "Direct Cost" allocation and limits set forth in Exhibit "B."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of THREE HUNDRED SEVENTY-FIVE THOUSAND FORTY DOLLARS (\$375,040) for professional services and SEVEN THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$7,315) for expenses, for a total not to exceed amount of THREE HUNDRED EIGHTY-TWO THOUSAND THREE HUNDRED FIFTY-FIVE DOLLARS (\$382,355); provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

#### 4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than once per month to the Director of Public Works who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit "C".

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or becomes a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the Director of Public Works upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, COUNTY employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at

CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that COUNTY may monitor the work performed by CONTRACTOR. COUNTY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY's Risk Manager.

(b) Liability Insurance. CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, **issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:**

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(3) Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be

business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the Napa County Public Works Department prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its COUNTY number or title and department; shall be kept current during the term of this Agreement; shall provide that COUNTY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon request by COUNTY's Risk Manager, CONTRACTOR shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and

the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by COUNTY's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects COUNTY, its officers, employees, agents and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

**8. Hold Harmless/Defense/Indemnification.**

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless COUNTY and its officers, agents, employees, volunteers, or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

**9. Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

10. **Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least thirty (30) days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

11. **Disposition of, Title to and Payment for Work Upon Expiration or Termination.**

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY (“County data”), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR’s systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a “work made for hire” for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR’s expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to

receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

12. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

Steven E. Lederer  
Director of Public Works  
1195 Third St., Room 201  
Napa, CA 94559

CONTRACTOR

Stephen Peck, PE  
Cardno, Inc  
2890 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective June 20, 2017.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with

COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

**15. Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its Director of Public Works or designee. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing County Protected Information from a County facility; the unauthorized transmission of County Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or County employees) who do not have a County approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of. This

includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

#### **16. No Assignments or Subcontracts.**

(a) In General. A consideration of this Agreement is the personal reputation of CONTRACTOR; therefore, CONTRACTOR shall not assign any interest in this Agreement or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of COUNTY, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONTRACTOR, or to perform any of the remaining services required under this Agreement within the same time frame required of CONTRACTOR shall be deemed to be reasonable grounds for COUNTY to withhold its consent to assignment. For purposes of this subparagraph, the consent of COUNTY may be given by the Director of Public Works.

(b) Effect of Change in Status. If CONTRACTOR changes its status during the term of this Agreement from or to that of a corporation, limited liability partnership, limited liability company, general partnership, or sole proprietorship, such change in organizational status shall be viewed as an attempted assignment of this Agreement by CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

17. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

18. **Interpretation; Venue.**

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

19. **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), or political affiliation or belief, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof

as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

(d) Prevailing Wages. Contractor shall adhere to the prevailing wages provisions as set forth in Exhibit "D," attached hereto and incorporated herein by this reference.

20. **Taxes.** CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** COUNTY, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of CONTRACTOR which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to COUNTY and shall not acquire

any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR to file with the Elections Division of the Napa County Assessor-Clerk Recorder “assuming office”, “annual”, and “leaving office” Statements of Economic Interest as a “consultant”, as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined in writing that CONTRACTOR, although holding a “designated” position as a consultant, has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

24. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create such rights.

25. **Attorney’s Fees.** In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney’s fees incurred in connection with such action.

26. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

27. **Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

28. **Special Terms and Conditions.**

(a) Contractor shall comply with those requirements set for in potential/future federal, state or local grant funding requirements subsequently deemed applicable to the work completed in connection with this Agreement.

**IN WITNESS WHEREOF**, this Agreement was executed by the parties hereto as of the date first above written.

Cardno Inc., a California Corporation

By \_\_\_\_\_  
**Katie Ross Smith, Business Unit Leader**

“CONTRACTOR”

NAPA COUNTY, a political subdivision of  
the State of California

By \_\_\_\_\_  
**RYAN GREGORY, Chair**  
Board of Supervisors

“COUNTY”

APPROVED AS TO FORM Office of County Counsel  By: <u>John L. Myers (e-sign)</u> County Counsel  Date: <u>January 24, 2022</u>	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS  Date: _____ Processed By: _____  Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors  By: _____
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**EXHIBIT “A”**

**SCOPE OF WORK**

CONTRACTOR shall provide COUNTY with the following services:

**I. DESCRIPTION OF SERVICES**

**PROJECT DESCRIPTION:**

Culvert replacement on Campbell Creek near Lokoya Fire Station at 5900 Dry Creek Road, (Lat:N38.407175, LON:-122.433525) in Napa County. Replace single 72 inch diameter by 85 foot long corrugated metal pipe with an open bottom structure. The goal of this project is to reduce the potential for future erosion and promote fish passage.

**TASK 1 PROJECT MANAGEMENT, COORDINATION, AND SCHEDULE – \$17,635**

Timely and consistent project management, scheduling, and coordination are critical parts of any project. Generally, the efforts will include project management, coordination, invoicing and scheduling. Invoicing will be completed monthly and will include an updated project schedule. The Project Management and Coordination includes the internal Cardno team coordination and communication efforts required to perform the work along with monthly budgeting, invoicing, filing, sub-consultant coordination and invoicing, and general project administration. To facilitate these tasks, Cardno will assign a project coordinator who is dedicated to the Project from inception to completion. This allows for an efficient work process that benefits both the County and Cardno team.

The Cardno team will establish effective communication between the parties involved including County staff. Our experience shows that although the primary point of contact will be the Cardno Project Manager, direct communications between County staff and designated Task Leaders should occur when needed for efficiency of certain Project work efforts. This coordination will be in form of monthly virtual meetings between the County and Cardno Project Manager, along with pertinent Project staff.

