

**Gale W. Rossi**  
doing business as  
**Rossi Consulting**

**As-Needed Project Management Services for the Behavioral Health Continuum  
Infrastructure Program Project**

**AGREEMENT FOR SERVICES #10067**

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Gale W. Rossi, a sole proprietor duly qualified to conduct business in the State of California, doing business as Rossi Consulting, whose principal place of business is 5300 Coyote Pass Road, Shingle Springs, California 95682 (hereinafter referred to as "Consultant").

**R E C I T A L S**

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist its Chief Administrative Office, Facilities Division in performing services necessary to provide as-needed project management services for the Behavioral Health Continuum Infrastructure Program (BHCIP) project located at 295/299 Fair Lane, Placerville, California 95667;

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, is an expert, and competent to perform the special services described in ARTICLE I Scope of Work; that it is an independent and bona fide business operation, advertises and holds itself as such, is in possession of a valid business license, and is customarily engaged in an independently established business that provides similar services to others; and County relies upon those representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable state and local laws and ordinances applicable to the work, including compliance with prevailing wage rates and their payment in accordance with Labor Code section 1775;

**WHEREAS**, County County has determined that the provision of such services provided by Contractor are in the public's best interest and that due to the limited timeframes, temporary or occasional nature, or schedule for the project or scope of work, the ongoing aggregate of work to be performed is not sufficient to warrant the addition of permanent staff in accordance with El Dorado County Ordinance Code, Chapter 3.13.030(c), El Dorado County Charter, section 210(b)(6), and/or Government Code section 31000;

**WHEREAS**, on April 28, 2023, Consultant was formally approved to a qualified list for Project Management Services, as the result of competitive Request for Qualifications (RFQ) #23-918-050;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

## ARTICLE I

**Scope of Work:** Consultant is engaged in the business of doing the services and tasks required under this Agreement, including those services and tasks that are identified in individual Work Orders issued pursuant to this Agreement, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work.

Consultant agrees to furnish, at Consultant's own cost and expense, all personnel, subconsultants, tools, vehicles, equipment, materials, and services required to provide as-needed project management services for the BHCIP project located at 295/299 Fair Lane, Placerville, California 95667.

Services shall include at a minimum: strategic planning assistance, risk management, site analysis, cost reporting, forecasting, project review, bid review, review of Requests for Qualifications (RFQ) and Requests for Proposals (RFP), preparation of manuals, coordination and assembly of performance specifications, development of presentations, and generation of reports. Consultant shall provide these services for the following project phases, including the anticipated duration and estimated costs for each phase:

Phase	Description	Anticipated Duration
1	Program Verification/Schematic Design	10 weeks
2	Design Development	16 weeks
3	Construction Documents	36 weeks
4	Permitting/Agency Review	16 weeks
5	Request for Bids	6 months
6	Construction	18 months

For each as-needed work assignment, the specific services for each assignment shall be determined at a meeting, by email, or telephone conference between County's Contract Administrator, or designee, and Consultant. For each work assignment, Consultant shall provide a written quote to County's Contract Administrator, or designee. Upon receipt and approval of each quote, County's Contract Administrator, or designee, will issue a separate written Work Order to Consultant for each as-needed work assignment identifying the specific site where the work will be performed, any required deliverables, including reports or other documents to be supplied in connection with the work assignment, a description of the work or other services to be performed, a specific date by which the work shall be completed, and a not-to-exceed cost to complete the work. Consultant shall not commence work until receiving the written Work Order. No payment will be made for any work performed prior to the issuance of the written Work Order. No payment will be made for any work performed prior to approval and full execution of the Work Order or beyond the earlier of the expiration date of the Work Order or expiration of the underlying Agreement, and no payment will be made for amounts in excess of the not-to-exceed amount of the Work Order.

The period of performance for Work Orders shall be in accordance with dates specified in each Work Order. No payment will be made for any work performed before or after the period of performance in the Work Order unless County's Contract Administrator, or

designee, and Consultant amend the Work Order. No Work Order will be written which exceeds the cumulative total of the not-to-exceed dollar amount of this Agreement. No Work Order will be written which extends beyond the expiration date of this Agreement.

Consultant acknowledges that the work performed must meet the approval of County, and therefore County reserves the right to monitor the work to ensure its satisfactory completion.

