



*County of Lassen*  
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

June 30, 2017

**Maurice L. Anderson, Director**  
707 Nevada Street, Suite 5  
Susanville, CA 96130-3912  
Phone: 530 251-8269  
Fax: 530 251-8373  
email: landuse@co.lassen.ca.us  
website: www.co.lassen.ca.us

TO: Board of Supervisors  
Agenda Date: July 11, 2017

FROM: Maurice L. Anderson, Director

Zoning & Building  
Inspection Requests  
Phone: 530 257-5263

SUBJECT: Amendment to the contract with GEI Consultants, Inc.

ACTION REQUESTED:

1. Approve amendment to GEI contract term;
2. Provide direction to staff.

SUMMARY

This contract amendment (attached) would extend the expiration of the existing contract (attached) with GEI Consultants, Inc. (GEI) from June 30, 2017, to December 31, 2017. The proposed contract amendment does not provide additional funds.

GEI provides professional services to comply with the provisions of the Sustainable Groundwater Management Act (SGMA). The Department of Water Resources (DWR) is engaging in a comprehensive, multi-phased regulatory SGMA program that will provide local management of all “medium” and “high” priority basins identified by DWR. Currently Big Valley is the only “medium” priority basin in Lassen County and there are currently no “high” priority basins. However, the DWR is currently reassessing the ranking of all groundwater basins in Lassen County.

The Board of Supervisors has determined that Lassen County will be the Groundwater Sustainability Agency (GSA) for Big Valley, and GEI has been assisting Lassen County in that effort. It is anticipated that the additional time provided in this extension will be utilized to commission GEI to prepare a grant application to secure funds for the preparation of the required Groundwater Sustainability Plan (GSP). Said grant with the Department of Water Resources allows submittal of an application for up to \$1,000,000 to prepare the GSP.

FINANCIAL IMPACT:

After the current approved tasks are completed, there will be \$23,649.33 remaining in this contract. The Department has proposed \$75,000.00 in the 2017/18 budget cycle for SGMA compliance, but there is a budget contingency clause (Section B.3) in the contract that would become applicable if said funds are not appropriated.

MLA:bes  
Attachment

**FIRST AMENDMENT TO AGREEMENT  
BY AND BETWEEN  
THE COUNTY OF LASSEN AND GEI CONSULTANTS, INC.**

This First Amendment to Agreement ("Amendment") is made on \_\_\_\_\_,  
Between the COUNTY OF LASSEN ("COUNTY") and GEI CONSULTANTS, INC. ("CONTRACTOR") who agree  
as follows:

1. **Recitals:** This Amendment is made with reference to the following facts and objectives:

- a. The COUNTY OF LASSEN and GEI CONSULTANTS, INC. have entered into a written Agreement dated August 16, 2016, (the "Agreement").

2. **Amendments:** The parties agree to amend the Agreement as follows:

- b. Contract term is amended to read as follows:


The term of the agreement shall be for the period of July 1, 2016 through December 31, 2017.

IN WITNESS WHERE OF, the parties hereto have executed this Amendment on the dates shown opposite their respective signatures.

Dated: 6/23/17

Dated: 6/23/17

CONTRACTOR  
GEI Consultants, Inc.

By:   
David Fairman, Senior Hydrogeologist

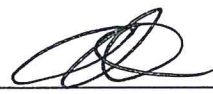
By:   
Mark S. Williamson, Vice President

COUNTY  
County of Lassen

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

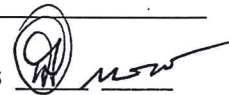
By: \_\_\_\_\_  
Aaron Albaugh, Chairman  
Lassen County Board of Supervisors

Approved as to form:

By:  6/19/17  
for Robert M. Burns,  
Lassen County Counsel

\_\_\_\_ County Initials

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**AGREEMENT BETWEEN LASSEN COUNTY**

**AND**

**GEI CONSULTANTS, INC.**

**THIS AGREEMENT** is made between the COUNTY OF LASSEN, a political subdivision of the State of California (hereinafter "COUNTY"), and GEI CONSULTANTS, INC, with a principal place of business at 2868 Prospect Park Drive, Suite 400, Rancho Cordova, CA 95670 (hereinafter "CONTRACTOR").

