

PROFESSIONAL SERVICES AGREEMENT

AGREEMENT

This Agreement is made and entered into this ____ day of January, 2019 by and between the City of Fort Bragg, a California Municipal Corporation, 416 N. Franklin Street, Fort Bragg, California, 95437 ("City"), and Green Valley Consulting Engineers, Inc., a California Corporation, 335 Tesconi Circle, Santa Rosa, California, 95401 ("Consultant").

RECITALS

WHEREAS, City has determined that it requires the following professional services from a consultant: to prepare complete construction documents for the rehabilitation of approximately one mile of City streets for the 2019 Streets Rehabilitation Project; and

WHEREAS, Consultant represents and warrants that it is fully qualified to perform such professional services by virtue of specialized experience and training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the legislative body of the City on January 14, 2019, by Resolution No. ____-2019 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, City and Consultant, for the consideration hereinafter described, mutually agree as follows:

1. CONTRACT DOCUMENTS

This Agreement consists of the following documents, all of which are incorporated into and made a part of the Agreement:

- a. Professional Services Agreement;
- b. Consultant's Proposal (Exhibit 1)

2. DESCRIPTION OF SERVICES OR SCOPE OF WORK

The services to be performed under this Agreement ("Services") are as follows: Provide complete construction documents for the rehabilitation of approximately one mile of City streets for the 2019 Streets Rehabilitation Project. The Services are further described in Consultant's proposal (the "Proposal"), which is attached to and made a part of this Agreement as Exhibit 1. Changes in the scope, character, or complexity of the Services, if such changes become desirable or necessary as the work progresses, shall be agreed upon by both parties in a written change order. For special cases where it is

essential that the extra work be performed immediately, execution of a change order or amendment to the Agreement covering the changes shall be completed as soon as possible.

3. TERM

The Agreement term will commence on January 15, 2019, and expire on July 30, 2019, unless the Agreement term is amended or the Agreement is terminated in accordance with its terms.

4. PAYMENT TERMS

a. City agrees to pay Consultant for Services that are actually performed in accordance with this Agreement. To be eligible for payment, Consultant invoices must be submitted not more often than monthly to the City and list the Services performed and the amounts to be paid according to the cost categories and prices in the Proposal.

b. NOT TO EXCEED CONTRACT: In no event will the City's obligation to pay the Consultant under this Agreement exceed **One Hundred Forty-nine Thousand Two Hundred Seventy Dollars (\$149,270.00)** (the "Not to Exceed Amount"), unless this Agreement is first modified in accordance with its terms. The Not to Exceed Amount includes salary, fringe benefits, overhead, profit, and all other expenses incurred by the Consultant in completing its Services under this Agreement.

c. [SECTION DELETED.]

d. In accordance with California Government Code § 8546.7, if this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement and the Consultant's books and records related to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of four (4) years after final payment under the Agreement.

e. COST PRINCIPLES. The Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., are the governing factors regarding allowable elements of cost. Also the administrative requirements set forth in 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments are also included in this Agreement. This also applies to all subcontracts in excess of \$25,000.

5. TIME OF COMPLETION

Consultant must commence performance of the Services upon receipt of written direction to proceed from City. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 9 below and to satisfy Consultant's obligations hereunder. Consultant will complete the Services in accordance with this

Agreement by **April 30, 2019** (the "Time of Completion"). 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.

6. INDEPENDENT CONTRACTOR

Consultant and City agree that the Consultant will perform the Services as an independent contractor and not as an employee or agent of the City. Persons employed or utilized by Consultant in the performance of the Services will not be employees or agents of the City. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

7. SUBCONTRACTING

a. The Consultant shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted out without written authorization by the City's Contract Manager, except that, which is expressly identified in the approved Cost Proposal.

b. Any subcontract in excess of \$25,000 entered into by the Consultant relating to this Agreement shall incorporate by reference all of the provisions of this Agreement and make them applicable to said subcontractor.

c. Consultant will be solely responsible for payment of such subcontracted Services.

d. Any substitution of subcontractors must be approved in writing by the City's Contract Manager.

e. Subcontractors are bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under the Agreement. Subcontractor further must agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

f. If the Consultant uses subcontractors, it must comply with Civil Code § 8814 and all other California law relating to the prompt payment of subcontractors.

8. RECORD RETENTION

For the purpose of determining compliance with Public Contracts Code §§ 10115, *et seq.* and Title 21, California Code of Regulations, Chapter 21, §§ 2500 *et seq.*, when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code § 8546.7, the Consultant, subcontractors, and the City

shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering the Agreement. All 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 of final payment under the Agreement. The State, the State Auditor, City, Federal Highway Administration ("FHWA"), or any duly authorized representative of the federal government shall have access to any books, records, and documents of the Consultant and its subcontractors that are pertinent to the Agreement for audit, examination, excerpts, and transactions, and copies thereof shall be furnished if requested.