Deliverables shall be submitted via electronic file and Consultant shall produce the file using Microsoft (MS) Office 365 applications (specifically, MS Word, MS PowerPoint, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in the language, format and design that are compatible with and completely transferable to County's computer, and that are acceptable to County's Contract Administrator, or designee. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator, or designee. Consultant shall submit all deliverables to County's Contract Administrator, or designee, in accordance with completion time schedules identified in the individual Work Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the format required may be grounds for termination of the Agreement, as provided in ARTICLE XXII, Default, Termination, and Cancellation, herein.

Consultant shall perform the services and tasks required under this Agreement in a safe, professional, skillful, and workmanlike manner. Consultant is responsible for ensuring that its employees, as well as any subconsultant if applicable, perform the services and tasks required under this Agreement accordingly. All of the services included in the Scope of Work, or in the individual Work Orders issued pursuant to this Agreement, are the responsibility of Consultant unless specifically described as a task or item of work to be provided by County. Consultant shall be responsible for the supervision, administration, and work performed by any subconsultant for services rendered under this Agreement. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees, agents, associates, representatives, or subconsultants.

## **ARTICLE II**

**Term:** This Agreement shall become effective from the date specified in the official Notice to Proceed with the Work, which shall be attached to this Agreement as an addendum and shall become part of this Agreement, and shall expire on December 31, 2030.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including any deliverables that may be identified in the individual Work Orders issued pursuant to this Agreement, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of each work assignment in arrears. Payment shall be made within forty-five (45) days following County receipt and approval of invoices detailing the services rendered.

For the purposes hereof, the billing rate shall be in accordance with the following:

<b>ROSSI CONSULTING</b>					
<b>AS-NEEDED PROJECT MANAGEMENT SERVICES FOR THE BEHAVIORAL HEALTH CONTINUUM INFRASTRUCTURE PROJECT AGREEMENT</b>					
<b>POSITION</b>	<b>HOURLY RATE 2026</b>	<b>HOURLY RATE 2027</b>	<b>HOURLY RATE 2028</b>	<b>HOURLY RATE 2029</b>	<b>HOURLY RATE 2030</b>
<b>Project Manager</b>	\$200	\$215	\$230	\$245	\$260
<b>Project Coordinator</b>	\$135	\$140	\$145	\$150	\$155

The above hourly rates apply to services provided on weekdays, weekends, County-recognized holidays, and all hours of the day. Overtime and double time rates do not apply.

Labor shall include travel portal to portal.

Subconsultant's services, other outside services, and other direct costs, including but not limited to, printing, delivery charges, and copying costs, authorized herein shall be invoiced at Consultant's cost, with a ten percent (10%) markup, for the services rendered. Rates and fees, included in such direct costs, will require prior authorization from County's Contract Administrator, or designee, or successor. Any invoices that include subconsultant services shall be accompanied by backup documentation to substantiate Consultants costs for the services being billed on those invoices.

The total amount of this Agreement shall not exceed \$800,000, inclusive of all Work Orders, and amended Work Orders, all work of subconsultants, and all costs, taxes, and expenses. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Work Orders.

Invoices shall follow the format specified by County and shall reference this Agreement number and the County-supplied Work Order number both on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Consultant shall bill County for only one (1) Work Order per invoice. Invoices shall be mailed to County at the following address:

County of El Dorado  
 Chief Administrative Office  
 Facilities Division  
 3000 Fairlane Court, Suite One  
 Placerville, California 95667

or to such other location as County directs.

In the event that Consultant fails to deliver the documents or other deliverables required by the individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in ARTICLE XXII, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

**Taxes:** Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with individual Work Orders issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without prior written authorization from County's Contract Administrator, or designee. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

#### **ARTICLE VI**

**Standards for Work:** Consultant and any subconsultants authorized herein, shall perform all services in a manner consistent with the level of care and skill ordinarily exercised by other members of Consultant's profession currently practicing in the same locality and under similar conditions.

All of Consultant's and subconsultant's services and deliverables must adhere to and be in full compliance with ARTICLE I, Scope of Work, and shall be made available to County for review and approval at the appropriate stages specified in the Agreement or upon request by County's Contract Administrator, or designee.

Consultant and any subconsultant authorized herein, have full responsibility for the accuracy and completeness of the deliverables, reports, and such other documents that may be required for the tasks or items of work assigned. Assistance, cooperation, and oversight by County or other regulatory agencies will not relieve Consultant or subconsultant of this professional responsibility.