Deliverables:

- > Monthly Invoices
- > Monthly Schedule Updates
- > Monthly Coordination Meetings (virtual; 1-hour each)

Assumptions:

- > The overall duration of the contract is assumed to be 17 months (January 2022 thru May 2023)
- > Project Management will be concentrated during the design process (through 100% design; minimal efforts required during construction)
- > No progress reports will be provided
- > Coordination meetings will be virtual and informal in nature (no formal agenda or meeting summary will be developed; action items will be in a follow-up email)

## **TASK 2 SITE SURVEYING AND BASEMAP UPDATES - \$22,772**

*Cardno has teamed with R.E.Y. Engineers Inc. (R.E.Y.), to provide land surveying and basemapping for the Project. Site survey is required within the proposed Project improvement area to define existing drainage courses, site topography, locate existing right-of-way, edge of roadways, existing utilities, predominate structures and landscape elements (buildings, fences, trees, rock outcrops, etc.), to provide an accurate basis for the design of the Project improvements. R.E.Y. will conduct the Survey using a mix of UAS (drone) LiDAR and traditional survey methods and will be based on accepted local horizontal and vertical datums.*

*The Survey limits will encompass an area approximately 100' upstream and downstream from the culvert crossing of the creek, along with 50' in each direction from the Campbell Creek connection of Dry Creek to capture the outfall and creek confluences. The survey will include roadway edge and cross sections every 25' for a total length of 100' in each direction on the road from the crossing location (200' of roadway length). The data will be compiled into a basemap to be used for design of the culvert replacement, modeling, and to document the existing conditions.*

*Cardno will coordinate with utilities in the area to identify specific utility locations in the Project area. It is assumed that utility grid maps will be provided from applicable utilities to generally identify utility locations, sizes and material types. These maps will be used to create an updated basemap showing known utilities in the area. Underground Service Alert (USA) will additionally be performed prior to the survey to allow for survey of the USA markings to support the utility mapping in the Project area. Based on a preliminary review, there are anticipated to be minimal existing utilities in the vicinity of the project area, with no "major" utilities requiring design potholing and relocation plans. It is assumed that the minor underground utilities in the Project area will be potholed and relocated at the time of construction by the utility owner.*

### Deliverables:

- > Project Basemap

### Assumptions:

- > County will provide projection and datum requirements
- > County will provide any existing survey control and right-of-way information
- > One telecommunications line is assumed to be located within the project area, and no other underground utilities are assumed
- > Telecommunications in conflict with the proposed improvements is assumed to be potholed and relocated by the utility owner
- > No potholing will be performed

## **TASK 3 GEOTECHNICAL INVESTIGATIONS - \$9,560**

*Cardno has teamed with Miller Pacific to complete the geotechnical investigation for the Project. Miller Pacific has performed work at the site in the past (2013) and will utilize this information and supplement it with an additional boring outside of the roadway corridor to provide additional information of the natural soil conditions.*

To supplement the existing boring near the downstream end of the culvert, Miller Pacific will advance another boring near the upstream portion of the Project area. Prior to mobilizing the drill rig, Miller Pacific will obtain encroachment and environmental permits and notify Underground Service Alert to mark public utilities. The boring will advance to a depth of approximately 15 feet

(several feet below the proposed creek bottom within the crossing area) or refusal in hard rock. Miller Pacific will obtain samples for laboratory testing, measure water levels and backfill the boring at the conclusion of the investigation. In the Miller Pacific laboratory, moisture density and strength tests will be performed to support the geotechnical recommendations.

Miller Pacific will review previous exploration at the site along with new field and lab data and evaluate geotechnical site conditions and prepare recommendations for the Project. Miller Pacific will prepare a report that will include a summary of the site surface and subsurface conditions, a discussion of relevant geologic hazards and recommendations for proposed improvements. Miller Pacific will recommend criteria for new foundations and retaining walls, including seismic coefficients, bearing and lateral pressures, subsurface drainage needs, and backfill criteria. The report will also include a site plan showing the location of borings, boring logs, and laboratory data.

Deliverables:

- > Geotechnical Report (draft and final)

Assumptions:

- > 2013 geotechnical investigation will be utilized to reduce borings required to be performed
- > Roadway structural design will not be included; a standard County roadway structural section will be used in the Project.

**TASK 4      HYDROLOGIC/HYDRAULIC, GEOMORPHIC AND FISH PASSAGE ANALYSIS - \$21,384**

**Hydrologic and Hydraulic Analysis**

*To inform the design, a XPSWMM model of the project area will be developed analyzing both the existing and proposed conditions. Cardno will use this model in the design of the Project to assess both the hydrologic and hydraulic aspects of the proposed improvements. Existing storm drainage features in the model will be updated, refined, and verified during the field surveying efforts associated with Task 2 to assure relevant existing storm drainage infrastructure in the project area is surveyed and accurately incorporated into the modelling efforts.*

*The model and associated technical memorandum will be developed at the 35% design phase, to support the planning and design of the Project. Cardno will update the model at each subsequent phase of design (65%, 95% and 100% design steps) to reflect the design depicted on the project plans. Cardno will then re-run the model at each design update and analyze specific storm events as determined in coordination with the County (up to three different storm events). Per Napa County Stream Maintenance Manual, for all streams with active stream cross section area greater than 3 feet by 1 foot and when a replacement culvert is needed, the culvert capacity needs to convey the 100-year flow. Therefore the 100-year storm event will be modeled, and be the minimum flood flow sizing basis of design.*

*The Cardno team sees the modeling efforts as an iterative process during the design. When the stormwater infrastructure is designed in draft form (plan and profiles are completed), the data will be input/updated in the XPSWMM model. The model will then be run at the various design storms and reviewed. The review will include both surface hydrology/runoff and culvert crossing conditions. The XPSWMM model output and visual interaction aspects provide for real time information (i.e., if the structure is surcharging and cannot handle the flows of a design storm,*