This Agreement is made with reference to the following facts and circumstances:

**WHEREAS** COUNTY has need for professional services to comply with provisions of the Sustainable Groundwater Management Act (SGMA) and,

**WHEREAS** CONTRACTOR desires to provide those services.

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

**1. SERVICES.**

The CONTRACTOR shall provide those services described in Attachment "A". CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A".

**2. TERM.**

The term of the agreement shall be for the period of July 1, 2016 through June 30, 2017

**3. PAYMENT.**

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billing for said services to COUNTY in the manner specified in Attachment "B".

**4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.**

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.

COUNTY shall:

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4.1 Provide program consultation and technical assistance to  
CONTRACTOR.

4.2 Monitor and evaluate CONTRACTOR's performance, expenditures and  
service levels for compliance with the terms of this Agreement.

4.3 Provide CONTRACTOR with reporting forms and/or formats and time  
frames for submission of reports.

4.4 Review all invoices submitted by CONTRACTOR for allowable costs and  
approve for payment as appropriate conditioned in the availability of state funds.

4.5 Retain ownership and have prompt access to any report, evaluations,  
preliminary findings, or data assembled/developed by CONTRACTOR under this Agreement.

## 5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

## 6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any  
inconsistency between said general provisions and any other terms or conditions of this  
Agreement shall be controlled by the other terms or conditions insofar as the latter are  
inconsistent with the general provisions.

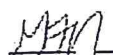
## 7. DESIGNATED REPRESENTATIVES.

Maurice L Anderson, Director of the Lassen County Department of Planning and Building  
Services, is the designated representative of the COUNTY and will administer this Agreement  
for the COUNTY. John Ayres, Senior Hydrogeologist, is the authorized representative for  
CONTRACTOR. Changes in the designated representatives shall occur only by advance written  
notice to the other party.

## 8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated  
herein. Attachments include:

Attachment A - Services  
Attachment B - Payment  
Attachment C - Additional Provisions  
Attachment D - General Provisions

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown opposite their respective signatures.

Dated: 7-25-16

CONTRACTOR  
GEI Consultants

By: [Signature]  
John Ayres, Senior Hydrogeologist

Dated: 7/25/16

By: [Signature]  
Mark S. Williamson, Vice President

Dated: 5/16/16

COUNTY  
County of Lassen  
By: [Signature]  
JIM CHAPMAN,  
Chairman of the Board of Supervisors  
County of Lassen

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

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

Approved as to form:

For [Signature] 7/11/16  
Robert M. Burns,  
Lassen County Counsel

[J:\Lassen County\Proposa\SGMA Compliance\GEI-Lassen County\_SGMA services contract DRAFT 2016\_03\_14.doc]

[Signature] County Initials

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Contractor Initials [Signature]

**ATTACHMENT A  
AGREEMENT BETWEEN LASSEN COUNTY AND  
GEI CONSULTANTS, INC.  
SCOPE OF SERVICES**

**A.1 SCOPE OF SERVICES AND DUTIES.**

**A.1.1**

Services under this Agreement are related to COUNTY's implementation of requirements contained in the Sustainable Groundwater Management Act (Water Code Part 2.74 et seq). CONTRACTOR will provide professional assistance to COUNTY in meeting said requirements.

**A.1.2**

The specific services, including respective terms, conditions, and requirements of those services, provided to COUNTY by CONTRACTOR under this Agreement shall be defined in individual Task Orders which, upon acceptance by COUNTY and CONTRACTOR, shall amend and become a part of this Agreement. Task Orders shall be consistent with the format provided in A.2 below.

