

Nichols Consulting Engineers, CHTD.

Schematic Planning and Civil Engineering Design Services for Phase I of Forebay Community Park Renovations Project

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 Nichols Consulting Engineers, CHTD., a Nevada corporation duly qualified to conduct business in the State of California, whose principal place of business is 501 Canal Boulevard, Suite I, Richmond, California 94804, and whose local office is located at 8795 Folsom Boulevard, Suite 250, Sacramento, California 95826 (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to assist its Chief Administrative Office, Parks Division, with schematic planning and civil engineering design services for Phase I of the Forebay Community Park Renovations Project;

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 California Labor Code, Section 1775;

WHEREAS, County has determined that the provision of such services provided by Consultant are in the public's best interest and that due to the temporary or occasional nature of the 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 August 22, 2023, Consultant was formally approved to a qualified list for consulting services, including Category C for Civil Engineering, as the result of competitive Request for Qualifications (RFQ) #23-918-072;

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 Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof, 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, equipment, tools, materials, and services necessary to perform the services and tasks required under this Agreement, including those services and tasks that are identified in Exhibit A, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work. Consultant shall complete those services and tasks in accordance with Exhibit C, marked "Cost Proposal," incorporated herein and made by reference a part hereof.

The receipt of this fully executed Agreement is Consultant's Notice to Proceed with the work specified herein. No payment will be made for any work performed prior to the effective date of the Agreement.

If a submittal deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 365 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). Electronic auto computer-aided design (CAD) 2010 or AutoCAD Civil 3D 2010 format shall be used for submittal of plans or other similar documents as specified by County's Contract Administrator. All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to County's computer and that are acceptable to County's Contract Administrator. 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. Consultant shall submit all deliverables to County's Contract Administrator in accordance with completion time schedules identified in this Agreement. Failure to submit the required deliverables in the format required may be grounds for termination of the Agreement, as provided in ARTICLE XXV, 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 subconsultants, if applicable, perform the services and tasks required under this Agreement accordingly.

All of the services included in the Scope of Work 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.

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.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years thereafter.

ARTICLE III

Compensation for Services: For services provided herein, including any deliverables that may be identified herein, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof.

For the purposes of budgeting the Tasks in Exhibit A, the billing amounts for each Task are identified in Exhibit C. In the performance of the services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Exhibit C among the various Scope of Work Tasks, subject to County Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Notwithstanding any other provision of this Agreement to the contrary, payments to Consultant and subconsultants for travel, lodging, per diem, and mileage expenses, if applicable, for Consultant's or subconsultant's claims for reimbursement shall not exceed the rates to be paid to County employees under the current Board of Supervisor's Travel Policy in effect at the time the expenses are incurred, without markup. Any work requiring overnight stay must be approved in advance by County's Contract Administrator or designee. Consultant and subconsultant are responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Consultant and subconsultant shall not be reimbursed for "no-show" hotel charges unless there are unavoidable reasons for not cancelling the room and County's Contract Administrator or designee has determined that the reasons are valid.

Subconsultant's services, other outside services, other direct costs, including but not limited to, materials, equipment, printing, delivery charges, and copying costs, authorized herein shall be invoiced at Consultant's cost, with a fifteen percent (15%) markup, for the services rendered. In-house costs for postage, printing, and copying shall be invoiced at the Consultant's project labor charges with a five percent (5%) markup, for the services rendered. Rates and fees, included in such direct costs, will require prior authorization from County's Contract Administrator or successor. Any invoices that include subconsultant services and other direct costs 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 \$222,287.60, inclusive of all work of subconsultants, and all costs, taxes, and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices.

Invoices shall be mailed to County at the following address:

County of El Dorado
Chief Administrative Office
Parks and Trails Division
200 Armory Drive
Placerville, California 95667

Attn.: Jennifer Franich
Deputy CAO

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables required by 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 required deliverables are received, or proceed as set forth below in ARTICLE XXV, 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, 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. 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.

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

Consultant's Endorsement on PS&E/Other Data: If applicable, the responsible CONSULTANT/Engineer shall sign all plans, specifications, estimates (PS&E), and all engineering data furnished by it and, where appropriate, indicate its registration number.

ARTICLE VIII

Design Standards: Consultant shall perform all services under this Agreement and as described in Exhibit A, in conformance with applicable state and local design standards or other standards for work performance stipulated in this Agreement.

ARTICLE IX

Consultant's Project Manager: Consultant designates Sanford Wong, PE, as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, operations and any subconsultants authorized under this Agreement including, but not limited to (1) assigning qualified personnel to perform the required work and to prepare the deliverables required by the individual Work Orders issued pursuant to this Agreement; (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein; and (3) providing qualified and appropriate traffic control services for field work. Project Manager must be a registered engineer in the State of California.