*the structure overflows and provides a visualization of this condition). The designers can then make adjustments in the model (increased size, modifying slopes, etc.) to determine the most effective way to resolve any issues or concerns that may be witnessed. Once resolved, the update will be incorporated into the design plans. This process will provide the County with design plans that adequately address the hydrologic and hydraulic aspects of the project area.*

*As part of the Hydrologic and Hydraulic analysis, a technical memorandum will be completed to summarize and identify the findings. This technical memorandum will be completed along with the 35% plan stage (Task 5) to inform the design from the start. This will ensure the design is adequate for the site hydraulics with fewer anticipated revisions being required at future design stages. The technical memorandum will include the results from the analysis and recommendations for the proposed design. It will comply with the Napa County Stream Maintenance Manual and include all applicable data for a complete stream analysis.*

### **Fish Passage and Geomorphic Analysis**

*To ensure proper fish passage and geomorphic function of the stream channel, the Cardno team will perform a desktop review and conduct a site visit to assess the geomorphic and fish passage conditions and potential improvements. The proposed design will allow for fish passage and extend habitat from the current culvert location up to a natural barrier at the end of the anadromy Campbell Creek, approximately 4,000 ft. upstream of the project area. The primary species of interest is steelhead, and quality spawning and rearing habitat has been documented upstream of the culvert. The design is anticipated to include a natural stream channel re-graded to match the elevation of the creek stream bed upstream and downstream of the crossing. The design may include acceptable metrics for steelhead passage related to water velocities, water depths, channel slope, and vertical water falls during key life stage periods. Of primary importance is the migration of both adult and juvenile steelhead. Because steelhead may return to spawn over multiple years, at multiple sizes and capabilities, a design that includes slow water pocket refuges will be valuable for fish passage success. Slow water for improved fish passage suitability can be incorporated using a step pool design or permanent natural pool structures in the streambed. Fish passage abilities of steelhead will be obtained from Cardno's fish biologists, the scientific literature, and relevant software packages (e.g. FishXing). The design will take into account the stream hydrology of both Campbell Creek and Dry Creek, and the fish passage information for steelhead to create a crossing that will allow for passage. As a part of the geomorphic assessment and required by the stream simulation design per the California Department of Fish and Wildlife (CDFW), California Salmonid Stream Habitat Restoration Manual, a reference reach will need to be identified which is similar in nature to the Project reach. This reference reach stream morphological bed and bank features is required to be measured, assessed and documented. Depending on the channel type, stability, and morphology, the reference site could be located upstream of the culvert crossing (same stream as the Project), or a stream in another area may need to be identified. Cardno geomorphologists will determine the reference reach as part of the Project reach assessment and conducted as part of the Project reach assessment.*

*Within the reference reach, cross sectional data will identify the floodprone width and key features necessary for flood conveyance. Channel bed morphological features will be identified in the longitudinal profile to inform the Project channel design. A pebble count (1) and/or bulk sediment sample (1) will be conducted to characterize channel particle size gradation to estimate*

*bankfull velocity/discharge and to inform the design of the proposed Project channel material gradation (material sizing to be used in the proposed channel).*

*Cardno will develop a technical memorandum documenting the fish passage and geomorphic assessment of the Project reach and representative reach. The technical memorandum will support the project design, environmental review and CDFW permitting.*

*Deliverables:*

- > Existing Conditions Model
- > XPSWMM model (35% design); updates at 65/95/100 design levels
- > Hydrologic/Hydraulic Technical Memorandum
- > Fish Passage and Geomorphic Technical Memorandum

*Assumptions:*

- > Representative stream reach is located within the existing creek or within a 15 minute drive of the Project area, and identified during the geomorphic site visit.

**TASK 5      35% PRELIMINARY DESIGN - \$28,020**

*The 35% preliminary design stage is intended to provide an overview of the proposed Project improvements and inform all parties of the Project intent. This will allow for comments to be received, and revisions incorporated into the design prior to significant design efforts, environmental review, etc. being performed.*

*There are various open bottom culvert material alternatives (Concrete/Steel/Aluminum) which may be able to be implemented for the Project crossing. Each open bottom culvert material has both benefits and drawbacks. Cardno will complete a cost/benefit analysis to identify the differences in materials, costs, and anticipated lifespan. The capital cost, required maintenance, and longevity of each open bottom culvert material will be analyzed to determine the preferred material. The analysis will be summarized in a brief technical memorandum with high level cost estimates of each alternative along with relevant and readily available information.*

*The Cardno team will utilize the basemap (Task 2) along with information obtained as part of the hydrologic/hydraulic, geomorphic and fish passage analysis (Task 4) to guide the initial design process. The 35% design will consist of a preliminary level plan set showing the general layout of the project. The plans will include title sheet, notes, stream plan and preliminary profile, general stream cross-section, preliminary roadway plan and profile, and general standard details. No supplemental sheets will be included in this stage (BMPs, traffic control, detailed design sheets). These plans will show the project intent and allow for discussion on the desired project details with regulatory agencies, funding agencies and other project stakeholders.*

*Upon completion of the draft 35% design plans and cost/benefit analysis Cardno and Napa County will conduct a virtual meeting to review the documents and determine the preferred open bottom culvert material for the crossing. A preliminary cost estimate will be developed to augment the plans and identify complete costing for the project construction. This estimate will be preliminary in nature with a 20% contingency added to account for any unforeseen changes in design or future construction costs.*

*Deliverables:*

- > 35% design plans
- > Preliminary cost estimate

- > Cost/Benefit Analysis technical memorandum

Assumptions:

- > Utilities to be relocated will only be identified at this design step; no relocation plan will be included in plan set
- > Comments received on the 35% design will be incorporated into the 65% design
- > No work will commence until tasks 2, 3 and 4 have been completed

**TASK 6      65% DESIGN - \$35,822**

*The development of the 65% design is a critical step in the design development process, as the design evolves from a general/preliminary level to a detailed design level. In coordination with the County, Cardno will add detail to the plans to address key project components and provide necessary constructability information to show how the project is to be built to support the environmental review and documentation. The 65% design step will also establish a clear budget for the construction costs with a detailed construction cost estimate.*

*The Cardno team will provide the County with key updates and encourages informal communication with the County on a regular basis (standing phone calls in addition to the monthly virtual meetings). This collaboration will promote a cohesive design approach and provide our team with feedback on critical design elements, impacts, and potential construction constraints.*

*The 65% design plans will be developed based on the preferred alternative as determined by the County during the 35% preliminary design process. The plans will represent an industry standard 65% design level with sufficient detail for environmental review and incorporate the Project elements desired for construction. The plan set will be comprised of the following types of plan sheets:*

- > Title sheet
- > Notes/index
- > Traffic control/phasing plan
- > Temporary bmp, staging/storage/access, diversion
- > Roadway plan sheet
- > Stream plan sheet overview
- > Stream channel details
- > Roadway profile
- > Stream profile
- > Roadway cross-sections
- > Stream cross-sections
- > Project specific culvert details
- > Guardrail plan
- > Detail sheets

*The design and supporting plans to be developed are based on the following anticipated key design features and design assumptions:*

- > Utilities

- Based on a preliminary review of the Project area it appears the only underground utility in potential conflict is a telecommunications line/conduit. There is no apparent natural gas, water, sanitary sewer, or electrical underground in the Project area. This will be confirmed as part of Task 2.
  - Typically, telecommunications are relocated by the utility provider, and therefore Cardno will provide coordination assistance with the utility owner to coordinate and document the necessary relocations in the plans and specifications (and construction schedule).
- > Construction Phasing
- The project will be completed in a phased construction approach to provide a minimum of two traffic lanes open at all times (assumed minimum travel width of 24').
- > Construction Schedule
- Construction is planned to be completed during the “dry” season allowing for the channel to be dry with no flowing water. However, due to the active nature of channels and necessity for extended construction duration, a dewatering and channel diversion plan will be required in case of rain events that could potentially create channel flow. This information will be included in the BMP sheets in the form of schematic and general details to identify diversions and dewatering to support the Project permitting.
- > Roadway Safety / Guardrail
- Guardrail is anticipated to be required along the south side of the road based on the proximity of the roadway edge, travel speeds, horizontal roadway alignment, and roadway embankment. The Project plans will include a plan and Caltrans standard details identifying the location, type, and limits of guardrail to be installed.

*The Cardno team will provide the 65% design plans to the County for review and comment. The Cardno team will meet with the County to review the plans and conduct a review meeting at the Project site. This meeting will enable the Cardno team and County to walk the site and review the proposed improvements against the existing conditions. This will allow both parties to identify any potential Project issues/complications so it can be addressed at the 95% design. At this stage of the design process, the Cardno team does not propose to develop project technical specifications/special provisions. These will be developed at the 95% design stage when the project design is refined, and all material aspects of the project are nearly complete. This will reduce drafting efforts for general assumptions on the specifications/special provisions and reduce County review time, allowing for a more efficient project delivery process at a reduced cost.*

*To augment the plans, Cardno will produce a construction cost estimate to detail the anticipated project costs. The estimate will expand on the preliminary cost estimate for the project with refinements and updates based on the 65% design. Cardno will coordinate with the County and establish unit prices to reflect recent construction costs for similar work in the region. Recent bid results from other County projects will provide useful data points.*

Deliverables:

- > 65% design plans
- > 65% cost estimate

Assumptions:

- > Utilities to be relocated are assumed to be limited to telecommunications which the utility owner will provide relocation plans for
- > One onsite meeting
- > County will provide recent construction bid tabulations

**TASK 7 ENVIRONMENTAL REVIEW AND DOCUMENTATION - \$34,144**

*Cardno will perform the environmental compliance effort for the Project. Our approach is based on a straightforward, cost-effective process that produces sound and defensible documents. We solicit and integrate agency and public issues and concerns early in the project planning process to define the required level of environmental documentation. Cardno believes that the successful analysis of projects lies in the development of a complete, detailed and accurate project description. With the appropriate level of project detail, our staff will identify existing conditions (baseline), potential resources to avoid, reduce or mitigate, and identify strategies for streamlining the permitting process.*

**Subtask 7A: Environmental Review**

**Biological Resources - Wildlife**

*Cardno proposes to streamline the biological resource efforts based on the characteristics of the existing project area and conduct current biological database queries for wildlife. It is anticipated that there may be habitat for and presence of special status species within and/or adjacent to the Project disturbance area. The database queries will be combined with available previous reports on Campbell Creek within or nearby to the project area (i.e., Biological Resource Assessment prepared for the Dry Creek Road Bank Stabilization Project, Kleinfelder and Ganda, June 2021; and the Dry Creek Road Culvert at Campbell Creek Fish Passage Assessment, Napa Valley RCD, June 2011). We anticipate that the Project will improve existing habitat conditions such as the removal of the culvert structure that currently creates a barrier to both juvenile and adult steelhead migration and the replacement with an open-bottom conveyance structure. It is our understanding that as a resource protection measure, preconstruction nesting surveys for migratory birds will be necessary for compliance with existing federal, state, and local resource protection programs and will be detailed as resource avoidance and protection measures included in the project description.*