**A.1.3**

CONTRACTOR shall perform the services described in the individual Task Orders issued under this Agreement.

**A.1.4**

CONTRACTOR will not perform any services under this Agreement except as specifically authorized by a fully-executed Task Order.

**A.1.5**

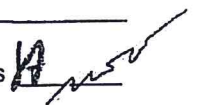
The Designated Representatives for COUNTY and CONTRACTOR are authorized to execute task orders described in Section A.2. Said Task orders shall be attested to by an employee of COUNTY and CONTRACTOR, respectively.



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A.2 STANDARD TASK ORDER FORMAT

**TASK ORDER NO.** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**GEI Project No.:** \_\_\_\_\_

**CLIENT:** \_\_\_\_\_

**Task Code:** \_\_\_\_\_

**Task Order Title:** \_\_\_\_\_

This Task Order modifies the Agreement dated \_\_\_\_\_, 20\_\_\_\_ made by and between GEI Consultants, Inc. (GEI) and above-named CLIENT.

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By this Task Order, the parties do mutually agree to modify the Agreement as follows:

**Scope of Services:**

**Deliverables:**

**Schedule / Milestones:**

**Compensation:**

GEI Professional Fees: \$ \_\_\_\_\_

Outside Services: \$ \_\_\_\_\_

Travel Costs: \$ \_\_\_\_\_

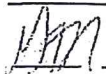
Other Direct Expenses: \$ \_\_\_\_\_

Total Compensation: \$ \_\_\_\_\_

☐ Refer to Attachment for Fee Breakdown\_\_\_\_\_

**Additional Terms, Conditions or Requirements:**

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 \_\_\_\_\_ County Initials

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Acceptance:

For COUNTY:

Designated Representative

By: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)  
\_\_\_\_\_  
(Date)

Attest: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)  
\_\_\_\_\_  
(Date)

For CONTRACTOR:

Designated Representative

By: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)  
\_\_\_\_\_  
(Date)

Attest: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)  
\_\_\_\_\_  
(Date)

MM County Initials

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Contractor Initials A

END OF ATTACHMENT "A"

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MAN County Initials

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Contractor Initials BA

**ATTACHMENT B  
AGREEMENT BETWEEN LASSEN COUNTY AND  
GEI CONSULTANTS, INC.  
PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

**B.1 Total CONTRACTOR Price**

CONTRACTOR shall be paid up to \$75,000 for completion of task orders authorized pursuant to Attachment A..

**B.2 Payment**

**B.2.1**

CONTRACTOR shall be paid on a time and expense basis for the tasks specified in paragraph A.1, above.

**B.2.2**

CONTRACTOR shall submit invoices to COUNTY for work done pursuant to this contract not more frequently than monthly.

**B.2.3**

COUNTY agrees to pay contractor for services completed within 30 days of a complete invoice.


**B.3 Invoice Requirement**

**B.3.1**

Invoices submitted by the CONTRACTOR shall include costs incurred in implementing the Contract during the period identified in the particular invoice; any appropriate receipts and reports for costs incurred; and indicate the CONTRACTOR personnel who have performed work during the invoice period. The cost paid for CONTRACTOR personnel shall be consistent with the rates identified in the Billing Rate Schedule shown in section B.3.2, below.

**B.3.2 Contractor Billing Rate Schedule**

The billing rates shall be in accordance with the following Fee Schedule and Payment Terms:

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**FEE SCHEDULE**

<u>Personnel Category</u>	<u>Hourly Billing Rate</u> \$ per hour
Staff Professional – Grade 1	\$ 107
Staff Professional – Grade 2	\$ 117
Project Professional – Grade 3	\$ 129
Project Professional – Grade 4	\$ 145
Senior Professional – Grade 5	\$ 171
Senior Professional – Grade 6	\$ 195
Senior Professional – Grade 7	\$ 231
Senior Consultant – Grade 8	\$ 259
Senior Consultant – Grade 9	\$ 320
Senior Principal – Grade 10	\$ 320
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Senior CADD Drafter and Designer	\$ 129
CADD Drafter / Designer and Senior Technician	\$ 117
Technician, Word Processor, Administrative Staff	\$ 96
Office Aide	\$ 75

These rates are billed for both regular and overtime hours in all categories.

