

**CITY OF FORT BRAGG  
PROFESSIONAL SERVICES AGREEMENT  
WITH  
SHN CONSULTING ENGINEERS & GEOLOGISTS, INC**

THIS AGREEMENT is made and entered into this 12 day of February, 2024 (“Effective Date”), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and SHN Consulting Engineers & Geologist Inc a California, 335 S. Main Street, Willits, California 95460 (“Consultant”).

**WITNESSETH:**

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide construction management services for the Raw Water Line Replacement Project, WTR-00016, as more fully described herein; and

B. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

C. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

D. WHEREAS, the legislative body of the City on February 12, 2024 by Resolution No. \_\_\_\_\_ authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Work. Consultant shall provide the professional services described in the Consultant’s Proposal (“Proposal”), attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the

work to the complete satisfaction of the City as hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's negligent performance under this Agreement. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability except as permitted pursuant to Section 12940 of the Government Code. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability. Consultant shall cause the paragraphs contained in this Section to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter

into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense. All insurance requirements contained in this Agreement are independently applicable to any and all subcontractors that Consultant may engage during the term of this Agreement.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

## **2.0. COMPENSATION, BILLING AND PREVAILING WAGES**

2.1. Compensation. Consultant's total compensation shall not exceed Five Hundred Twenty-Five Thousand Dollars (\$ 525,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but not more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all

invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the date of final payment.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the issuance of Notice to Proceed. Said services shall be performed in strict compliance with the schedule set forth in the Scope of Work attached hereto as **Exhibit A**. Consultant will complete the services in accordance with this Agreement by February 21, 2026. The Time of Completion may only be modified by a written amendment of the Agreement signed by both the City and the Consultant and in accordance with its terms.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and expire on May 1, 2026, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. Either party reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least ten (10) days prior written notice to the other party. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this

Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

The City shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination within thirty-five (35) days after service of the notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant. City shall not be liable for any claim of lost profits.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

## **5.0. INSURANCE**

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following

minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Broad-form commercial general liability, in a form at least as broad as ISO form #CG 20 01 04 13, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate, combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit. If Consultant maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the high limits maintained by the Consultant.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, each incident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident for any employee or employees of Consultant. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Before execution of this Agreement by the City, the Consultant shall file with the City Clerk the following signed certification:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City Clerk before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law

or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions (“E&O”) liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. Architects’ and engineers’ coverage shall be endorsed to include contractual liability. If the policy is written as a “claims made” policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

Neither the City nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by Consultant under this Agreement are adequate to protect Consultant. If Consultant believes that any such insurance coverage is insufficient, Consultant shall provide, at its own expense, such additional insurance as Consultant deems adequate.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant’s sole cost and expense."
- (c) Other insurance: "The Consultant’s insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."

- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance and endorsements shall be attached hereto as **Exhibit B** and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

## **6.0. GENERAL PROVISIONS**

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The Project Manager designated to work directly with Consultant in the performance of this Agreement will be Diane O'Connor. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision,



which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates Jason Island as its Project Manager, who shall represent it and be its agent in all consultations with City during the term of this Agreement and who shall not be changed by Consultant without the express written approval by the City. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or if mailed, shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:  
Jason Island  
SHN Consulting Engineers  
335 S. Main Street  
Willits, CA 95490  
Tel: 707-962-3140

IF TO CITY:  
City Clerk  
City of Fort Bragg  
416 N. Franklin St.  
Fort Bragg, CA 95437  
Tel: 707-961-2823  
Fax: 707-961-2802

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

#### 6.8. Indemnification and Hold Harmless.

If Consultant is not a design professional performing “design professional” services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant’s sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the negligent performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work negligent performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City’s specifications or Consultant’s Proposal, which shall be of no force and effect.