All work must be performed and work products prepared in a format and manner customarily anticipated by County and/or other appropriate agencies.

## **ARTICLE VII**

**Prevailing Wage:** County requires Consultant's services on public works project(s) involving local and/or state funds to which prevailing wage requirements may apply. As a consequence, Consultant shall comply with all applicable state and federal prevailing wage rates, statutes, rules, and regulations then in effect. Consultant shall use the general prevailing wage rates determined by the Director of Industrial Relations for the county in which the work is to be done, which are available at the principal office of County's Chief Administrative Office, Facilities Division. Changes, if any, to the general prevailing wage rates will be available at the same location.

Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

Consultant shall comply with all applicable wage requirements, as set forth in Labor Code sections 1770, et seq., 1773.2, 1775, 1776, 1810, and 1813. In accordance with the provisions of Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and Consultant and any subconsultant authorized under this Agreement shall also conform to and be bound by the provisions of Labor Code sections 1810 through 1815.

## **ARTICLE VIII**

**Apprentices:** Attention is directed to Labor Code sections 1777.5, 1777.6, and 1777.7 and 8 California Code of Regulations section 200, et seq. To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, each Consultant or subconsultant should, where some question exists, contact the Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, CA 94102, or one of its branch offices prior to commencement of work on this Agreement. Responsibility for compliance with this Article lies with Consultant.

It is County policy to encourage the employment and training of apprentices on public works contracts as may be permitted under local apprenticeship standards.

## **ARTICLE IX**

**Certified Payroll:** As required under the provisions of Labor Code section 1776, Consultant and any subconsultants, if any are authorized herein, shall keep accurate payroll records as follows:

- A. The payroll records shall show the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Consultant or subconsultants in connection with the services provided under this Agreement.
- B. A certified copy of all payroll records enumerated above shall be available for inspection at all reasonable hours at the principal office of Consultant as follows:
  1. Make available or furnish to the employee or his or her authorized representative on request.

2. Make available for inspection or furnished upon request to a representative of County, the State Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State Department of Industrial Relations.
3. Make available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either County, the State Division of Labor Standards Enforcement, or the State Division of Apprenticeship Standards. The requesting party shall, prior to being provided the records, reimburse the costs of preparation by Consultant, subconsultant, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Consultant.
4. All consultants and subconsultants must furnish electronic certified payroll records directly to the Department of Industrial Relations.

## **ARTICLE X**

**Registration of Consultants:** No consultant or subconsultant may bid on any public work project, be listed in a bid proposal for any public works project, or engage in the performance of any contract for public work unless registered with the Department of Industrial Relations pursuant to Labor Code sections 1725.5 and 1771.1. Public work projects are subject to compliance, monitoring, and enforcement by the Department of Industrial Relations.

Consultant shall post job site notices as prescribed by 8 California Code of Regulations section 16451.

## **ARTICLE XI**

**Records Examination and Audit Requirements:** Consultant and its subconsultants, if any are authorized hereunder, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the various aspects of the Agreement. In accordance with Government Code section 8546.7, all of the above-referenced parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date that final payment by County and all other pending matters are closed. Representatives of County, the California State Auditor, and any duly authorized representative of other government agencies shall have access to any books, documents, papers, and records that are pertinent to the Agreement for audit, examination, excerpts, and transactions and copies thereof shall be furnished upon request.

## **ARTICLE XII**

**Payment of all Federal, State, or Local Taxes:** Any federal, state, or local tax payable on the articles furnished by Consultant under this Agreement shall be included in rates quoted herein and shall be paid by Consultant.

**ARTICLE XIII**

**Compliance with all Applicable Laws:** Consultant shall conform to and abide by all applicable federal, state, and local building, labor, environmental and safety laws, ordinances, rules, and regulations. All work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshal, safety orders of the Division of Industrial Safety, California Electrical Code, California Building Code, California Plumbing Code, and any and all other applicable laws and regulations. Nothing in this Agreement, including but not limited to, any directions, plans or specifications provided to Consultant, is to be construed to permit work not conforming to these codes.

**ARTICLE XIV**

**Reporting Accidents:** Consultant shall prepare and submit to County (within twenty-four [24] hours of such incidents) reports of accidents at the site and anywhere else work under this Agreement is in progress in which bodily injury is sustained or property loss in excess of five hundred dollars (\$500.00) occurs.

**ARTICLE XV**

**Workers' Compensation:** Consultant shall comply with Labor Code section 3700, et seq., requiring it to obtain Workers' Compensation Insurance, and sign a certificate of knowledge thereof.