9. STANDARD OF PERFORMANCE

a. Consultant will perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and will prepare all work products required by this Agreement in accordance with such standards. Consultant will comply with federal, state, and local laws and regulations applicable to performance of the Services, including, but not limited to, the California Building Standards Code as in effect in the City, the Americans with Disabilities Act, any air pollution control laws and regulations applicable to Consultant, and any laws and regulations related to any copyright, patent, trademark, or other intellectual property right involved in performance of the services. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the services hereunder shall constitute a material breach of this agreement.

b. The Consultant should not substitute key personnel (Project Manager and others listed by name in the cost proposal) or subcontractors without prior written approval from the City. The Consultant must request and justify the need for the substitution and obtain approval from the City prior to use of a different subcontractor on the Agreement. The proposed substituted person or subcontractor must be as qualified as the original, and at the same or lower cost.

c. If this Agreement includes engineering services, the Consultant's Project Manager must be a registered Engineer in the State of California.

d. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

10. OTHER GOVERNMENTAL REGULATIONS

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.

11. USE OF RECYCLED PRODUCTS

Consultant shall endeavor to prepare and submit all reports, written studies, and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

12. INDEMNITY

To the maximum extent permitted by law, Consultant shall, at its own expense, indemnify, defend with counsel acceptable to the City (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents, and volunteers ("Indemnitees") from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, claims expenses, attorneys' fees and costs and litigation costs) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with the Services, or Consultant's failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees but excepting the sole negligence or willful misconduct of the Indemnitees.

The Consultant's obligation to indemnify, defend, and hold harmless under this provision shall not be excused because of the Consultant's inability to evaluate Liability, or because the Consultant evaluates Liability and determines that the Consultant is not or may not be liable. The Consultant must respond within 30 calendar days to any tender for defense and indemnity by the City, unless the time for responding is extended by an authorized representative of the City in writing. If the Consultant fails to accept tender of defense and indemnity within 30 calendar days, in addition to any other remedies authorized by law, so much of the money due or that may become due the Consultant under this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the matter subject to tender, or until the Consultant accepts the tender, whichever occurs first.

The Consultant waives any and all rights to express or implied indemnity against the Indemnitees concerning any Liability of the Consultant arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement.

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code § 2782, as may be amended from time to time.

Notwithstanding the foregoing, to the extent that the Services include design professional services subject to Cal. Civil Code § 2782.8, as amended from time to time, Consultant's duty to indemnify shall only be to the maximum extent permitted by Civil Code § 2782.8.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement 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 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.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

Consultant/subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

13. INSURANCE

a. Before commencing performance of the Services, Consultant, at its own cost and expense, must: (1) procure "occurrence coverage" insurance of the kinds and in the amounts specified below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services hereunder by the Consultant or its agents, representatives, employees, or subcontractors; and (2) submit to the City certificates of insurance and endorsements evidencing insurance coverage that meets the requirements of this section. Consultant must maintain the insurance policies required by this section throughout the Agreement term. The cost of such insurance must be included in the Consultant's proposal.

Consultant agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. The Consultant shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any work and Consultant will provide proof of compliance to the City.

Consultant may not allow any subcontractor to commence work on the Services until Consultant and/or the subcontractor have obtained all insurance required by this Agreement for the subcontractor(s) and submitted certificates of insurance and endorsements evidencing such coverage to City.

b. Workers Compensation Insurance. Consultant must, at its sole cost and expense, maintain Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. Workers' Compensation Insurance as required by the State of California, with coverage providing Statutory Limits, and Employer's Liability Insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence must be provided. The insurance must be endorsed to waive all rights of subrogation against City and its officials, officers, employees, and volunteers for loss arising from or related to the Services.

c. For the Term of this Agreement, Consultant, at its own cost and expense, must maintain: (1) commercial general liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, TWO MILLION DOLLARS (\$2,000,000.00) aggregate, combined single limit coverage for risks associated with Services; and (2) automobile liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit coverage. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include, but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

d. Except for Workers' Compensation insurance and Professional Liability insurance, all other insurance coverages required pursuant to this Agreement must include or be endorsed to include the following:

(1) City and its officials, officers, employees, agents, and volunteers ("Additional Insured") shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by Consultant. The coverage may contain no special limitations on the scope of protection afforded to City or its officials, officers, employees, agents, or volunteers.

(2) The Additional Insured coverage under the Consultant's policy shall be "primary and non-contributory" and Consultant's coverage will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

e. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and

maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.

f. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

g. Insurance coverage required pursuant to this Agreement must include or be endorsed to include the following:

(1) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

(2) Required insurance coverage may not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

h. Consultant, at its own cost and expense, must maintain for the period covered by this Agreement professional liability insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000) covering errors and omissions. Any deductible or self-insured retention under the required professional liability insurance may not exceed \$150,000 per claim.

i. All insurance required under this Agreement must be placed with insurers with a Best's rating of no less than A:VII unless otherwise approved by the City.

j. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

k. All self-insured retentions (SIR) must be disclosed to City for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or by the City. City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

l. To the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following completion of the

Services. In the event Consultant fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Consultant.