Rates will increase up to 5% annually, at GEI's option, for all contracts that extend beyond twelve (12) months after the date of the contract. Rates for Deposition and Testimony are increased 1.5 times.

**OTHER PROJECT COSTS**

**Subconsultants, Subcontractors and Other Project Expenses** - All costs for subconsultants, subcontractors and other project expenses will be billed at cost plus a 15% service charge. Examples of such expenses ordinarily charged to projects are subcontractors; subconsultants: chemical laboratory charges; rented or leased field and laboratory equipment; outside printing and reproduction; communications and mailing charges; reproduction expenses; shipping costs for samples and equipment; disposal of samples; rental vehicles; fares for travel on public carriers; special fees for insurance certificates, permits, licenses, etc.; fees for restoration of paving or land due to field exploration, etc.; state sales and use taxes and state taxes on GEI fees.

**Billing Rates for Specialized Technical Computer Programs** – Computer usage for specialized technical programs will be billed at a flat rate of \$10.00 per hour in addition to the labor required to operate the computer.

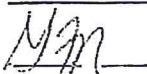
**Field and Laboratory Equipment Billing Rates** – GEI-owned field and laboratory equipment such as pumps, sampling equipment, monitoring instrumentation, field density equipment, portable gas chromatographs, etc. will be billed at a daily, weekly, or monthly rate, as needed for the project. Expendable supplies are billed at a unit rate.

**Transportation and Subsistence** - Automobile expenses for GEI or employee owned cars will be charged at the rate per mile set by the Internal Revenue Service for tax purposes plus tolls and parking charges or at a day rate negotiated for each project. When required for a project, four-wheel drive vehicles owned by GEI or the employees will be billed at a daily rate appropriate for those vehicles. Per diem living costs for personnel on assignment away from their home office will be negotiated for each project.

**PAYMENT TERMS**

Invoices will be submitted monthly or upon completion of a specified scope of service, as described in the accompanying contract (proposal, project, or agreement document that is signed and dated by GEI and CLIENT).

Payment is due upon receipt of the invoice. Interest will accrue at the rate of 1% of the invoice amount per month, for amounts that remain unpaid more than 30 days after the invoice date. All payments will be made by either check or electronic transfer to the address specified by GEI and will include reference to GEI's invoice number.

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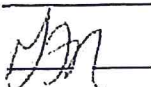
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**B.3 BUDGET CONTINGENCY CLAUSE**

Notwithstanding any condition to the contrary, it is mutually agreed that if the Board of Supervisors do not appropriate sufficient funds for the program contemplated by this Agreement in any year covered by this Agreement, this Agreement shall be of no further force and effect. In this event, the County shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement. If funding for any fiscal year is reduced or deleted in the Budget for purposes of this program, the County shall have the option to either cancel this Agreement with no liability occurring to the County, or offer an agreement amendment to the Contractor in a reduced amount, except for those amounts authorized by Task Orders per Section A1.5.

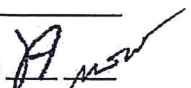
**END OF ATTACHMENT "B"**



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**ATTACHMENT C  
AGREEMENT BETWEEN LASSEN COUNTY AND  
GEI CONSULTANTS, INC.  
ADDITIONAL PROVISIONS**

**C.1 Special Provisions for Field Services**

**C.1.1 Right of Entry**

COUNTY agrees to furnish CONTRACTOR with right of entry and a plan of boundaries of the site where CONTRACTOR will perform its services. If COUNTY does not own the site, COUNTY represents and warrants that it will obtain permission for CONTRACTORs access to the site to conduct site reconnaissance, surveys, borings and other explorations of the site pursuant to the scope of services in the Agreement. CONTRACTOR will take reasonable precautions to minimize damage to the site from use of equipment, but CONTRACTOR is not responsible for damage to the site caused by normal and customary use of equipment. The cost for restoration of damage that may result from CONTRACTORs operations has not been included in CONTRACTORs fee, unless specifically stated in Exhibit B.