ARTICLE X

Prevailing Wage: County requires Consultant's services on public works project(s) involving local, state and/or federal 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. In the event of conflict between applicable federal and state provisions, the higher prevailing wage rate shall apply. 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, Parks Division. Changes, if any, to the general prevailing wage rates will be available at the same location.

Federal minimum wage rates are determined by the United States Secretary of Labor and may be examined at the office described above. 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 XI

Apprentices: Attention is directed to Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code and Title 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 XII

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 XIII

Registration of Contractors: 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 Title 8 of California Code of Regulations Section 16451.

ARTICLE XIV

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 XV

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 XVI

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 XVII

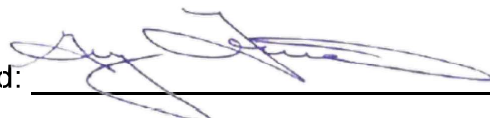
Reporting Accidents: Consultant shall prepare and submit to County (within twenty-four [24] hours of such incidents) reports of accidents at the site and anywhere else work under this Agreement is in progress in which bodily injury is sustained or property loss in excess of five hundred dollars (\$500.00)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

ARTICLE XVIII

Workers' Compensation: Consultant shall comply with Labor Code Sections 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: 11/15/23

ARTICLE XIX

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.

ARTICLE XX

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, in writing, authorizes that agreement or sharing of information.

ARTICLE XXI

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 Parks Division, 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 XXII

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, authorize Consultant to utilize subconsultants for services performed in ARTICLE I, Scope of Work, for the particular tasks, work and deliverables identified therein. 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 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 XXIII

Independent Contractor: The parties intend that an independent contractor 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 XXIV

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 may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XXV

Default, Termination, and Cancellation:

- A. 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 that shall state the following:
1. The alleged default and the applicable Agreement provision.
 2. 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.

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

1. 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.
2. 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.
3. County may require Consultant to transfer title and deliver to County any completed work under the Agreement.

The following shall be events of default under this Agreement:

1. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
 2. A representation or warranty made by Consultant in this Agreement proves to have been false or misleading in any respect.
 3. 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.
 4. A violation of ARTICLE XXXVI, 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, 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 Agreement. 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 XXVI

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 Parks and
Trails Division
200 Armory Drive
Placerville, California 95667

Attn.: Jennifer Franich
Deputy Chief Administrative Officer

With a copy to:

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667

Attn.: Michele Weimer
Procurement & Contracts Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Nichols Consulting Engineers, CHTD.
8795 Folsom Boulevard, Suite 250
Sacramento, California 95826

Attn.: Greg Fasiano, PG Corporate Secretary

or to such other location as Consultant directs.

ARTICLE XXVII

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 XXVI, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, 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 XXVIII

Indemnity: To the fullest extent allowed by law, CONSULTANT shall defend, indemnify, and hold harmless the COUNTY and its officers, agents, employees, and representatives from and against any and all claims, actions, losses, injuries, damages, or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, COUNTY employees, officers, or agents, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, agents, employees, volunteers, representatives, contractors, and subcontractors. This duty of CONSULTANT includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778 and is subject to any limit provided for in Civil Code Section 2782.8(a) of the cost to defend charged to CONSULTANT. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement, provided that the COUNTY's failure to immediately or timely notify CONSULTANT does not limit or waive CONSULTANT's defense and indemnity obligations in this Article. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

The insurance obligations of Consultant 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 XXIX

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 XXX

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.

In addition, 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 XXXI

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 and any of its subconsultants employed under this agreement 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 XXXII

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 XXXIII

Guarantees:

- A. Consultant shall guarantee all materials, parts and equipment furnished and work performed for a period of one (1) year. Consultant warrants and guarantees for a period of one (1) year from the date of invoice that the work is free from all defects due to faulty materials or workmanship and Consultant shall promptly make such corrections as may be necessary, including repairs of any damage to other parts of the work resulting from such defects at no cost to County. County will give notice of observed defects with reasonable promptness. In the event that Consultant should fail to make such repairs, adjustments or other work that may be made necessary by such defects, County may do so and charge Consultant the cost thereby incurred.