14. NON DISCRIMINATION

During the performance of this Agreement, Consultant will not discriminate against any employee of the Consultant or applicant for employment because of race, religion, creed, color, national origin, gender, sexual orientation, or age. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, national origin, gender, sexual orientation, or age.

15. FAIR EMPLOYMENT PRACTICES ADDENDUM AND NON-DISCRIMINATION ASSURANCES

The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement, or such other remedy as recipient deems appropriate.

16. DISADVANTAGED BUSINESS ENTERPRISE CONSIDERATION

Consultants must give consideration to DBE firms as specified in 23 CFR §172.5(b), 49 CFR, Part 26, and in Exhibit 10-I "Notice to Proposers Disadvantaged Business Enterprise Information." If the contract has a DBE goal, the consultant must meet the DBE goal by using DBEs as subconsultants or document a good faith effort to have met the goal. If a DBE subconsultant is unable to perform, the consultant must make a good faith effort to replace him/her with another DBE subconsultant if the goal is not otherwise met. LAPM Exhibits 10-I, 10-J, 10-O1, 10-O2, 15-H and 17-F are to be included in the consultant contract.

17. LICENSES & PERMITS

a. BUSINESS LICENSE

Before the City will issue a notice to proceed with the Services, Consultant and any subcontractors must acquire, at their expense, a business license from City in accordance with Chapter 5.04 of the Fort Bragg Municipal Code. Such licenses must be kept valid throughout the Agreement term.

b. OTHER LICENSES AND PERMITS

Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

18. CONSULTANT REPORTS AND/OR MEETINGS

a. The Consultant shall submit progress reports at least once a month. The report should be sufficiently detailed for the Contract Manager to determine, if the Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

b. The Consultant's Project Manager shall meet with the City's Contract Manager, as needed, to discuss progress on the contract.

19. DOCUMENTATION, OWNERSHIP OF WORK PRODUCTS, AND TREATMENT OF DOCUMENTS

a. Consultant shall document the results of the work to the satisfaction of the City, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the agreement objectives.

b. The Consultant shall sign all plans, specifications, estimates, and engineering data furnished by him/her, and where appropriate, indicate his/her California registration number.

c. All plans, specifications, reports, designs and other documents prepared by Consultant pursuant to this Agreement shall be and remain the property of the City. Any modification or reuse of such documents by the City without Consultant's prior consultation will be at the City's sole risk. Except as may be otherwise required by law, Consultant will disclose no data, plans, specifications, reports or other documents pertaining to the Services without the prior written consent of City.

20. DISPUTES

a. Any dispute, other than an audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by a committee consisting of the City's Contract Manager and the City Manager, who may consider written or verbal information submitted by the Consultant.

b. Not later than thirty (30) days after completion of all work under the Agreement, the Consultant may request review by the City Council of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

c. Neither the pendency of a dispute, nor its consideration by the committee will excuse the Consultant from full and timely performance in accordance with the terms of this Agreement.

d. Should a dispute not be resolved by the procedures set forth above, then the parties must mediate the dispute before a mutually agreed upon neutral within ninety (90) days of the completion of all Services under the Agreement. If mediation is not successful, the Consultant and City may pursue all rights and remedies available under California law.

21. TERMINATION AND REMEDIES

a. City or Consultant may terminate this Agreement for convenience by giving at least 30 days written notice to the other party specifying the termination effective date. Upon receipt of such notice from City, Consultant may continue performance of the Services through the date of termination. City shall pay Consultant for all Services actually performed in accordance with this Agreement through the termination effective date.

b. If Consultant materially breaches any term of this Agreement, in addition to any other remedies the City may have at law or equity, the City may:

(1) Terminate the Agreement by notice to the Consultant specifying the termination effective date;

(2) Retain, and/or recover from the Consultant at no additional cost to the City, the plans, specification, drawings, reports, and other design documents and work products prepared by Consultant, whether or not completed;

(3) Complete the unfinished Services itself or have the unfinished Services completed, and/or;

(4) Charge Consultant, or deduct from monies that may be due or become due the Consultant under this Agreement, the difference between the cost of completing the unfinished Services pursuant to this Agreement and the amount that would otherwise be due Consultant had Consultant completed the Services in accordance with this Agreement.

22. BINDING EFFECT AND ASSIGNMENT PROHIBITION

This Agreement is binding upon City, Consultant, and their successors. Except as otherwise provided herein, neither City nor Consultant may assign, sublet, or transfer their interest in this Agreement or any part thereof without the prior written consent of the other, and any purported assignment without such consent will be void.