If Consultant is a design professional performing “design professional” services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant’s sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City’s specifications or Consultant’s Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social

Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City, but shall be made available to the City within ten (10) days of request or within ten (10) days of termination. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information,

data, preliminary notes and working documents, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 7920.000 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 7924.510, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved

by giving precedence in the following order, if applicable: This Agreement, the City's Request for Proposals, the Consultant's Proposal.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraph and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.27. Use of Recycled Paper Products. In the performance of this Agreement, Consultant shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

CONSULTANT

By: \_\_\_\_\_  
Isaac Whippy  
Its: City Manager

By: \_\_\_\_\_  
Jason Island, PE  
Its: SHN Regional Principal

ATTEST:

By: \_\_\_\_\_  
Diana Sanchez  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Baron J. Bettenhausen  
City Attorney



<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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## Scope of Work

Our project understanding and scope of work is based on a thorough review of the Project plans and specifications and the specific items of work identified in the Request for Proposals (RFP) for Construction Management Services (CM) for the Raw Water Line Replacement Project. We agree with the City that all tasks as listed in the RFP are necessary, and this proposal scope includes all the listed tasks and subtasks. We are providing additional information to describe SHN's approach to specific tasks.

Our history of successfully managing construction projects for the City (including the 2016 Chestnut Street multi- use path and the 2017 and 2022 street repair projects, as well as larger projects such as the 2018-2020 WWTP Upgrade project) demonstrates our ability to deliver effective construction management for the City.

## Construction Management

As the City is aware, SHN's proposed Project Manager/Resident Engineer (Jason Island; PE, QSD/QSP) and support staff including Natalie McLaughlin, Scott Perkins, Justis Naulty, and Jim Wilson, are based in our Fort Bragg office located minutes from the Project site. Our local staff are familiar with the terrain and natural resources throughout the project footprint, as well as the importance of maintaining strong relationships with private landowners along the raw water line. This project is in the SHN team's "backyard" and will supply water to our community—we are invested in the success of this project.

SHN's Willits office, where additional technical and administrative staff work, is less than an hour's drive from Fort Bragg. Our proximity allows us to be responsive, prepared, and actively engaged in impromptu meetings. We believe in establishing a good rapport with the selected Contractor and setting the standard for a well-managed project. Additionally, we will coordinate with the City Public Works Department during all phases of the work, and assist with public relations and press release efforts to keep our community informed and included.

Excellent construction management depends on the ability to limit unforeseen circumstances, and to respond to them quickly and efficiently by being prepared. This project will present the need for fast thinking and collaborative decision making. The pump station and retaining wall to be located at the Summers Lane Reservoir (to be designed by the selected Contractor) and the outcome of pending permits for the Coastal Zone portions of Segments 2 and 3 will require the full project team to problem solve and respond to potentially unexpected constraints.

We will rely on our construction management experience of projects of similar size and scope, with prepared staff who have many years of construction management and specialized inspection experience. We will utilize our existing administrative documentation structure and distribution channels that comply with all construction and contract administration requirements.

# 5. Scope of Work



<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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An essential part of a construction management role is to schedule, attend, and chair a project kick-off meeting and weekly construction meetings. For all meetings, we will prepare agendas and distribute meeting minutes. As we have proved in previous projects, our ability to run efficient and productive meetings will contribute to the Project's success by providing a forum to cover critical items including schedule, budget, administrative issues, safety, design concerns, and permit compliance.

Schedule management will occur at a daily level, and, most importantly, at regular construction meetings to keep the project on schedule. Project scheduling and phasing is a key component of the Raw Waterline Replacement Project due to the limitations provided by approved permits and mitigation measures associated with environmental review. Many project components will require pre-construction surveys for natural resources (nesting birds, amphibians, Sonoma tree voles, Marbled murrelet, etc.). SHN's in-house biologists and botanists have experience ensuring compliance with these types of environmental mitigations and will be available to promptly perform any biological or botanical surveys required to initiate work. SHN will also work with the City to schedule Native American monitors where required.

The adopted environmental documents also include provisions for continuous on-site monitoring for impacts to natural resources if construction activities are occurring during sensitive breeding seasons for listed or protected species. SHN's team is prepared to supplement pre-construction surveys with ongoing monitoring when required by permits and environmental review.

Additionally, because portions of the project alignment are still pending permit approval, constraints associated with those permit conditions will require future scope and scheduling discussions between City staff, the Contractor, and SHN.

SHN will compile and submit the as-built annotated plans for the project, both in hard copy and digital form. In our experience, accurate and complete as-built plans are the product of a process that happens throughout the course of the project and we require our inspector to sign off on the in-progress as-built plans on a monthly basis, approving before we recommend payment of the Contractor's pay requests.