- B. If a guaranty exceeding one (1) year is provided by the supplier or manufacturer of any parts or equipment used in the performance of services under this Agreement, then the guarantee for such materials shall be extended for such term. Consultant expressly agrees to act as co-guarantor of such parts, equipment and materials, and Consultant shall supply County with all warranty and guaranty documents relative to parts, equipment and materials incorporated in the services provided and guaranteed by its suppliers or manufacturers.
- C. Consultant warrants to County that materials, parts, and equipment furnished under this Agreement will be of good quality and new, unless otherwise required or permitted by the Agreement, that the work performed will be free from defects or flaws and is of the highest quality of workmanship and that the services provided will conform with the requirements of the Agreement. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

ARTICLE XXXIV

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 XXXV

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 XXXVI

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 Title 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 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 XXV, Default, Termination, or Cancellation.

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Consultant shall complete and sign the attached Exhibit D, marked "California Levine Act Statement," incorporated herein and made by reference a part hereof, regarding campaign contributions by Consultant, if any, to any officer of County.

ARTICLE XXXVII
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, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2,

Sections 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 Title 2, California Code of Regulations, Section 8103.

ARTICLE XXXVIII

California Residency (Form 590): All independent contractors 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 XXXIX

County Payee Data Record Form: All independent contractors 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 XL

Resolution of Claims: Consultant's attention is invited to Public Contract Code Sections 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 California 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 XLI

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 XLII

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Jennifer Franich, Deputy Chief Administrative Officer, Chief Administrative Office, or successor.

ARTICLE XLIII

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 XLIV

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 (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

ARTICLE XLV

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 XLVI

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 XLVII

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 XLVIII

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: _____

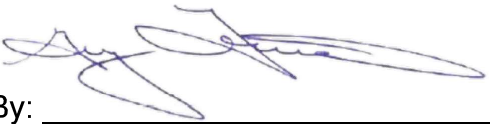
Purchasing Agent
"County"

-- NICHOLS CONSULTING ENGINEERS, CHTD. --

By:  _____

Dated: 11/17/2023

Margot Yapp
Chief Executive Officer
"Consultant"

By:  _____

Dated: 11/15/23

Gregory Fasiano
Corporate Secretary

Nichols Consulting Engineers, CHTD.

Exhibit A

Scope of Work

Project Description

Schematic site planning and civil engineering design services are needed in association with Phase I of the Forebay Community Park Renovations. The project includes site civil improvements related to access roads, parking lots, restroom siting and details, and utilities including electrical, lighting, and domestic water connection.

Scope of Services

Consultant shall provide construction engineering support services for the project which may include refinement of the current site master plan, pavement design, stormwater, civil engineering design, and electrical engineering to construct the Phase I infrastructure upgrades, siting of restroom facilities and parking lot, and additional services to support construction including bidding and construction support, permitting assistance, environmental compliance, and Stormwater Pollution Prevention Plan (SWPPP).

Phase IA – Planning and Plans, Specifications, and Estimates (PS&E)

Task 1 – Project Management and Meetings

Consultant shall arrange a Kick-Off Meeting with the County to initiate work on the project. The objectives of the Kick-Off Meeting will be to:

- Review of the Scope of Work
- Establish Lines of Communication
- Confirm Deadlines
- Establish Project Schedule and Milestones

Consultant shall provide a detailed project design schedule after the Kick-Off Meeting and project objectives are established.

Throughout the project Consultant shall be available to attend regularly scheduled progress meetings with the County if needed to maintain good communications. The purpose of the progress meetings will be continuing coordination with project stakeholders as necessary.

Deliverable(s):

- Kick-off/Progress Meeting Agendas and Summaries in Microsoft (MS) Word or portable document file (PDF) format submitted electronically within two (2) weeks of contract execution.

- Detailed Project Design Schedule in Microsoft (MS) Word or portable document file (PDF) format submitted electronically within two (2) weeks of contract execution.

Task 2 – Background Review and Research

Consultant shall review the existing site data, use patterns, conditions of facilities and requirements of proposed improvements. Upon completion of the research process, Consultant shall identify additional information that will be required for the design. Consultant shall research and review the following:

- Topographic survey
- Utility requirements
- Existing site master plan
- California Environmental Quality Act (CEQA) documents
- Local, state and federal permitting agency requirements
- Operational requirements of proposed and existing uses
- County maintenance standards
- Arborist report and existing vegetation
- Existing slopes, drainage patterns and storm drain infrastructure
- Emergency access requirements
- Americans with Disabilities Act (ADA) compliance
- Parking needs during special events
- Service and maintenance access
- Vehicular, pedestrian and bicycle circulation
- Play area sizes and features

Deliverable(s):

- Memorandum with results of background review/research and a list of additional information required for the design process in MS Word or PDF format submitted electronically and in accordance with Detailed Project Design Schedule.