*Based on the database search, a Cardno biologist will perform a one-day focused survey for special status wildlife and botanical species most likely to occur and identify opportunities to improve habitat function as part of a multi-benefit project approach. Cardno's review and field survey will be documented in a brief biological resources technical memorandum in support of the IS/ND and subsequent permitting, which will include most appropriate avoidance strategies (including limited operating periods for construction [LOPs]), and, if needed, design element strategies to reduce potential impacts to less than significant.*

**Biological Resources - Botanical**

Cardno proposes to conduct biological database queries and review of the most recent California Natural Diversity Database (CNDDDB) occurrence records. Based on the project area location and level of disturbance, special status botanical resources are not anticipated to be located within the

project area, and the database queries and the one-day focused survey will confirm this assumption. If the biological database queries indicate habitat for sensitive plants is present, both early- and late-blooming period surveys will most likely be required. Under this event, Cardno will coordinate with the County on these effects to the proposed environmental process, and amend the scope, and budget, as necessary.

The botanical review will be documented in the above mentioned biological resources technical memorandum, as will the most appropriate avoidance strategies and, if needed, mitigation strategies.

### **Cultural Resources**

A review of cultural resources located within the project area will be conducted to ensure the environmental clearance is acceptable and defensible. This effort includes archival research for archaeological resources (prehistoric and historic-era), built environment resources (historic buildings), and Native American resources that may be present within the Area of Potential Effect (APE).

Archival research in order to identify archaeological and built environment resources will include a records search at the following repositories. This research will incorporate the project area and a buffer of up to 0.25 mile. This search will include a review of existing site records and investigation reports, historical mapping, and documentary sources specific to the proposed project alignment and immediate area.

Archival and research will include:

- > Local historical societies and museums
- > Review of General Land Office (GLO) records, deeds, land patent records, and Napa County assessors' offices
- > California Historical Resources Information System (CHRIS) Northwest Information Center, Sonoma State University.
- > Request for Sacred Lands File from the Native American Heritage Commission
- > Development of site-specific resource protection measures
- > Development of Inadvertent Discovery Plan and Human Burial Remains Treatment Plan

No cultural pedestrian survey of the APE is proposed as the APE is a heavily disturbed area where intact surface cultural remains are unlikely.

To support Napa County's efforts to comply with AB 52 requiring Tribal Consultation prior to preparing a CEQA document, Cardno will prepare the consultation letter(s) addressed to the appropriate tribal representative(s) of any tribe that is traditionally and culturally affiliated to the geographic area the Project is located within. We typically contact the Native American Heritage Commission to confirm tribe(s) and current representative(s) that are traditionally and culturally associated with the Project area. We find that most often we are able to successfully gather needed information, build working relationships and avoid inadvertent discoveries through the AB 52 process.

### **Subtask 7B: Environmental Documentation**

Based on our current knowledge of the project and project area and knowledge of previous environmental documentation, Cardno is proposing that a CEQA Initial Study- Negative Declaration (IS/ND) will be required for environmental clearance for project approvals. Based on the Napa Valley RCD Fish Passage Assessment of the culvert (June 2011) steelhead have been observed in Campbell Creek and this special status species alone will require a CEQA clearance document. Cardno will prepare a detailed yet focused project description, approved by the County which will include best management practice strategies that will serve the purpose of self-mitigating the Project.

The Cardno team will prepare the project-level Initial Study (IS) and based on an analysis that shows there could be no potential significant impacts a Negative Declaration (ND) and the Notice of Intent (NOI) will be prepared for the County. The NOI will identify the public circulation dates that will not equate to less than 30-days. We are assuming a 30-day review period because the document will be submitted to the State Clearing House due to the required review of State Agencies (includes California Department of Fish and Wildlife at a minimum). A Cardno staff environmental lead will be available to support Napa County Staff when the project and IS/ND is before the Napa County decision makers for adoption and project approval. With the adoption of the IS/ND, Cardno will prepare the Notice of Determination for filing by Napa County within 5-days of project approval.

Deliverables:

- Biological Resources Technical Memorandum
- Cultural Resources Technical Memorandum
- AB 52 Tribal Consultation letter(s)
- Draft and Final CEQA Initial Study and Negative Declaration
- Notice of Intent Provide staff support for one public hearing to adopt CEQA IS/ND
- Notice of Determination

Assumptions:

- Napa County will distribute the AB 52 letters
- Notice of intent will be delivered electronically to the State Clearing House
- Napa County will file the Notice of Determination
- California Historical Resources Information System (CHRIS) Northwest Information Center, Sonoma State University, database search fees are estimate, direct cost will be invoiced, without markup, to the County
- No federal funding is anticipated and therefore National Environmental Policy Act (NEPA) clearance will not be required
- All deliverables will be submitted in electronic format appropriate for reproduction and printing
- Cardno's CEQA lead will provide support (in-person) for up to one public hearing

**TASK 8      95% DESIGN - \$39,592**

*The Cardno team will prepare a 95% design package for the project. The 95% design will be developed based on comments received from the County at 65% design and any requirements / measures based on the environmental compliance documentation (Task 7). The 95% design plan*

*set will include the same plan sheet types as documented in the 65% design (Task 6). The updated plans are to represent a standard 95% detailed design and clearly define the project for permitting purposes.*

*In addition to the plans, draft technical specifications/special provisions for the project will be developed for materials/construction items associated with the project. The project technical specifications/special provisions will be developed in a format suitable for incorporation into a special provisions document (County template) referencing the Caltrans Standard Specifications. The Cardno team will meet with the County to review the plans and conduct a final review meeting at the project site. This meeting will enable the Cardno team and County one last opportunity to ground-truth the design plans, consider any value engineering opportunities, and walk the site to confirm the proposed improvements are appropriate to meet the project goals. To augment the plans, Cardno will produce a construction cost estimate to detail the anticipated project costs. The estimate will expand on the 65% design cost estimate for the project with refinements and updates based on the 95% design.*