**CERTIFICATE OF KNOWLEDGE - LABOR CODE SECTION 3700**

I am aware of the provisions of section 3700 of the 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.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**ARTICLE XVI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in subconsultants, which shall be established at the issuance of individual Work Orders, without prior written approval by County's Contract Administrator, or designee.

**ARTICLE XVII**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Consultant, and Consultant may perform similar work or services for others. However, Consultant shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Consultant's responsibilities or hinder Consultant's performance of services hereunder, unless

County's Contract Administrator, or designee, in writing, authorizes that agreement or sharing of information.

#### **ARTICLE XVIII**

**Confidentiality:** Consultant and any subconsultants authorized under this Agreement shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, including any subconsultants authorized herein, shall not use or disclose, directly, or indirectly at any time, any said confidential information, other than to County's Chief Administrative Office, Facilities Division or to such other person with County's consent for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

#### **ARTICLE XIX**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County. County may, at its sole discretion, through its Contract Administrator, or designee, authorize Consultant to utilize subconsultants for services performed in ARTICLE I, Scope of Work, for the particular tasks, work and deliverables identified therein or as identified in the individual Work Orders issued pursuant to this Agreement. Said authorization and approval shall be sought and obtained by Consultant prior to subconsultants' commencement of any work under this Agreement. Specific subconsultants shall be authorized in individual Work Orders issued pursuant to this Agreement. Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all of the obligations and responsibilities that Consultant, by this Agreement, assumes toward County.

#### **ARTICLE XX**

**Independent Consultant:** The parties intend that an independent consultant relationship will be created by this contract. Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, agents, affiliates, and subconsultants, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Consultant. Those persons will be entirely and exclusively under the direction, supervision, and control of Consultant.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Consultant performs the work or services for accomplishing the results. Consultant understands and agrees that Consultant lacks the authority to bind County or incur any obligations on behalf of County.

Consultant, including any subconsultant or employees of Consultant, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Consultant shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Consultant. Consultant shall not be subject to the work schedules or vacation periods that apply to County employees.

Consultant shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Consultant provides for its employees.

Consultant acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

#### **ARTICLE XXI**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement and any Work Orders issued pursuant to this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE XXII**

### **Default, Termination, and Cancellation:**

A. 1. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default (notice) that shall state the following:

- a. The alleged default and the applicable Agreement provision, and
- b. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

2. If County terminates this Agreement, in whole or in part, for default:

- a. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Consultant shall be liable to County for any excess costs for those goods or services. County may deduct from any payment due, or that may thereafter become due to Consultant, the excess costs to procure from an alternate source.
- b. County shall pay Consultant the sum due to Consultant under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.
- c. County may require Consultant to transfer title and deliver to County any completed work under the Agreement.

3. The following shall be events of default under this Agreement:

- a. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
- b. A representation or warranty made by Consultant in this Agreement proves to have been false or misleading in any respect;
- c. Consultant fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement,

unless County agrees, in writing, to an extension of the time to perform before that time period expires.

d. A violation of ARTICLE XXXII, Conflict of Interest.

- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement or any Work Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Consultant, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Work Order or the total amount of the Agreement, as applicable. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise. In the event of termination, County reserves the right to take over and complete the work by contract or by any other means.

### **ARTICLE XXIII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Chief Administrative Office  
Facilities Division  
3000 Fairlane Court, Suite One  
Placerville, California 95667

Attn.: Charles Harrell  
Facilities Division Manager

With a copy to:

County of El Dorado  
Chief Administrative Office  
Procurement and Contracts Division  
330 Fair Lane  
Placerville, California 95667

Attn.: Michele Weimer  
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Rossi Consulting  
5300 Coyote Pass Road  
Shingle Springs, California 95682

Attn.: Gale W. Rossi, President

or to such other location as Consultant directs.

#### **ARTICLE XXIV**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in ARTICLE XXIII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, or designee, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XXV**

**Indemnity:** To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the active negligence, sole negligence, or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in Civil Code section 2778.