Task 3- Schematic Site Plan (Plan)

Task 3A: Draft Schematic Site Plan

Based on the data and information collected during Task 2, Consultant shall prepare a draft Schematic Site Plan which will indicate the location, size, and details of the proposed improvements. The Plan will identify the precise location of parking areas, number of parking spaces, the location of pedestrian paths, a diagrammatic layout of a disc golf course and dog park, play area size and potential play equipment, the location of utilities to be undergrounded and new services, stormwater treatment areas, existing and proposed site furnishings. The Plan will include sections or visualizations to convey the design intent. Upon completion of the Plan, Consultant shall present the Plan to County staff and record staff's comments.

Deliverable(s):

- Draft Schematic Site Plan drawn to scale, prepared in AutoCAD 2010 in print and digital formats and in accordance with Detailed Project Design Schedule.
- Memo summarizing staff's comments and design direction in MS Word or PDF format submitted electronically and in accordance with Detailed Project Design Schedule.

Task 3B: Final Schematic Site Plan

Based on County staff's comments and design direction, Consultant shall prepare the Final Schematic Site Plan which will be used for the preparation of construction documents, specifically civil engineering plans for the parking lots and utilities.

Deliverable(s):

- Schematic Site Plan drawn to scale, prepared in AutoCAD 2010 in print and digital formats and in accordance with Detailed Project Design Schedule.

Task 4 – Civil Engineering Design

Task 4A: Thirty-five Percent (35%) Plans and Estimate of Probable Construction Cost (PS&E)

Consultant shall prepare the thirty-five percent (35%) plans and estimate of probable construction cost for the Phase I improvements. The thirty-five percent (35%) design will be based on the topographic survey provided by the County and the Final Schematic Site Plan prepared under Task 3. The plans will be prepared on 24"x36" plan sheets at a scale appropriate to show the improvements in a biddable and constructible manner.

The plans will show the proposed roadway and parking lot improvements, utility alignments for domestic water, parking lot lighting, and undergrounding plans for site overhead electrical lines. The following plan sheets are anticipated to be included in the thirty-five percent (35%) design phase:

- Title Sheet
- Notes, Legend, and Abbreviations
- Site and Removal Plan
- Site Improvement Plan -Access Road and Parking Lots
- Site Grading and Drainage Plan -Access Road and Parking Lot
- Water Service Plan
- Civil Details
- Lighting and Undergrounding Plan
- Electrical Details

Consultant shall take up to four (4) pavement cores from the existing paved access roads and parking areas. In addition, Consultant shall take up to four (4) bulk samples of the subgrade for soils laboratory testing. The soils testing will include the analysis of moisture content, plasticity index, and R-value. The soil testing results will be used to prepare a pavement design for the project. Consultant shall summarize the results of the testing program in a brief technical memorandum.

The thirty-five percent (35%) design package will be submitted to the County for review and comment. Consultant assumes that the County will need ten (10) to fifteen (15) days to review the design documents. After the County's review, Consultant shall conduct a design review meeting where more significant comments can be discussed, and possible solutions identified. Consultant shall prepare the 65% PS&E from the comments and discussion received from the County. All deliverables will undergo a thorough Quality Assurance/Quality Control (QA/QC) review prior to submission to the County. The QA/QC process shall be documented on QA/QC forms that are included in the Consultant's Quality Assurance Plan.

Deliverable(s):

- Thirty-five percent (35%) plans on 24"x36" plan sheets at a scale appropriate to show the improvements in a biddable and constructible manner and in accordance with Detailed Project Design Schedule.
- Thirty-five percent (35%) estimate of probable construction cost in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.
- Technical memorandum of pavement design in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.

Task 4B: Sixty-five Percent 65% Plans, Technical Specifications, and Estimate of Probable Construction Cost

Consultant shall prepare the sixty-five percent (65%) plans and estimate of probable construction cost for the Phase I improvements. The sixty-five percent (65%) design will be based on the thirty-five percent (35%) design and comments received from the County.

The plans will show in more detail the proposed roadway and parking lot improvements, and utility alignments for domestic water, parking lot lighting, and undergrounding plans for site overhead electrical lines. The access road plans will include profiles and cross sections as necessary to depict the design. During the preparation of the sixty-five percent (65%) PS&E, Consultant's senior inspector shall conduct a constructability review of the design in the field. The comments from the constructability review will be incorporated into the sixty-five percent (65%) plans prior to internal QA/QC review.