**C.1.2 Underground Structures**

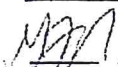
COUNTY will identify locations of buried utilities and other underground structures in areas of sub-surface exploration. CONTRACTOR will take reasonable precautions to avoid damage to the buried utilities and other underground structures noted. If locations are not known or cannot be confirmed by COUNTY, then there will be a degree of risk to COUNTY associated with conducting the exploration. In the absence of confirmed underground structure locations, COUNTY agrees to accept the risk of any damages and losses resulting from the exploration work.

**C.1.3 Presence of Hazardous Materials**

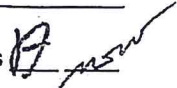
If the services under this Agreement do not include services relating to hazardous waste, oil, asbestos, or other hazardous materials, as defined by federal, state or local laws or regulations, and if such materials are discovered during CONTRACTORs work, COUNTY agrees to negotiate appropriate revisions to the scope, schedule, budget, terms and conditions of this Agreement. When such hazardous materials are suspected, CONTRACTOR will have the option to stop work, without financial penalty, until a modification to this Agreement is made or a new Agreement is reached. If a mutually satisfactory Agreement cannot be reached between both parties, this Agreement will be terminated, and COUNTY agrees to pay CONTRACTOR for all services rendered up to the date of termination, including any costs associated with termination.

**C.1.4 Disposal of Samples and Wastes Containing Regulated Contaminants**

In the event that samples collected by CONTRACTOR or provided by COUNTY, or wastes generated as a result of site investigation activities, contain or potentially contain substances or constituents which are or may be regulated contaminants as defined by federal, state, or local statutes, regulations, or ordinances, including but not limited to

 \_\_\_\_\_ County Initials

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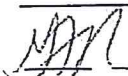
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samples or wastes containing hazardous materials, said samples or wastes remain the property of COUNTY and COUNTY will have responsibility for them as a generator. If set forth in the Agreement, CONTRACTOR will, at COUNTY's expense, perform necessary testing, and either (a) return said samples and wastes to COUNTY, or (b) using a manifest signed by COUNTY as generator, have said samples and/or wastes transported to a location selected by COUNTY for disposal. COUNTY agrees to pay all costs associated with the storage, transport and disposal of said samples and/or wastes. Unless otherwise provided in the Agreement, CONTRACTOR will not transport, handle, store or dispose of waste or samples or arrange or subcontract for waste or sample transport, handling, storage or disposal. COUNTY recognizes and agrees that CONTRACTOR is working as a bailee and at no time assumes title to said waste or samples or any responsibility as generator of said waste or samples.

#### C.1.5 Contribution of Hazardous Materials

COUNTY agrees that CONTRACTOR has not contributed to the presence of hazardous wastes, oils, asbestos, biological pollutants such as molds, fungi, spores, bacteria and viruses, and by-products of any such biological organisms, or other hazardous materials that may exist or be discovered in the future at the site. CONTRACTOR does not assume any liability for the known or unknown presence of such materials. CONTRACTOR's scope of services does not include the investigation or detection of biological pollutants such as molds, fungi, spores, bacteria and viruses, and by-products of any such biological organisms. COUNTY agrees to indemnify and hold harmless GEI, its subconsultants, subcontractors, agents and employees from and against all claims, damages, losses and costs (including reasonable attorneys' fees) that may result from the detection, failure to detect or from the actual, alleged or threatened discharge, dispersal, release, escape or exposure to any solid, liquid, gaseous or thermal irritant, asbestos in any form, or contaminants including smoke, vapor, soot, fumes, acids, alkalies, chemicals, waste, oil, hazardous materials or biological pollutants. COUNTY's obligations under this paragraph apply unless such claims, damages, losses and expenses are caused by CONTRACTOR's sole negligence or willful misconduct.