The insurance obligations of Contractor are separate, independent obligations under the Agreement, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Agreement.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

#### **ARTICLE XXVI**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01) of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage, including but not limited to endorsements for the following coverage: premises, personal injury, operations, products and completed operations, blanket contractual, and independent consultants' liability and a \$2,000,000 aggregate limit. County, including, without limitation, its officers, officials, employees, and volunteers shall be named as an additional insured on ISO form CG 2010 1185, or its equivalent.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this Agreement, inclusive of the guarantee/warranty period specified hereinbelow. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division, and Consultant agrees that no work or services shall be performed prior to the giving of such approval.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County; and
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

- I. Consultant's insurance coverage shall be primary insurance in respect to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to, and approved, by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.
- P. Consultant shall ensure that all subconsultants authorized pursuant to this Agreement shall maintain workers' compensation, general liability, automobile liability, and professional liability insurance as specified above and shall provide County with proof of same if requested.

## **ARTICLE XXVII**

**Licenses:** Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

## **ARTICLE XXVIII**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

## **ARTICLE XXIX**

**Environmental and Toxic Warranty:** Consultant warrants that its operations concerning the services and materials provided under this Agreement are not and will not be in violation of any applicable environmental federal, state, or local statute, law, or regulation dealing with hazardous materials substances or toxic substances.

## **ARTICLE XXX**

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

## **ARTICLE XXXI**

**Waiver:** No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

## **ARTICLE XXXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code section 1090, et seq. and the Political Reform Act of 1974 (section 87100, et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Consultant and performing work for County and who are considered to be consultant within the meaning of 2 California Code of Regulations section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code.

County's Contract Administrator, or designee, shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Consultant covenants that during the term of this Agreement neither it, or any officer or employee of Consultant, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Consultant becomes aware of a conflict of interest related to this Agreement, Consultant shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in ARTICLE XXII, Default, Termination, or Cancellation.

### **ARTICLE XXXIII**

#### **Nondiscrimination:**

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant and its subconsultants, if any, shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees, subconsultants, and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, military and veteran status of any person, marital status, age, sex, gender, gender identity, gender expression, or sexual orientation. Consultant and its subconsultants shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.) and applicable regulations promulgated thereunder (2 California Code of Regulations section 11000, et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Consultant and its employees and representatives shall give written notice of their obligations under this clause as required by law.

- B. Where applicable, Consultant shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Consultant's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code section 12990 and 2 California Code of Regulations section 8103.

#### **ARTICLE XXXIV**

**California Residency (Form 590):** All independent consultants providing services to County must file a State of California Form 590, certifying their California residency or, in the case of a limited liability company or corporation, certifying that they have a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

#### **ARTICLE XXXV**

**County Payee Data Record Form:** All independent consultants or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

#### **ARTICLE XXXVI**

**Resolution of Claims:** Consultant's attention is invited to Public Contract Code section 20104, et seq., for resolution of construction claims, and specifically section 20104.2. Claims pertaining to this Agreement shall be governed by the provisions of those sections.

Your attention is directed to Public Contract Code section 9204, which describes procedures for the resolution of claims on public works projects. Among other things, section 9204 requires the claimant to furnish reasonable documentation to support a claim, requires the public entity to respond to the claim within forty-five (45) days of receipt of the claim, and allows for the claimant to demand an informal meet and confer conference for settlement of the issues in dispute. For any portion of a claim that remains in dispute, section 9204 requires submission of the claim to nonbinding mediation. Additionally, section 9204 requires the public entity to make any payment due on an undisputed portion of the claim within sixty (60) days of the public entity's written response and to pay interest at the rate of seven percent (7%) per annum on any amounts not paid in a timely manner. The claims procedures described herein and in any other contract documents are in addition to the procedures required by section 9204 and, in the event of a conflict between those various procedures, the more stringent procedures will control.

#### **ARTICLE XXXVII**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

## **ARTICLE XXXVIII**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Charles Harrell, Facilities Division Manager, Chief Administrative Office, or successor.

## **ARTICLE XXXIX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

## **ARTICLE XL**

**Electronic Signatures:** Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Civil Code sections 1633.1 to 1633.17) as amended from time to time.

## **ARTICLE XLI**

**Partial Invalidity:** If any provision, sentence, or word of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, or words will continue in full force and effect without being impaired or invalidated in any way.

## **ARTICLE XLII**

**No Third-Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

## **ARTICLE XLIII**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

## **ARTICLE XLIV**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below.

**-- COUNTY OF EL DORADO --**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Purchasing Agent  
"County"

**-- GALE W. ROSSI  
doing business as  
ROSSI CONSULTING --**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Gale W. Rossi  
President  
"Consultant"