23. REPRESENTATIVES

a. City Contract Manager for purposes of this Agreement will be Chantell O'Neal, Engineering Technician. Consultant's representative for purposes of this Agreement will be Liz Ellis, PE, President. The parties' designated representatives will be the primary contact persons regarding the performance of the Services. The parties intend that their designated representatives will cooperate in all matters regarding this Agreement and in such manner so as to achieve performance of the Services in a timely and expeditious fashion.

b. Notices:

Any written notice to Consultant shall be sent to:

Liz Ellis, PE
President
Green Valley Consulting Engineers, Inc.
335 Tesconi Circle
Santa Rosa, CA 95401

Any written notice to City shall be sent to:

Chantell O'Neal
Engineering Technician
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

24. INTEGRATION AND AMENDMENT

This Agreement represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements between the parties, whether written or oral. If a discrepancy, disagreement, ambiguity, inconsistency, or difference in interpretation of terms arises as to terms or provisions of this Agreement and any Exhibit(s) attached to this Agreement, this Agreement shall control and shall be deemed to reflect the intent of the parties with respect to the subject matter hereof. This Agreement may only be amended by a writing signed by a representative authorized to bind the Consultant and a representative authorized to bind the City.

25. COVENANT AGAINST CONTINGENT FEES, REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION

a. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this agreement; and that it has not paid or agreed to pay any company

or person other than a bona fide employee any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this covenant, the City shall have the right to annul this agreement without liability, or at its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

b. The Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right in its discretion, to terminate the Agreement without liability, to pay only for the value of the work actually performed, or to deduct from the Agreement price, or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

c. The Consultant warrants and represents that it has not participated in any lobbying activities.

26. CONFLICT OF INTEREST PROHIBITION

City and Consultant will comply with the requirements of the City's Conflict of Interest Code adopted pursuant to California Government Code § 87300 *et seq.*, the Political Reform Act (California Government Code § 81000 *et seq.*), the regulations promulgated by the Fair Political Practices Commission (Title 2, § 18110 *et seq.* of the California Code of Regulations), California Government Code § 1090 *et seq.*, and any other ethics laws applicable to the performance of the Services and/or this Agreement. Consultant may be required to file with the City Clerk a completed Form 700 before commencing performance of the Services unless the City Clerk determines that completion of a Form 700 is not required, pursuant to City's Conflict of Interest Code. Form 700 forms are available from the City Clerk.

Consultant may not perform Services for any other person or entity that, pursuant to any applicable law or regulation, would result in a conflict of interest or would otherwise be prohibited with respect to Consultant's obligations pursuant to this Agreement. Consultant agrees to cooperate fully with City and to provide any necessary and appropriate information requested by City or any authorized representative concerning potential conflicts of interest or prohibitions concerning Consultant's obligations pursuant to this Agreement.

Consultant may not employ any City official, officer, or employee in the performance of the Services, nor may any official, officer, or employee of City have any financial interest in this Agreement that would violate California Government Code § 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code

§ 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Consultant's performance of the Services, including reimbursement of expenses, and Consultant will be required to reimburse City for any sums paid to Consultant under this Agreement. Consultant understands that, in addition to the foregoing, penalties for violating Government Code § 1090 *et seq.* may include criminal prosecution and disqualification from holding public office in the State of California.

Any violation by Consultant of the requirements of this provision will constitute a material breach of this Agreement, and the City reserves all its rights and remedies at law and equity concerning any such violations.

27. APPLICABLE LAW AND VENUE

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and the interpretation of this Agreement. Any action or proceeding that is initiated or undertaken to enforce or interpret any provision, performance, obligation or covenant set forth in this Agreement shall be brought in a state court in Mendocino County.

28. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

29. COUNTERPARTS

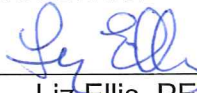
This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the parties have caused their authorized representative to execute this Agreement on the date first written above.

CITY

By: _____
Tabatha Miller
Its: City Manager

CONSULTANT

By:  _____
Liz Ellis, PE
Its: President

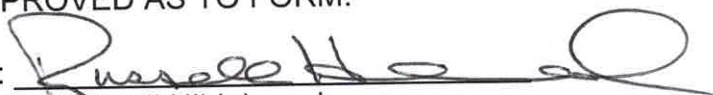
[Attach Notary Acknowledgment Page]

ATTEST:

By: _____
June Lemos, CMC
City Clerk

APPROVED AS TO FORM:

By:

A handwritten signature in black ink, appearing to read "Russell Hildebrand", written over a horizontal line.

Russell Hildebrand
City Attorney

Exhibit 1: Consultant's Proposal



Scope of Work

SCOPE OF WORK

INTRODUCTION

Project Understanding

The City of Fort Bragg has identified the streets in terms of “repair needed” priority for their 2019 construction season. The proposed streets, listed in the RFP and indicated in an exhibit, have a number of associated pedestrian ramps that will require reconstruction to bring them to current ADA standards. The City is interested in looking at a variety of repair methods that could extend the life of the streets while maximizing the allotted budget of approximately \$2,000,000. City staff prepared a very thorough and council agenda summary that outlines a very good background and budget for the Project.