The sixty-five percent (65%) design package will be submitted to the County for review and comment. Consultant assumes that the County will need ten (10) to fifteen (15) days to review the design documents. Subsequent to the County's review, Consultant shall

conduct a design review meeting where more significant comments can be discussed, and possible solutions identified. Consultant shall prepare the ninety-five percent (95%) PS&E from the comments and discussion received from the County. All deliverables will undergo a thorough QA/QC review prior to submission to the County. The QA/QC process will be documented on QA/QC forms that are included in Consultant's Quality Assurance Plan.

Deliverable(s):

- Sixty-five percent (65%) plans on 24"x36" plan sheets at a scale appropriate to show the improvements in a biddable and constructible manner and in accordance with Detailed Project Design Schedule.
- Sixty-five percent (65%) estimate of probable construction cost in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.
- Table of Contents for the technical specifications in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.

Assumptions:

- Upfront specifications will be provided by the County for review and editing by Consultant.

Task 4C: Ninety-five Percent (95%) Plans, Technical Specifications, and Estimate of Probable Construction Cost

Consultant shall prepare the ninety-five percent (95%) PS&E for the Phase I improvements. The ninety-five percent (95%) design will be based on the sixty-five percent (65%) design and comments received from the County.

The plans will show the proposed roadway and parking lot improvements, and utility alignments for domestic water, parking lot lighting, and undergrounding plans for site overhead electrical lines in detail as expected at this completion level. The access road plans, profiles, and cross sections will be refined.

The ninety-five percent (95%) design package will be submitted to the County for review and comment. Consultant assumes that the County will need ten (10) to fifteen (15) days to review the design documents. Subsequent to the County's review, Consultant shall conduct a design review meeting where more significant comments can be discussed, and possible solutions identified. Consultant shall prepare the Final PS&E from the comments and discussion received from the County. All deliverables will undergo a thorough QA/QC review prior to submission to the County. The QA/QC process will be documented on QA/QC forms that are included in Consultant's Quality Assurance Plan.

Deliverable(s):

- Ninety-five percent (95%) plans on 24"x36" plan sheets at a scale appropriate to show the improvements in a biddable and constructible manner and in accordance with Detailed Project Design Schedule.
- Ninety-five percent (95%) estimate of probable construction cost in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.
- Ninety-five percent (95%) technical specifications in MS Word or PDF in print and digital formats and in accordance with Detailed Project Design Schedule.

Task 4D: Final PS&E and Bid Documents

Consultant shall prepare the Final PS&E for the Phase I improvements. The Final PS&E will be based on the ninety-five percent (95%) design and comments received from the County. The Final PS&E will be stamped and signed by the responsible engineer in charge. The Final PS&E will be submitted to the County for one (1) final round for review and comment. Consultant assumes that the County will need five (5) days to review the design documents. Subsequently, Consultant shall prepare the Final PS&E for bidding and submit them to the County. All deliverables will undergo a thorough QA/QC review prior to submission to the County. The QA/QC process will be documented on QA/QC forms that are included in Consultant's Quality Assurance Plan.

Deliverable(s):

- Final PS&E and Request for Bids (RFB) PS&E and in accordance with Detailed Project Design Schedule.
- Final Bid Schedule and in accordance with Detailed Project Design Schedule.

Phase IB – Environmental, Permitting, and Construction Support

Task 5 – Environmental and SWPPP Support

Consultant shall provide pre-construction and regulatory compliance support to County in support of the Forebay Park Improvement Project. The environmental tasks are focused on mitigation measures presented in the Project Initial Study/Mitigated Negative Declaration, May 2023 (Project Environmental Document). County adopted the environmental document in September 2023.

The following mitigation measures, presented in the Project Environmental Document, are the basis for the task:

- *BIO-1 - Conduct pre-construction surveys.* Conduct pre-construction surveys for California red-legged frog, western pond turtle, northern goshawk, bald eagle, and

nesting migratory birds and raptors (during the nesting season [February 1 through August 31]) fourteen (14) days prior to the initiation of construction or ground disturbing activities. If construction or ground disturbing activities do not commence within fourteen (14) days, or halt for more than seven days, additional surveys are required prior to resuming or starting work.