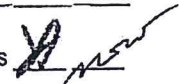
**END OF ATTACHMENT "C"**



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## ATTACHMENT D

### GENERAL PROVISIONS

**D.1. INDEPENDENT CONTRACTOR.** For all purposes arising out of this Agreement, CONTRACTOR shall be: an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in California Government Code sections 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

D.1.1 CONTRACTOR shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

D.1.2 CONTRACTOR shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

D.1.3 CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

D.1.4 CONTRACTOR is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the CONTRACTOR with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY

D.1.5 The CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

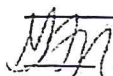
D.1.6 The CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

D.1.7 COUNTY shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax including, but not limited to, any personal income tax owed by CONTRACTOR.

D.1.8. The CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of COUNTY.

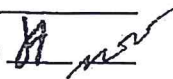
D.1.9 CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY any way without the written consent of the COUNTY.

**D.2 LICENSES, PERMITS, ETC.** CONTRACTOR represents and warrants to COUNTY that it has all

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ATTACHMENT D, Page 1

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licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

**D.3 CHANGE IN STATUTES OR REGULATIONS.** If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

**D.4 TIME.** CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

**D.5 INSURANCE.**

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage (hereinafter referred to as "the insurance") through and with an insurer acceptable to COUNTY. The insurance shall contain the following coverages:

D.5.1.1 Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than One Million Dollars (\$1,000,000) aggregate; CONTRACTOR shall insure both COUNTY and CONTRACTOR against any liability arising under or related to this Agreement.

D.5.1.2 During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000) per incident and One Million Dollars (\$1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

D.5.1.3 Comprehensive automobile liability insurance with minimum coverage of Five Hundred Thousand Dollars (\$500,000) per occurrence and with not less than Five Hundred Thousand Dollars (\$500,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

D.5.1.4 Workers' Compensation Insurance coverage for all of CONTRACTOR's employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the California Labor Code.

D.5.2 The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

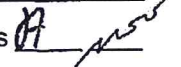
D.5.4 Except for automobile liability insurance, the insurance shall name the COUNTY and COUNTY's officers, employees, agents and independent contractors as additional insureds and shall



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include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to COUNTY.

D.5.5 The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit.

D.5.6 Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and endorsements to:

Maurice L. Anderson, Director  
Planning and Building Service Department  
707 Nevada Street, Suite 5  
Susanville, CA 96130

Upon COUNTY's request, CONTRACTOR shall deliver certified copies of any insurance policies to COUNTY.

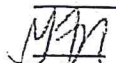
D.5.7 CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.

D.5.8 COUNTY shall have the right to request such further coverages and/or endorsements on the insurance as COUNTY deems necessary, at CONTRACTOR's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY in its sole and absolute discretion.

D.5.9 Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, CONTRACTOR shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

#### D.6 INDEMNITY.

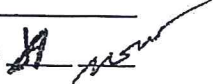
COUNTY shall not be liable for, and contractor shall defend and indemnify COUNTY and its officers, agents, employees, and volunteers (collectively "County Parties"), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics; liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including reasonable attorney's fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this Agreement arising either to the extent that these Claims arise either directly or indirectly from acts, errors, omissions or negligence of CONTRACTOR or its officers, employees, agents, contractors,



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licensees or servants while performing non-professional services. However, CONTRACTOR shall have no obligation to defend or indemnify County Parties against Claims to the extent that they are caused by the active negligence, sole negligence or willful misconduct of County Parties.