There is no anticipated right of way concerns or easements needed, and at the end of this particular Project, the streets will be restored to a “new” status and thus be able to be on a maintenance schedule moving forward. At this time, the streets are virtually in a “failure” status.

At this time, the City is soliciting proposals from firms to provide engineering and design services for the 2019 Streets Rehabilitation Project (Project) for the preparation of construction documents. Construction documents will reflect the design criteria outlined in the RFP.

Project Approach

Key objectives and our approach are set forth as follows:

- Perform a detailed walk thru of the project limits with video and determine those streets that may need to have dig-outs incorporated into the bid documents, as well as noting concerns we see with drainage features, possible utility

conflicts and perform an inventory of pedestrian ramps within the Project limits.

- Obtain existing utility mapping to review and identify potential conflicts with shallow utilities that we would like to have potholed by the City forces. Perform topographic surveys simultaneously with our field review walks in order to expedite the schedule, as well as coordinate the pothole results with survey team to pick up relevant information
- Develop a comprehensive preliminary report that identifies the pedestrian ramps to be upgraded and identify those drainage features that we believe should be repaired/installed to maintain the integrity of the newly rehabilitated street(s). Outline the proposed method of rehabilitation for each street, along with any relevant information unique to that street and prepare a preliminary cost estimate for review and discussion.
- Prepare the preliminary plans and details and incorporate our findings from field reviews, staff discussions and pothole results. Present any underground utility design that is needed to allow work on the roads to proceed (lowering water main for example).
- Work with City representatives to complete the final bid documents that maximize the repairs within the given budget allowing for a reasonable contingency to account for unknowns that will be encountered during construction.

We have taken a site visit and looked at the various streets and understand that there are a number of methods of reconstruction. Listed below are three that we feel would make Fort Bragg a candidate for the method outlined:

EXHIBIT 1



Scope of Work

STRUCTURAL OVERLAY

A structural overlay may be a good option for streets where the shallow utilities make reconstruction unfeasible. A structural overlay, typically thicker than a standard overlay, will increase the structural integrity of the road surface without requiring much rebuilding of the base section. We would prescribe dig out repairs in areas of localized failures, where the base section has been completely compromised. This method also would work well with the area's cool climate, because compaction can be best made on a thicker pavement mat.

OVERLAY WITH PAVEMENT REINFORCEMENT FABRIC

Similar to the structural overlay, an overlay with pavement reinforcement fabric would not disturb any shallow utilities in the road section. Using geosynthetic fabric would allow for a thinner mat, while not compromising the structural integrity of the new pavement. This method would be best utilized in scenarios where the existing roadway condition hasn't completely deteriorated. The fabric requires a near smooth surface to prevent tearing during pavement placement. Dig out repair may be required to repair areas where the base section has been completely compromised.

FULL DEPTH RECLAMATION

Full Depth Reclamation (FDR) would be the ideal candidate for roadways which require complete reconstruction. The process can be modified to compensate for shallow utilities or the utilities can be lowered as part of the project. The FDR process grinds up the existing roadway and base section and introduced cement to create a new, stable base section. After this process is completed, fresh asphalt will be placed for the desired traffic index. We have had great success with this method but

would require potholing to verify the depths of the existing utilities.

Scope of Services

Our scope of services provides for surveying, civil engineering, and possible materials testing. We have not included time or resources for a Phase 1 hazardous materials report, as we do not feel this will be needed given the proposed method of pavement rehabilitation. All surveying and mapping work to be performed will be performed by Green Valley, which allows for a cohesive mapping and design product. Our survey team works side by side with our engineering department and understands exactly what is needed to allow us to prepare detailed and correct plans that are free from errors.

TASK 1 – Meetings and Project Management

Meetings

We have assumed a minimum of three (3) meetings with City representatives for both the preliminary and final phases that will include an initial kick-off meeting and meetings at the 60%, and 90% stages.

A draft agenda for the kick-off meeting follows for your review and can be expanded upon at any time. The purpose of the kickoff meeting will be to:

- Discuss the project goals
- Discuss and refine the project's scope of work and schedule as needed
- Confirm roles and responsibilities
- Confirm the expectations of the City
- Confirm the schedule for project status meetings

- Confirm and request available background data

Progress meetings held after design milestones will cover review of horizontal and vertical plans, details proposed for structural pavement repairs/rehabilitation, approach to pedestrian ramp upgrades, issues with utilities and our approach to resolve them, the project schedule, and any outstanding issues that the City or design team might have with the overall work products of plans, specifications and cost estimate. Detailed meeting minutes will be prepared and distributed after each meeting.