- *BIO-2 - Environmental Awareness Training.* A qualified biologist shall conduct environmental awareness training for all construction personnel prior to the initiation of work. The training shall include identification of California red-legged frog, western pond turtles, special status birds, and nesting birds; required practices to be implemented prior to and during construction; general measures that are being implemented to conserve the species as they relate to the project; penalties for non-compliance, boundaries of the non-disturbance buffer zones; and what to do/whom to contact should sensitive wildlife or plant species, or nesting birds be observed on-site during construction. Upon completion of the training, all construction personnel shall sign a form stating that they have attended the training and understand all the measures. Proof of this instruction shall be kept on file with the project proponent.
- *BIO-3 - Oak Woodland Removal Permit (ORMP).* The project proponent will obtain an oak woodland removal permit. Required mitigation will be implemented on-site and integrated into the landscape plan. If on-site mitigation is not feasible, then mitigation will be completed through off-site mitigation or payment of in-lieu fees in accordance with the ORMP.
- *CUL-1-Worker Awareness Training Program.* All construction personnel involved in ground disturbing activities shall be trained in the recognition of possible cultural resources and protection of such resources. The training will inform all construction personnel of the procedures to be followed upon the discovery of archaeological materials, including Native American burials. Construction personnel will be instructed that cultural resources must be avoided and that all travel and construction activity must be confined to designated roads and areas. The training will include a review of the local, state, and federal laws and regulations related to cultural resources, as well as instructions on the procedures to be implemented should unanticipated resources be encountered during construction, including stopping work in the vicinity of the find and contacting the appropriate environmental compliance specialist.
- *CUL-2-Accidental Discovery of Cultural Resources.* If cultural resources are exposed during ground disturbing activities, construction activities should be halted within one hundred feet (100') of the discovery. Cultural resources could consist of but are not limited to stone, bone, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. If the resources cannot be avoided during the remainder of construction, an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards should then be retained, in coordination with the County to assess the resource and provide

appropriate management recommendations. If the discovery proves to be CRHR- or NRHP-eligible, additional work, such as data recovery excavation, may be warranted and should be discussed in consultation with the County.

Task 5A: BIO Pre-Construction Survey

Consultant shall conduct relevant background research to obtain current survey and occurrence data from regulatory agencies and land managers for special status species listed in the Project Environmental Document including the following target species: California red-legged frog, western pond turtle, northern goshawk, bald eagle, and nesting migratory birds and raptors.

Consultant shall conduct one (1) pre-construction, presence/absence survey for the target species listed above. The pre-construction survey will include an area slightly larger than the proposed construction footprint to account for species movement. The survey will be conducted by a qualified biologist during the nesting season (February 1 through August 31) and no more than fourteen (14) days prior to the initiation of construction or ground disturbing activities.

Following the pre-construction survey, Consultant shall send a summary email of the survey results to the County's Contract Administrator. In addition, within one (1) week of the pre-construction survey, Consultant shall prepare and submit a letter report that summarizes the results of the pre-construction survey. This letter report will document the survey approach, findings, and recommendations.

Deliverable(s):

- One (1) summary email of pre-construction, presence/absence survey results to County's Contract Administrator and in accordance with Detailed Project Design Schedule.
- One (1) pre-construction letter report in MS Word or PDF submitted Electronically and in accordance with Detailed Project Design Schedule.

Task 5B: Environmental Awareness Training (Biological and Cultural)

Consultant shall prepare for and conduct Environmental Awareness Training for persons employed or otherwise working on the Project, prior to the contractor performing work on site. Consultant assumes the training will last up to thirty (30) minutes and will be delivered by one (1) biologist and one (1) archaeologist.

The biological training will include the following topics:

- Identification of California red-legged frog, western pond turtles, special status birds, and nesting birds.
- Required practices to be implemented prior to and during construction.
- General measures that are being implemented to conserve the species as they

relate to the project.

- Penalties for non-compliance, boundaries of the non-disturbance buffer zones.
- What to do and whom to contact should sensitive wildlife or plant species, or nesting birds be observed on-site during construction.

The cultural training will include the following topics:

- All construction personnel involved in ground disturbing activities shall be trained in the recognition of possible cultural resources and protection of such resources.
- The training will inform all construction personnel of the procedures to be followed upon the discovery of archaeological materials, including Native American burials.
- Construction personnel will be instructed that cultural resources must be avoided and that all travel and construction activity must be confined to designated roads and areas.
- The training will include a review of the local, state, and federal laws and regulations related to cultural resources, as well as instructions on the procedures to be implemented should unanticipated resources be encountered during construction, including stopping work in the vicinity of the find and contacting the appropriate environmental compliance specialist.

Upon completion of the biological and cultural training, all construction personnel will sign a form stating that they have attended the training and understand all the measures. Proof of this instruction shall be kept on file with the County's Contract Administrator.

Deliverable(s):

- One (1) environmental awareness training and in accordance with Detailed Project Design Schedule.
- Hardcopies of all construction personnel signed training completion forms and in accordance with Detailed Project Design Schedule.