*Deliverables:*

- > 95% design plans
- > 95% draft technical specifications/special provisions
- > 95% cost estimate

*Assumptions:*

- > Utilities to be relocated are assumed to be limited to telecommunications which the utility owner will provide relocation plans for
- > One onsite meeting
- > Task will not commence until the environmental compliance review has been completed

## **TASK 9 PERMITTING - \$27,310**

*The Cardno team will assist the County in developing the appropriate permit application submittal packages that will be required for project implementation. The applications will combine the resource analysis that was conducted for the project-level IS/ND with the design information developed for project construction (e.g., 95% design plan set). Cardno will follow a process that has been successfully used for similar public service projects and is based on early and continuous communication and coordination between the design team, County and the appropriate permitting agencies. The permits and key supporting documents that are anticipated and scoped/budgeted for the project include:*

- *USACE Section 404 Authorization (pursued under reissuance of Nationwide Permit [NWP] 3, Maintenance, or NWP 27, Aquatic Habitat Restoration, Enhancement and Establishment Activities, in 2022)*
- *San Francisco Bay Regional Water Quality Control Board (SFRWQCB) Section 401 Water Quality Certification (WQC)*
- *CDFW – Region 3 (Bay Delta Region) Lake and Streambed Alteration Agreement*
- *State Water Resources Control Board State Construction General Permit (CGP) Enrollment Notice of Intent (NOI), if 1-acre or more of disturbance will occur during construction*

- Storm Water Pollution Prevention Plan (SWPPP), in draft format complying with the Construction General Permit, if CGP enrollment is required (SWPPP required only if there is 1-acre or more of disturbance)

*During the development of the 65% design plans, the Cardno team will coordinate with the appropriate agencies to obtain written documentation confirming the required permits and submittal timelines that will be necessary to meet the project construction schedule. The Cardno team is familiar with these permit application submittal requirements and will coordinate with the regulatory agencies to ensure the project construction schedule will be met.*

*Permit applications and (if needed) the project-level SWPPP (draft format) will be prepared during the 95% design step. Permit application submittal packages will include the project's 95% design plan set. Agency requests and permit conditions will then be incorporated into the 100% design.*

*Task Deliverables:*

- > USACE Section 404 Authorization Documentation (Non-notifying NWP 3, Maintenance, or NWP 27, Aquatic Habitat Restoration, Enhancement and Establishment Activities)
- > SFBRWQCB Section 401 WQC
- > CDFW LSAA (Standard Agreement)
- > SWRCB NOI, and 1 draft and 1 working final SWPPP document (SWPPP required only if there is 1-acre or more of disturbance)

*Task Assumptions:*

- > The Project is a public service project, removing an identified barrier to fish passage, increasing flow capacity and infrastructure resiliency with the replacement of an undersized culvert with a bottomless structure spanning Campbell Creek. Because of the nature of the project, the assumption is that USACE and SFBRWQCB will not require compensatory mitigation as a condition of authorizations.
- > We assume one submittal of CWA Section 404 and 401 permits applications that will be based on the 95% Design Plan, providing supplemental project information to USACE and SFBRWQCB, as necessary. Our approach is to present a maximum-case impact estimation to waters of the U.S and to waters of the State. A subsequent change in the project design or location, which results in impacts that exceed this maximum-case impact estimation, may trigger additional permitting actions (e.g., reapplication or change from a Nationwide Permit authorization to a Letter of Permission) that are not included in Task 7.

**TASK 10 100% DESIGN DOCUMENTS - \$16,130**

*The Cardno team will prepare a 100% design package for the project. Cardno will finalize the 100% design based on comments received from the County on the 95% design along with permit conditions received from regulatory agencies reviewing the permit applications. The 100% design will be a construction-ready set of documents, including complete plans, technical specifications/special provisions, bid list, and cost estimate. A draft 100% design plans will be reviewed by the County and an updated 100% Final design package will be completed with any final comments from the County.*

Deliverables:

- > 100% draft design plans
- > 100% final design plans
- > 100% technical specifications/special provisions
- > 100% cost estimate/bid list

Assumptions:

- > Utilities to be relocated are assumed to be limited to telecommunications which the utility owner will provide relocation plans for
- > The County is responsible for all contractual/front end special provision/technical specification sections

**TASK 11 BID SUPPORT - \$10,372**

*The Cardno team will provide as-directed support throughout the duration of construction bidding, including construction bidding and bid review phases. These efforts will include:*

- > Request for information (RFI) response support
- > Attendance at the pre-bid meeting
- > Bid review support

*Cardno will incorporate any edits generated from the construction pre-bid process for a 100% addendum package for construction contracting purposes as directed.*

Deliverables

- > Contractor Questions/RFI responses
- > 100% addendum document

Assumptions

- > All efforts associated with this task will be on a time and materials basis; cost/budget is an estimate of time and effort only.