Construction administration is one of our strengths and we will manage project budgeting, document control, record keeping, prevailing wage and certified payroll compliance. Our staff includes Angie Herman and Natalie McLaughlin, who both have extensive experience with state, federal, and other agencies involved in the construction process for municipal projects and prevailing wage labor compliance.





# 5. Scope of Work

<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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During multiple previous construction management projects with the City, we have prepared and submitted all paperwork and documentation required for labor compliance. We will verify classifications and rates for all contractors at the project outset, verify online payroll submissions to the Department of Industrial Relations, assist with Certified Payroll Verifications as needed, and verify compliance with apprentice requirements. Again, we require our Resident Engineer to sign off on completed certified payroll on a monthly basis, approving before we recommend payment of the Contractor's pay requests.

Limiting change orders, resolving conflicts, and managing claims are best approached by identifying potential issues or ambiguities early in the project, and then developing cost effective solutions by close coordination between Coleman Engineering, the City, the Contractor, and SHN. We take communication seriously and believe that is a critical element of successful project management.

Project close-out will commence as the project nears completion. SHN has successfully closed-out many large construction projects and we are familiar with standard-of-practice procedures. Because this project includes phasing for compliance with permitting, environmental documents, and construction seasons, SHN will ensure that the individual phases of the project are properly completed and left in a satisfactory condition prior to subsequent phases beginning.

The Inspector and Resident Engineer will prepare a punch list for the project manager and coordinate the completion of the preliminary and final punch lists with the Contractor and the City. All punch lists will be discussed with City staff for input prior to being shared with the Contractor.

SHN will provide a photo log at close-out, and coordinate O&M manual submission with the Contractor. All final documents will be delivered to the City in electronic format and will become the sole property of the City.

We will verify completion of the punch list and improvements and schedule a walk-through and final inspection with City staff and the Contractor. SHN will document end-of-project procedures as required for project close-out.

Project close-out is as important as every other task under the Construction Management scope of work. We will be timely and efficient in our close-out procedures.

# 5. Scope of Work



<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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## Inspection and Materials Testing

SHN's familiarity with the City's needs, procedures, and staff will allow pre-construction assistance to progress smoothly and efficiently. We will continue reviewing and familiarizing ourselves with the project specifications, design plans, environmental constraints, and geotechnical investigation to prepare for construction. We will coordinate with City staff and Coleman Engineering as we review the design plans, geotechnical investigation/slope creek memorandum, and project specifications, and we will obtain any needed clarifications. We will also obtain and review all relevant environmental documents, including issued and pending Coastal Development Permits and/or exemptions, 401 and 404 permits, and the adopted Mitigated Negative Declaration to understand and prepare for project constraints. The SHN project team attended the December 12, 2023, bid walk with City staff to familiarize ourselves with the project terrain.

SHN's surveyors will coordinate with City of Fort Bragg staff, Coleman Engineering, and Project Contractor to identify survey control along the project footprint to verify the contractor's construction staking. The verification surveying will require a complete horizontally and vertically controlled CAD file of the Project site to provide our surveyors with the information needed to confirm the Project Contractor's staking. We anticipate that the CAD file will include the survey control points for the design of the Project. We understand that the Project Contractor has construction staking responsibilities and we will coordinate with the Contractor.

Field and laboratory data (Daily Inspection Records and Lab test) will be both bound in hard copy and submitted digitally to the City. Our approach to field inspections and documentation will be to continue procedures that have been successful with the City in the past, which is to provide reports that are comprehensive, clear, and timely. Our Inspectors will provide the required inspection documentation for the Project. The reports will be completed and distributed to the project team on a weekly basis, or as needed. We will document the following in our Inspection Records: construction activities, adherence to construction schedules, anticipated changes, important conversations, weather conditions, names of all workers, equipment used, hours of work, safety concerns or accidents, quality of work and materials, materials testing performed, environmental compliance considerations, a record of any other significant information, information for record drawings ("as-builts"), construction photos/videos, and a record of visitors to the site.

We will assign staff based in our Fort Bragg office for site visits when possible throughout construction. We will obtain materials samples and perform the laboratory testing for materials including determining in-place density of materials.

Use of our in-house certified materials testing laboratory will allow samples to be processed and handled properly. Our inspectors and field technicians are cross-trained and hold numerous certifications, so often a single person can perform tests and/or collect samples. This allows for a smooth and efficient workflow.