Task 5C: Oak Woodland Removal Permit (ORMP)

Consultant shall support the County in obtaining the ORMP including the following steps:

1. Cover Letter and permit application
 - a. Consultant shall develop a cover letter describing the reason for the request, presenting the specific impacts to oak species, based on the design Consultant prepares, and other project information necessary to support the permit approval process.
 - b. Consultant shall complete an El Dorado County Administrative Permit Application and set and participate in a planning department meeting, as required by the approval process.
2. Mapping
 - a. Consultant shall prepare a basic vicinity site map and project-specific oak species impact map using the geographic information system

- (GIS) data collected by Helix Environmental Planning.
3. Mitigation
 - a. Consultant shall discuss and agree on a strategy for mitigating impacts to oak species. This strategy will be described within the permit application and discussed during the meeting with the County.

Deliverable(s):

- One (1) Cover Letter in MS Word or PDF format submitted electronically and in accordance with Detailed Project Design Schedule.
- One (1) completed El Dorado County Administrative Permit Application and in accordance with Detailed Project Design Schedule.
- One (1) permit approval meeting and in accordance with Detailed Project Design Schedule.
- Up to three (3) maps including a vicinity site map, oak species impact map, and up to one (1) additional map, as necessary to support the approval process and in accordance with Detailed Project Design Schedule.

Task 5D: Stormwater Pollution Prevention Plan

If the Project includes more than one (1) acre of disturbance, the County will be required to apply for coverage under the California Construction General Permit (Order 2012-0006-DWQ). Consultant shall support the County by providing a Qualified SWPPP Developer (QSD) to conduct the risk level determination, support the County with State of California's Storm Water Multiple Application and Report Tracking System (SMARTS) online reporting, and preparing a stormwater pollution prevention plan (SWPPP) for the project. This task does not include conducting SWPPP inspections, but Consultant may provide a Qualified SWPPP Practitioner, if desired.

Consultant shall conduct a risk level determination. The risk level of a project is determined by calculating the project's sediment risk and receiving water risk. Depending on risk level, projects can have different monitoring requirements (visual, non-visible pollutant, effluent, and receiving water) per the Construction General Permit (CGP).

Consultant shall provide SMARTS reporting and coordination necessary for the project, including submitting documents to SMARTS, and coordinating the closeout reports once the project is completed. The SMARTS coordination will involve assisting the County with identifying the Legally Responsible Person (LRP), setting up the project, and linking all accounts, including Consulting as the Data Submitter, to the project. In addition, this work will involve uploading Permit Registration Documents and filling out and submitting the Notice of Intent (NOI).

Consultant shall prepare a preliminary SWPPP for the project that will conform to the requirements of the California Construction General Permit (CGP). The SWPPP will include a narrative and site plan. The narrative will include an introduction and discussion of the SWPPP team; project information; a description of best management practices; the

approach to inspection, maintenance, and Rain Event Action Plans (REAPs); and the Construction Site Monitoring Plan. The site plan will visually present the location and type of temporary best management practices (BMPs).

A Draft will be provided to the County for review and comment. The County will provide one (1) consolidated set of comments. Consultant shall then prepare the Final SWPPP. The County will need to provide Consultant with contractor information, LRP, and contractor signatures. Consultant shall upload the Final SWPPP to SMARTS.

Deliverable(s):

- One (1) Draft SWPP in MS Word or PDF format submitted electronically and in accordance with Detailed Project Design Schedule.
- One (1) Final SWPP in MS Word or PDF format submitted electronically to County and in accordance with Detailed Project Design Schedule.
- One (1) Final SWPP uploaded to SMARTS and in accordance with Detailed Project Design Schedule.

Assumptions:

- All permitting fees will be paid by County.
- Deed restrictions for the subject parcel will be handled by County.
- Property owner letters of authorization will be obtained by County.
- The existing Forebay Park Oak Resources Technical Report will meet the County's requirement to provide an Oak Resources Technical Report Checklist.
- No protocol-level surveys will be required.
- Regulatory agency coordination will be handled by County.

Task 6 – Bidding and Construction Support

Consultant shall be available up to twenty (20) hours of staff time to assist during the advertisement and bidding period of the project. This will include attendance at the pre-bid meeting, responses to Requests for Information (RFIs), preparation of verbal and written responses to questions received about the project design, and preparation of one (1) bid addendum and/or clarifications to the PS&E that are deemed necessary. Upon request by County's Contract Administrator, Consultant may be asked to assist the County in determining the responsiveness of the bids received, checking and tabulating bids, and with developing recommendations for the award of a construction contract to the County.