**TASK 12 CONSTRUCTION SUPPORT – \$34,436**

*The Cardno team will provide as-directed general construction support assistance throughout the duration of the construction contract for the Project. Construction oversight assistance associated with this task will include coordination during construction of the Project to address any design questions that may arise during the course of construction. This design coordination will occur as needed/as-directed for the proper construction and progress of the Project and as requested/directed by the County project manager.*

*For the purposes of this scope, it is assumed the following efforts will be required:*

- > Submittal review (6 assumed)
- > RFI review/responses (6 assumed)
- > Contract change order review support (0 Assumed)

*Cardno will develop the record drawings for the Project based on construction as-built drawings. The record drawings will be developed in AutoCAD, based on the 100% design*

*drawings, updates to the drawings during construction and from a combination of the construction inspectors redlined plans and the construction contractor's redlined plans.*

Deliverables

- > Construction oversight materials/review documents
- > Record drawings

Assumptions

- > All efforts associated with this task will be on a time and materials basis; cost/budget is an estimate of time and effort only.
- > The County will provide complete redline copies from the inspector and construction contractor of all changes made to the bid set of plans (including survey notes and final elevations).
- > RFI's, submittal review or change order review associated with "Contractor" errors or omissions will not be compensated.

**TASK 13 AS DIRECTED SERVICES - \$20,000 (OPTIONAL)**

The Project is complex with many tasks to be completed. In the event additional requirements not identified in this scope are placed on the County or the Project, the Cardno team will provide any necessary assistance. This assistance will be done as an "as directed" basis and on a time and materials basis. No work will be performed on this task, or billings occur, without written correspondence (letter or email) from the County directing the extent of work.

Deliverables:

- > Deliverables associated with this task will be as directed by the County depending on the required services to be performed.

Assumptions:

- > No work on this task will occur without written direction from the County.

**TASK 14 ENVIRONMENTAL MONITORING - \$65,180 (OPTIONAL)**

**CWA Section 404/401 WQC and CDFW LSAA Compliance Monitoring**

The Cardno team will conduct environmental compliance monitoring and reporting for the project, as directed by general conditions and project conditions assigned by CWA Section 404/401 authorizations and the CDFW LSAA:

- Conduct Pre-construction Surveys for special-status species and nesting birds within 5-days of start of construction.
- Develop Worker Environmental Awareness Program (WEAP) materials and conduct training with County's contractor.
- Conduct Weekly Visual Monitoring and Reporting of good housekeeping, source control erosion and sediment control, a resource avoidance and protection BMPs (assumed based on construction scheduled during dry channel conditions).

- Weekly Visual Monitoring will be documented on an Inspection Form that will be designed to address the environmental requirements and permit conditions and will be supported by photo documentation of construction site conditions.
- Per CWA 401 WQC general conditions, photo documentation will include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos will be taken from the same vantage point to compare pre/post construction conditions. (13 days; pre-construction photos will be collected by the Biologist during the Pre-construction Surveys, 12 site visits during active construction, and 1 site visit to collect post-construction/permanent BMP implementation photos. Note that additional post-construction visual monitoring during the rainy season may be required by the 401 WQC, but is unknown at this time)
- Reporting will include:
  - Commencement of Construction: The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities. (1 hour)
  - Annual/Post-Project Report: The Post-Project Report that will accompany the Request for Notice of Completion Letter will include a construction summary, event summary (if applicable), photo summary and compliance summary.
  - Request for Notice of Project Complete Letter: The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. Completion of post-construction monitoring shall be determined by Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria, which will be presented in the Post-Construction Report. This request shall be submitted to Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, Water Board staff shall issue a Notice of Project Complete Letter to the Permittee, which will end the monitoring period and associated annual fees.

**State Construction General Permit Enrollment (If over 1 acre)**

*Should enrollment in the State’s Construction General Permit (CGP) be triggered by a disturbance regime of 1-acre or more and assuming a Type 1 or Type 2 Risk Level, a QSP will be trained by the QSD and will conduct the Daily Visual Monitoring and Reporting.*

- *All Type 1 and Type 2 LUPs (linear utility project) dischargers are required to conduct daily inspections by qualified personnel of the construction site during site operating hours.*
- *All Type 1 and Type 2 LUPs dischargers are required to conduct inspections prior to all anticipated precipitation events, during, and after actual precipitation events.*

- *The discharger is required to conduct inspections during site operating hours for each 24-hour period during extended precipitation events. Inspections can be discontinued in non-active construction areas where soil disturbing activities have been completed and final stabilization has been achieved (e.g., trench has been paved, substructures installed, and successful vegetative cover or other stabilization criteria have been met).*
- *The goals of these inspections are: (1) to identify areas contributing to a stormwater discharge; (2) to evaluate whether measures to reduce pollutant loadings identified in the SWPPP are adequate, properly installed, and functioning in accordance with the terms of the CGP; and (3) to determine if additional control practices or corrective maintenance activities are needed. Equipment, materials, and workers must be available for rapid response to failures and emergencies.*
- *All corrective BMP maintenance is to be performed as soon as possible, depending upon worker safety.*
- *The CGP also requires a log of inspections conducted before, during, and after the precipitation event(s) be maintained in the SWPPP. The log will provide the date and time of the inspection and who conducted the inspection. Photographs must be taken during site inspections and submitted through SMARTS.*

*Cardno will develop the record drawings for the Project based on construction as-built drawings. The record drawings will be developed in AutoCAD, based on the 100% design drawings, updates to the drawings during construction and from a combination of the construction inspectors redlined plans and the construction contractor's redlined plans.*

At this time, Receiving Water Monitoring is not anticipated due to construction during the dry season. However, if the schedule changes or wet weather causes active channel conditions, daily monitoring is included to ensure permitting requirements are met. If surface water is present, continuous visual surface water monitoring must be conducted during active construction periods to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete). Daily inspections are included in the budget if the channel does become active.

- Surface water sampling (turbidity, pH) must be conducted: a. when performing any in-water work; b. during the entire duration of temporary surface water diversions; c. in the event that the Project activities result in any materials reaching surface waters; or d. when any activities result in the creation of a visible plume in surface waters.
- Depending on the results of biological surveys conducted during CEQA environmental clearance, the presence of surface water may also trigger a project condition in the CDFW LSAA requiring a biological monitor be present during the construction period. If this situation results, a QSD scheduled for surface water monitoring that also has the required biological resources experience will be trained by the QSD.