Project Management

Our Project Manager will be responsible for managing the team of Green Valley and any subconsultants effort. This task includes the project contract, coordinate team personnel and efforts of the City's forces during the utility pot-holing, maintain the project schedule, coordinate and perform quality assurance and quality control reviews, prepare invoicing, and attend field and deliverable review meetings.

Draft Kick-Off Meeting Agenda

City of Fort Bragg 2019 Streets Rehabilitation Project Kick-Off Meeting Agenda Friday December 14, 2018

Introductions

Identify Team Goals for Project

Discuss Project Specific Requirements

- Labor Compliance Provisions
- Post Construction Storm Management Measures
- Coordination for City Performed Potholing

Discuss Initial Pavement Rehabilitation Design Options

- Structural Overlay
- Overlay with Pavement Reinforcement Fabric
- Full Depth Reclamation

Discuss Wins and Pitfalls from Previous Projects

Review Proposed Design Schedule

- Recommendation Letter for Alternate Designs
- 60%, 90% and 100% PSE Submittals
- Advertising Date
- Construction Schedule

Establish Points of Contact

- Lead Designer
- Billing

Review Action Items

Conduct Job Walk as Necessary

TASK 2 - Information Gathering

2.1 Background Information

We will obtain existing data available on the project, including utility mapping to be provided by the City. Team members will thoroughly review the project limits and condition of existing pavement, review existing drainage patterns, and determine which pedestrian ramps will require ADA improvements to bring them up to current code. At this time we believe there are possibly 16 ramps that will require some type of work, with another 8+ that may need work. The alternate of W. Fir Street from N. Main Street to west edge of pavement is expected to have an additional 12 ramps that may need work.



Scope of Work

Existing hydrological data will be obtained (if available) to assist with any proposed drainage improvements.

The City's PCI records will be obtained and reviewed to determine if information is available to assist with new roadway sections.

2.2 *Surveying and Utility Potholing*

A review of existing data will be made before we commence with field surveys, as well as requesting USA mark-outs for existing utilities that will indicate potential conflicts with the final street design. We will obtain available boundary maps for the project vicinity, which we will use to assist in determining any potential right of way conflicts on pedestrian ramps only. We have not assumed time for a formal boundary survey. Base mapping will be prepared at a scale of 1"=20' with a contour interval of 1 foot for construction documents. We will provide a full site topographic map as a basis for design for the project.

The level of mapping detail will match that of existing similar projects advertised by the City and will include conforms, utility and drainage features and topographic features such as trees, fences, etc. that are relevant to the proposed improvements. We will prepare computer files to include field control points, topographic surveys, utility data, record property surveys, and preparation of the TIN used for three-dimensional calculations (i.e., earthwork, cross-sections, and profiles).

2.3 *Geotechnical Investigations*

We have not allowed time or fee for geotechnical investigations at this time, but if it is determined that they may be beneficial during the preliminary design they will likely include:

- Review of available geologic literature, maps, and consultants reports.

- Preliminary Geotechnical Analysis, to include drilling and sampling 4 to 6 small-diameter borings, using a portable drill rig, to obtain sub-surface samples for limited laboratory testing. Borings and testing will aid in evaluating the potential for any specialized pavement material, such as cold foam as well as the geotechnical engineering characteristics of the near-surface soils for recommendations for future pavement design.

A summary report will be prepared and provided to the City with test results and recommendations.

TASK 3 - Permitting

Permitting is anticipated to be fairly straightforward. The Contractor will be responsible for preparation of necessary Stormwater Pollution Prevention Plans for the three contracts. Plans and specifications will need to be routed thru the Division of State Architects Office (DSA) for those repairs that are adjacent to schools, such as on East Fir Street. This permit will be determined at the time 60% plans have been prepared.

TASK 4 - Design and Improvement Plans – 30%, 60% and 90% Submittals

As defined in the RFP, there will be submittal at the 60%, 90% and final stage for construction documents of plan, specifications and estimate. Summarized briefly below are services that will be provided during design.

Improvement plans will conform to current ADA standards, in addition to conforming to the latest City of Fort Bragg standards and Title 24 guidelines and regulations.

Plans and specifications are prepared and taken to a constructability stage during these milestones. All comments from the preliminary review will be

incorporated, as will results of permitting agency reviews and staff meetings. Final horizontal and vertical alignment, surface drainage and grading design, conforms to existing improvements (pedestrian ramps), any required underground utility improvements will be prepared for the project. Construction documents and specifications will be prepared in accordance with CSI Standards unless directed otherwise by the City of Fort Bragg.

Improvement plan design will essentially be a civil engineering project that focuses on economical and long lasting methods of pavement reconstruction for the streets under consideration in the 2019 Streets Rehabilitation Project, as detailed in the City's RFP. Pavement conditions are very poor, in some cases having had multiple overlays, trench cuts, and miscellaneous improvements associated with development. There is a mix of retail, commercial and industrial in the overall Project limits, as well as school(s).