# 5. Scope of Work

<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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Submittal review will be timely, with our Resident Engineer consulting our staff and technical advisors when needed to verify adherence to project specifications. In our review of submittals, we will coordinate with the City and Contractor as needed and respond in a timely manner, and ensure submittals are compliant with the American Iron and Steel requirement.

SHN will use SHN's Caltrans, ASTM, and AASHTO certified lab located in Willits for testing materials. Relying on in-house lab and lab technicians provides continuity and uniformity in data and documentation. All testing and inspections will be performed in accordance with the appropriate Caltrans (CTM), ASTM test methods, or as otherwise specified in the contract documents and specifications. The results of all lab tests will be recorded and provided as part of the inspection record.

During the materials testing, we will compare maximum material density from the laboratory analysis to the in-place density indicated by the nuclear moisture density gauge. We will determine in-place density of the compacted materials using a nuclear moisture gauge in accordance with the appropriate Caltrans test method. Our inspector will complete an Inspection Record of all site inspections for project documentation.

Our construction inspector will verify that traffic control devices, where necessary to preserve emergency access and logging road functionality, are in place and consistent with a reviewed and approved Traffic Control Plan.

SHN's Construction Inspector and Resident Engineer are well versed in environmental compliance and specifically how it applies to projects in Fort Bragg. Stormwater inspections will be performed under the direction of SHN staff who hold QSD/QSP certifications and by CASQA-trained stormwater inspectors. We will perform all required stormwater inspections, record keeping, and report preparation needed for compliance with the SWPPP. We have extensive stormwater inspection experience and a history of successfully completing stormwater inspections for the City on past projects. Given the Project timeline and construction window, we anticipate the possibility of wet weather inspections. Our proximity to the Project site will allow us to be onsite when required by weather conditions or forecasts. We will respond quickly to unexpected weather events should they arise during construction.



# 6. Proposed Budget and Schedule of Charges

<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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## Proposed Budget and Schedule of Charges

The following Not-to-Exceed Cost Proposal is based upon the understanding that the potential construction period for the Project will be 390 working days over two construction seasons. At this time, the means, methods, schedule and competency of the chosen contractor for the Project are unknown. If the contractor is able to complete construction of the Project in a reduced period, the final cost for the these services will be only the cost incurred to that point; conversely, if the contractor works beyond the allotted construction period, an adjustment to this cost may be required.

The personnel assigned to the Project are identified in a previous section of this proposal. Personnel Rates, Equipment Charges, and Travel Reimbursement are inclusive in this Cost Proposal and outlined in the attached Schedule of Charges (Appendix B). This cost includes travel expenses from our Willits office.

SHN's Not-to-Exceed cost to provide Construction Management and Inspection Services for the Raw Water Line Replacement Project is as follows:

- **Base Project:** Five Hundred Twenty-Five Thousand Dollars (\$525,000.00)



# 7. Work Schedule

<b>Section 01</b> Firm Description	<b>Section 02</b> Relevant Experience	<b>Section 03</b> Key Personnel Qualifications	<b>Section 04</b> Client References	<b>Section 05</b> Scope of Work	<b>Section 06</b> Proposed Budget	<b>Section 07</b> Work Schedule	<b>Section 08</b> Additional Information	<b>Appendix A</b> SHN Team Resumes	<b>Appendix B</b> SHN 2024 Fee Schedule
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## Work Schedule

For the City's upcoming project, SHN proposes the following work schedule, which will include 30 days for pre-construction preparation activities, 390 prevailing wage working days (not including weekends or public holidays), and 30 days for post-construction project closeout activities.

A detailed discussion of these activities is described within the previous Scope of Work section.

Activity	Starting Date	Duration
Pre-Construction Activities	Following close of procurement	30 Working Days
Construction Activities	Following Notice to Proceed	390 Working Days (over two construction seasons)
Post-Construction Closeout Activities	End of Construction Activities	30 Working Days

SHN's project team has the capacity to complete the City's project and we are able to engage as the schedule dictates. Even if the City's proposed schedule is modified, SHN is committed to providing the necessary resources for helping the City to reach a successful conclusion to this project.

**EXHIBIT B**  
**CERTIFICATES OF INSURANCE AND ENDORSEMENTS**