County shall not be liable for, and CONTRACTOR shall indemnify COUNTY and its officers, agents, employees and volunteers (collectively 'County Parties'), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as ('Claims')), which arise out of or are in any way connected to the professional services covered by this Agreement arising either directly or indirectly from any act, error, omission or negligence of CONTRACTOR or its officers, employees, agents, contractors, licensees or servants, including, without limitation, claims caused by the concurrent negligent act, error or omission, of County Parties. However, CONTRACTOR shall have no obligation to defend or indemnify County Parties against claims caused by the active negligence, sole negligence or willful misconduct of County Parties.

**D.7 CONTRACTOR NOT AGENT.** Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

**D.8 ASSIGNMENT PROHIBITED.** CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

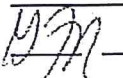
**D.9 PERSONNEL.** CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

**D.10 STANDARD OF PERFORMANCE.** CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

**D.11 POSSESSORY INTEREST.** The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code section 107. For all purposes of compliance by COUNTY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

**D.12 TAXES.** CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

**D.13 TERMINATION.** COUNTY shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to CONTRACTOR. In the event COUNTY gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the



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following shall apply:

D.13.1.1 CONTRACTOR shall deliver to COUNTY copies of all writings prepared by it pursuant this agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photocopying, photographing computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, pictures, sounds, or symbols, or combinations thereof.

D.13.1.2 COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed seventy five thousand dollars (\$75,000). Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

D.13.2 CONTRACTOR may terminate its services under this Agreement upon thirty (30) working days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY, provided that CONTRACTOR has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the COUNTY may cure the alleged breach.

**D.14 OWNERSHIP OF INFORMATION.** All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

**D.15 WAIVER.** A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**D.16 COMPLETENESS OF INSTRUMENT.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

**D.17 SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

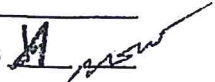
**D.18 ATTORNEY'S FEES.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.



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**D.19 MINOR AUDITOR REVISION.** In the event the Lassen County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed one percent (1%) of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

**D.20 CAPTIONS.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**D.21 DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

**D.21.1 Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**D.21.2 Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

**D.22 TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**D.23 SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**D.24 MODIFICATION.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**D.25 COUNTERPARTS.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.


**D.26 OTHER DOCUMENTS.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**D.27 PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D.28 VENUE.** It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Lassen, State of California.

**D.29 CONTROLLING LAW.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

**D.30 CALIFORNIA TORT CLAIMS ACT.** Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the Government Code, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under

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the terms and conditions of this Agreement.

**D.31 TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and each covenant and term herein.

**D.32 AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**D.33 CORPORATE AUTHORITY.** If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR shall, within thirty (30) days after execution of this Agreement, deliver to COUNTY a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

**D.34 CONFLICT OF INTEREST.**

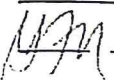
**D.34.1 Legal Compliance.** CONTRACTOR agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090 and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

**D.34.2 Advisement.** CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

**D.34.3 Admonition.** Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

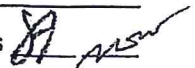
The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow exceptions.

**D.35 NONDISCRIMINATION.** During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in

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[v.20060427]

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Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

**D.36 JOINT AND SEVERAL LIABILITY.** If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

**D.37 TAXPAYER I.D. NUMBER.** The COUNTY shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the latter's Taxpayer Identification Number or Social Security Number by providing COUNTY with a completed IRS Form W-9.

**D.38 NOTICES.** All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

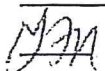
If to "COUNTY":

Maurice L. Anderson, Director  
Lassen County Department of Planning and Building Services  
707 Nevada Street, Suite 5  
Susanville, CA 96130

If to "CONTRACTOR":

John Ayres, Senior Hydrogeologist  
2868 Prospect Park Drive, Suite 400  
Rancho Cordova, CA 95670

**END OF ATTACHMENT D.**



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