Design issues include:

- Grades at existing pedestrian ramps (ADA concerns)

Improvement plans will conform to current ADA standards, in addition to conforming to the latest City of Fort Bragg standards and Title 24 guidelines and regulations. Complete plans are proposed to include:

- Cover sheet (1)
- Notes, Legends, and Abbreviations (1)
- Typical Sections/Details (2)
- Demolition Plans
- Plan and Profile Plans (12-16)
- Pedestrian Ramp Improvements (3-5)
- Striping Plans – depending on existing conditions

Plans and specifications are prepared and taken to a constructability stage during these milestones. All comments from the preliminary review will be incorporated, as will results of permitting agency reviews and staff meetings. Final horizontal and vertical alignment, surface drainage and grading design, conforms to existing improvements, botanical restoration improvements, interpretive signing and any required irrigation plans will be prepared for the project. Construction documents and specifications will be prepared in accordance with CSI Standards unless directed otherwise by the City of Fort Bragg.

90% Plans, Specifications and Estimate

After review of the 60% PS&E documents, GVCE will coordinate with the City to review and discuss the review comments and will then incorporate and address any comments in the 90% set of plans.

Specifications and Bid Documents

Specifications: The technical specifications will be prepared using the City's standard format for technical specifications and will also incorporate the pertinent and relevant sections of the current Caltrans Standard Plans and Specifications. The technical specifications will be developed and submitted to the City for review at the 60% and 90% stages. Review comments received will be addressed in the 90% and final 100% submittals.

Engineers Construction Cost Estimate

A detailed Engineer's Estimate of construction costs, suitable for inclusion in the construction bid schedule will be prepared and submitted. The estimate will be based on cost data of recent pavement projects and will be submitted at the 60% completion stage and updated at the 90% and 100% stages. Due to the many variables surround-



Scope of Work

ing bidding and construction conditions, the estimate will not represent a guarantee that bids received or actual costs of construction will be equal to this estimate. An appropriate contingency will be included with each estimate.

Deliverables:

- 60% submittal will include three (3) hard copies of 11"x17" plans, specifications and probable estimate of costs, submitted with electronic PDF files
- 90% submittal will include three (3) hard copies of 11"x17" plans, two (2) copies of specifications and probable cost estimates, submitted with electronic PDF files
- 100% submittal will include the final plans, specifications and opinion of probable construction cost ready for bidding purposes, submitted as PDF electronic files, AutoCAD electronic files of the plans (and PDF version)

Assumptions:

- The City will provide an electronic copy (MS Word format) of their current front-end contract requirements, technical specifications, and bid forms.
- The project is anticipated to disturb less than 1 acre, therefore a SWPPP is not needed.

TASK 5 – QA/QC

Independent Plan Check:

An independent design check of the plans shall be performed by individuals who were not involved in the design. We will coordinate an in-house quality control review with an independent project engineer and Construction Manager to complete a constructability/value engineering review of the plans. We will specifically focus on ADA issues to