Consultant shall provide support services, up to eighty (80) staff hours, to the County during construction of the project. At a minimum, these services are anticipated to include attendance at the pre-construction conference, reviewing Contractor submittals and responding to Contractor requests for information, providing recommendations for any necessary construction changes due to unforeseen field conditions, assisting with the review of Contract Change Orders, and reviewing construction for acceptance.

Deliverable(s):

- One (1) pre-bid meeting and in accordance with Detailed Project Design Schedule.
- Responses to RFIs as needed
- One (1) bid addendum as needed
- One (1) pre-construction meeting and in accordance with Detailed Project Design Schedule.
- Review of contractor submittals
- Preparation of design clarifications as needed

Assumptions:

- Construction management to be provided by others

Nichols Consulting Engineers, CHTD.

Exhibit B

Rate Schedule

Classification	Hourly Rates by Year			
	2023	2024	2025	2026
Principal	\$310	\$322	\$335	\$349
Associate	\$245	\$255	\$265	\$276
Senior II	\$215	\$224	\$233	\$242
Senior I	\$205	\$213	\$222	\$231
Project II	\$195	\$203	\$211	\$219
Project I	\$180	\$187	\$195	\$202
Staff II	\$170	\$177	\$184	\$191
Staff I	\$155	\$161	\$168	\$174
Senior Construction Manager*	\$160	\$166	\$173	\$180
Construction Inspector*	\$140	\$146	\$151	\$157
Senior Designer	\$170	\$177	\$184	\$191
CADD Designer	\$150	\$156	\$162	\$169
CADD Technician	\$130	\$135	\$141	\$146
Senior Field Scientist	\$135	\$140	\$146	\$152
Field Scientist	\$115	\$120	\$124	\$129
Senior Technician*	\$140	\$146	\$151	\$157
Field/Engineering Technician*	\$115	\$120	\$124	\$129
Project Administrator	\$130	\$135	\$141	\$146
Technical Editor	\$115	\$120	\$124	\$129
Clerical	\$105	\$109	\$114	\$118

Prevailing Wage

*A surcharge of \$25 per hour will be applied for technicians and construction inspectors to comply with Prevailing Wage per requirements of California Department of Industrial Relations.

Subconsultants

Reimbursement for any subconsultants, if applicable, shall be compensated in accordance with the provisions of ARTICLE III, Compensation for Services.

Nichols Consulting Engineers, CHTD.

Exhibit C

Cost Proposal

PHASE IA – Planning and Plans, Specifications, and Estimates (PS&E)		Cost
Task 1	Project Management and Meetings	\$ 5,912.20
Task 2	Background Review and Research	\$ 6,962.80
Task 3	Schematic Site Plan	\$ 21,357.00
	3A – Draft Schematic Site Plan	
	3B – Final Schematic Site Plan	
Task 4	Civil Engineering Design	\$ 126,970.15
	4A – 35% Plans and Estimate of Probable Construction Cost	
	4B – 65% Plans, Technical Specifications and Estimate of Probable Construction Cost	
	4C – 95% Plans, Technical Specifications and Estimate of Probable Construction Cost (PS&E)	
	4D – Final PS&E and Bid Documents	
	PHASE IA Subtotal:	\$ 161,202.15
PHASE IB – Environmental, Permitting, and Construction Support		Cost
Task 5	Environmental and Stormwater Pollution Prevention Plan (SWPPP)	\$ 38,137.45
	5A – BIO Pre-Construction Survey	
	5B – Environmental Awareness Training (Biological and Cultural)	
	5C – Oak Woodland Removal Permit	
	5D – Stormwater Pollution Prevention Plan	
Task 6	Bidding and Construction Support	\$ 22,948.00
	PHASE IB Subtotal:	\$ 61,085.45
	TOTAL COST	\$ 222,287.60

All expenses and their distribution among Tasks are estimates only. This exhibit represents the composition of the total not-to-exceed budget for this Agreement. In the performance of the Scope of Work to be provided in accordance with this budget, Consultant may request to reallocate the expenses listed herein among the various Scope of Work Tasks identified herein, subject to County's Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Nichols Consulting Engineers, CHTD.

Exhibit D

California Levine Act Statement

California Levine Act Statement

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she receives any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclose of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, and any elected official (collectively "Officer"). It is the Consultant's responsibility to confirm the appropriate "officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

 YES X NO

If yes, please identify the person(s) by name:


Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

 YES X NO

If yes, please identify the person(s) by name:

Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

10/16/2023
Date


Signature of authorized individual

Nichols Consulting engineers (NCE)
Type or write name of company

Greg L. Fasiano, PG (VP & Corporate Secretary)
Type or write name of authorized individual