### Deliverables

- > Construction oversight materials/review documents
- > Record drawings
- > Weekly Visual Inspection Form and Photo Documentation
- > Daily monitoring (If triggered by permitting requirements, active channel or SWPPP)
- > Construction Commencement Report
- > Annual/Post-Project Report
- > Request for Letter of Completion

### Assumptions

- > All efforts associated with this task will be on a time and materials basis; cost/budget is an estimate of time and effort only.
- > The County will provide complete redline copies from the inspector and construction contractor of all changes made to the bid set of plans (including survey notes and final elevations).
- > The construction duration is estimated to be 12 weeks
- > Daily inspections may include SWPPP and/or active channel/dewatering monitoring. If no daily monitoring is required, no budget is required for this sub task.

**II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

**EXHIBIT "B"**

**COMPENSATION AND EXPENSE REIMBURSEMENT**

**Cardno Rates**

	<b>Total Rate</b>
Senior Consultant 3	\$ 250
Senior Consultant 2	\$225
Senior Consultant 1	\$205
Senior Project Consultant 2	\$195
Senior Project Consultant 1	\$175
Senior Staff Consultant 2	\$130
Project Consultant 2	\$160
Project Consultant 1	\$145
Consultant 1	\$105
Assistant Staff Consultant	\$90
Technical Editor	\$140
Senior Project Coordinator	\$115

**Expenses**

Mileage Costs	Per mile	\$IRS Rate
Cultural Database Inquiry	Each	\$GSA Rate

Note: Total reimbursable expenses not to exceed is SEVEN THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$7,315) and the total not to exceed amount including reimbursable expenses and professional services is THREE HUNDRED EIGHTY-TWO THOUSAND THREE HUNDRED FIFTY-FIVE DOLLARS (\$382,355).

**EXHIBIT "C"**

**[Company Name]**  
 [Street Address]  
 [City, ST ZIP Code]  
 Phone [phone] Fax [fax]  
 Taxpayer ID #

**SAMPLE  
 INVOICE**

INVOICE # \_\_\_\_\_  
 DATE: \_\_\_\_\_

**TO:**  
 [Customer Name]  
 [Street Address]  
 [City, ST ZIP Code]

**FOR:**  
 [Project or service description]  
 Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St,	Smith,			
1/1/15	Napa.	Engineer	1.5	\$165.00	247.50
1/1/15	Conf w/Owner	Smith,	1	\$165.00	165.00
	AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Engineer	4	\$165,00	660.00
		Smith,			
		Engineer			
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor	Smith,	4	\$165.00	660.00
1/2/15	Conf w/Owner re 2 <sup>nd</sup> Floor	Engineer	.5	\$165.00	82.50
		Smith,			
		Engineer			
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf	Smith,			
1/3/15	w/Owner	Engineer	1.5	\$165.00	247.50
	Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup>	Jones, PE	1.5	\$195.00	292.50
	Floor				
TOTAL					

## EXHIBIT “D”

### CALIFORNIA PREVAILING WAGE REQUIREMENTS

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. The Contractor and any subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

**1. Compliance with Prevailing Wage Requirements.** Pursuant to sections 1720 through 1861 of the California Labor Code, the Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite.

**1.1.** Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

**1.2.** The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

**2. Penalties for Violations.** The Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under California Labor Code sections 1720 through 1861.

**3. Payroll Records.** The Contractor and all subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. The Contractor shall require its subcontractors to also comply with section 1776. The Contractor and all subcontractors shall furnish records specified in California Labor Code section 1776 on a monthly basis, both to the County and directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. The Contractor shall ensure its subcontractors prepare and submit payroll records to the County and the DIR as required by this section.

**3.1.** If the Contractor or a subcontractor is exempt from the DIR registration requirement pursuant to section 9.4 below, then the Contractor or such subcontractor is not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

**3.2.** The County may require the Contractor and its subcontractors to prepare and submit records specified in section 1776 to the County and the Labor Commissioner on a weekly basis, at no additional cost to the County.

**4. Apprentices.** The Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. The Contractor is responsible for compliance with this section for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n).

**5. Working Hours.** The Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

**6. Required Provisions for Subcontracts.** The Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

**7. Labor Code Section 1861 Certification.** In accordance with California Labor Code section 3700, the Contractor is required to secure the payment of compensation of its employees. By signing the Agreement, to which this is an exhibit, the Contractor certifies that:

“I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement.”

**8. Compliance Monitoring and Enforcement.** This project is subject to compliance monitoring and enforcement by the DIR. The County must withhold contract payments from the Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

**9. Contractor and Subcontractor Registration Requirements.** The Contractor and all subcontractors shall not be qualified to bid on, be listed in a bid or proposal, subject to the requirements of section 4104 of the California Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by section 7029.1 of the California Business and Professions code or by sections 10164 or 20103.5 of the California Public Contract Code, provided the Contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.

**9.1.** A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to California Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a protest or grounds for considering the bid or proposal non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to the proposal due date; (2) within twenty-four hours after the proposal due date, the subcontractor is registered and has paid the penalty registration fee specified in California Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to California Public Contract Code section 4107.

**9.2.** By submitting a bid or proposal to the County, the Contractor is certifying that he or she has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5, and the Contractor shall provide proof of registration for themselves and all listed subcontractors to the County at the time of the bid or proposal due date or upon request.

**9.3.** The County may ask the Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and the Contractor shall provide the list within ten (10) working days of the County's request.

**9.4.** This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

**10. Stop Order.** Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on ALL public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a misdemeanor.