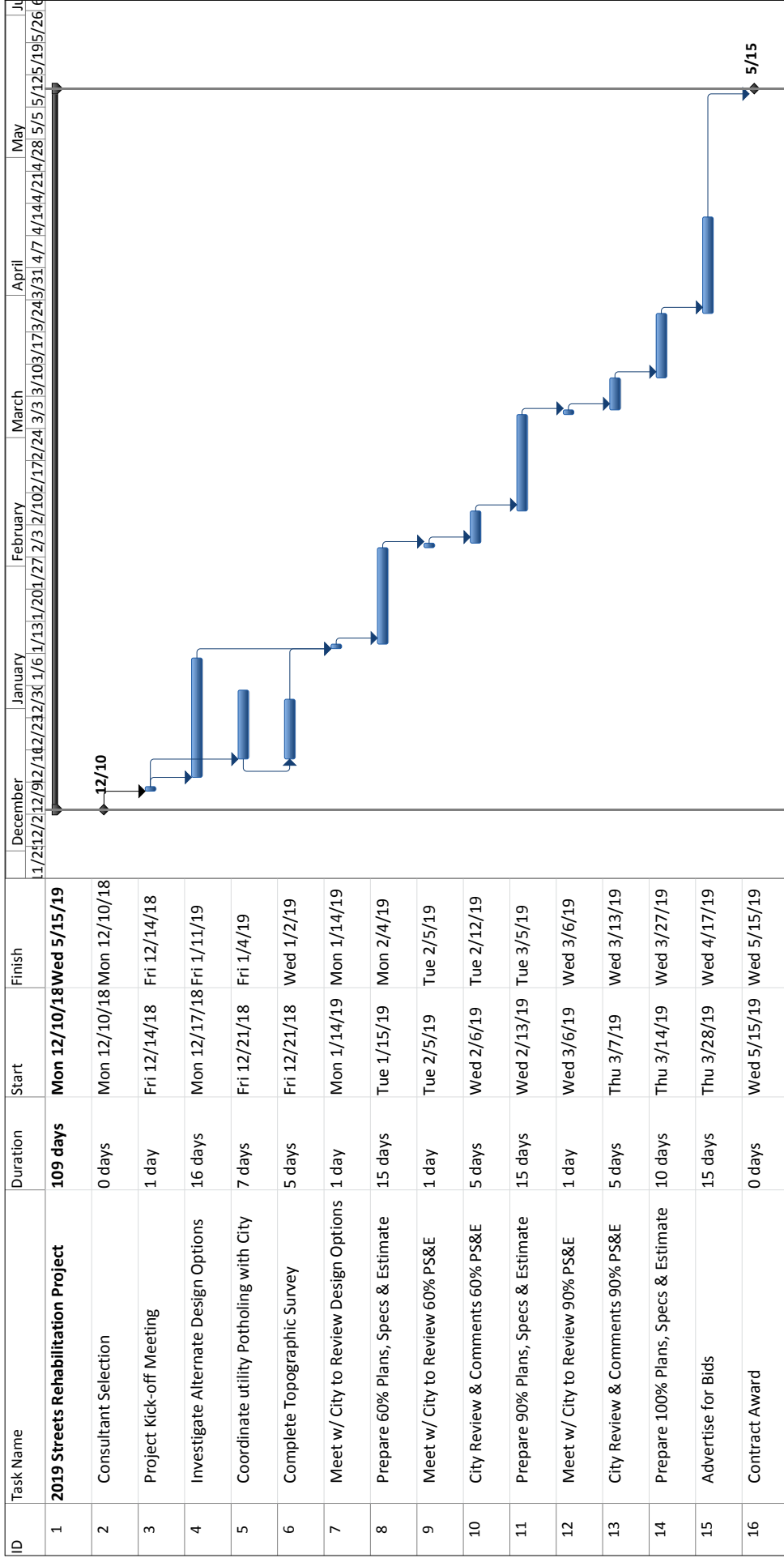
assure conformation with the ADA regulations. All comments that affect constructability will be incorporated at this stage.

The 90% PS&E will be submitted when the constructability design check is complete. The PS&E is essentially complete at this phase and will represent the final draft of the bid ready documents for the project.

TASK 6 – Construction Support

We will assist in the bidding process as requested, including pre-bid conference, responding to questions during bidding and the preparation of any addenda during bidding. We will prepare any required draft Request for Bid addenda and provide bid assistance to City staff during the bidding of the project. Green Valley is very focused on providing responsive services to our clients during the bidding and construction phase and understand that it is during construction that a client truly appreciates a consultant who stands behind his work.

It is our understanding that the City of Fort Bragg will perform construction management of the three contracts, including the day-to-day inspection of the project. We will assist throughout construction as requested by the City, including attendance at a pre-construction conference and construction reviews. We will also review payment requests, draft responses to the Request for Information, prepare any change orders, and provide services as requested. We will prepare and submit formal site visit reports after each site visit and meeting.



Task	External Milestone	Manual Summary Rollup
Split	Inactive Task	Manual Summary
Milestone	Inactive Milestone	Start-only
Summary	Inactive Summary	Finish-only
Project Summary	Manual Task	Deadline
External Tasks	Duration-only	Progress

CITY OF FORT BRAGG
 2019 STREETS REHABILITATION PROJECT
 Estimated Hours and Fees
 Green Valley Consulting Engineers
 November 2, 2018



ESTIMATED DESIGN FEES

TASK NUMBER	DESCRIPTION	PROPOSED HOURS					Subtotal	Direct Costs	Task Total Fees
		PM	Proj Engr	Cad	Survey	Admin			
		\$165	\$140	\$135	\$210	\$75			
Task 1	Meetings and Project Management	40	24			6	\$ 10,410		\$ 10,410
Task 2	Assemble Existing Data	2	2	16		4	\$ 3,070		\$ 3,070
Task 3	Coordination of Potholing	2	2	8			\$ 1,690		\$ 1,690
Task 4	Field Surveys	2		96	60		\$ 25,890	\$ 250	\$ 26,140
Task 4	Alternate Design Options Report	24		24		8	\$ 7,800	\$ 100	\$ 7,900
Task 6	60% Plans, Specifications & Estimates	16	140	200		24	\$ 51,040	\$ 200	\$ 51,240
Task 7	90% Plans, Specifications & Estimates	16	100	120		16	\$ 34,040	\$ 200	\$ 34,240
Task 8	100% Plans, Specifications & Estimates	8	32	48		8	\$ 12,880	\$ 200	\$ 13,080
Task 9	Coordination with State Architects Office	4		4		4	\$ 1,500		\$ 1,500
	Total Hours	114	300	516	60	70	\$148,320	\$ 950.00	\$ 149,270

Estimated Design Fee Total \$ 149,270