

# **REQUEST FOR PROPOSALS**

**for preparation of**

**Noyo Harbor Multimodal Circulation Plan**

**for**

**MENDOCINO COUNCIL OF GOVERNMENTS**

Mendocino Council of Governments – Planning  
525 South Main Street, Suite G  
Ukiah, CA 95482

March 14, 2024



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## I. BACKGROUND

### A. The Region and Project Area

The region served by the Mendocino Council of Governments' (MCOG) transportation planning activities exists totally within the boundaries of Mendocino County. Mendocino County lies within the northern extension of California's Coastal Ranges. These mountains are characterized by a series of southeast to northwest trending ridges which are separated occasionally by narrow valleys. Although the relief is not particularly great except in the extreme eastern part of the county, the mountainous nature of the area minimizes ground transportation options. Transportation routes tend to be located within intermontane valleys. East-west travel is especially arduous since parallel ridges must be traversed.

As described in the June 2019 “Noyo Harbor Community Sustainability Plan” (available at <http://www.noyoharbordistrict.org/wp-content/uploads/Noyo-Harbor-CSP-June-2019-FINAL.pdf>) Noyo Harbor is a fishing port located on the coast of Mendocino County just south of the City of Fort Bragg near the mouth of the Noyo River. It is the largest all-weather port between Bodega Bay in Sonoma County and Humboldt Bay in Humboldt County. Noyo Harbor supports a large commercial fishing fleet as well as many sport fishermen and recreational boaters. The Noyo Harbor District ("Harbor District") was established in 1950 as a designated port district. The Harbor District is governed by an appointed five-member Commission ("Harbor Commission"). Two commissioners are appointed by the Fort Bragg City Council, two are appointed by the Mendocino County Board of Supervisors, and one is appointed jointly by the City Council and the Board of Supervisors. The Harbor District owns and operates the 256-berth Noyo Harbor Marina and associated facilities which include: a launch ramp, hoist, main pier, parking lots and storage, restrooms and showers, District office building/maintenance shop, and Grader Park that is used for community events. These facilities are located on the south side of the Noyo River.

Waterfront businesses operate primarily on the north side of Noyo Harbor and serve commercial and sport fishermen, as well as visitors to the area. Based on interviews of waterfront businesses and estimates for non-respondents, peak waterfront business employment is estimated at 409, with off-peak employment at 295. Visitors are drawn to the Noyo Harbor area by the natural environment, outdoor recreation and sport fishing opportunities, and the region's cultural heritage.

The City of Fort Bragg and Noyo Harbor District are in the midst of a three-year planning process to develop the Noyo Harbor Blue Economy Visioning, Resiliency and Implementation Plan. Recommendations from that effort may affect circulation in the harbor and should be considered during this project.

More background information may be found at:

Noyo Harbor Blue Economy project website: <https://noyooceancollective.org/>

Community Engagement Plan: <https://noyooceancollective.org/wp-content/uploads/2023/10/FinalCEP-3.pdf>

## **B. Population**

2020 California Department of Finance population estimates place Mendocino County population at 88,388. This includes an unincorporated population of 59,330 and an incorporated population of 29,058. Four cities share the incorporated population: Ukiah (16,029), Fort Bragg (7,471), Willits (5,117), and Point Arena (441).

The bulk of the population in Mendocino County is concentrated in a few areas of the county. Ukiah, Talmage, Calpella, and Redwood Valley make up the largest single population concentration. Fort Bragg and the coastal area southward to the Navarro River is another population center. Willits, the surrounding Little Lake Valley and Brooktrails subdivision comprise the only other large settlement area in the county. Much of the rest of Mendocino County is rural and undeveloped.

## **C. Organization and Management**

Transportation planning in Mendocino County is the responsibility of the Mendocino Council of Governments, which is the designated Regional Transportation Planning Agency (RTPA). MCOG is a Joint Powers Agency composed of the County of Mendocino, and the cities of Fort Bragg, Point Arena, Ukiah, and Willits. The MCOG Board of Directors is composed of two members of the County Board of Supervisors, one councilmember from each of the four cities, and one countywide representative appointed by the Board of Supervisors. With the addition of a representative of the Caltrans District 1 Director, the MCOG Board becomes the Policy Advisory Committee.

## **D. Purpose**

The Mendocino Council of Governments is soliciting consultant proposals to develop a “Noyo Harbor Multimodal Circulation Plan”, as described below.

## **II. PROJECT DESCRIPTION**

This project (*funded with federal FTA 5304 grant funding provided by Caltrans*) will study multimodal (pedestrian, bicycle, transit) access into and through the Noyo harbor where none currently exists, create a more efficient circulation pattern, look at improving safety by reducing conflicts between transportation modes, and create mode shift/reduce vehicle trips by providing non-vehicular and transit access to and through the harbor. It will study the feasibility of transitioning vehicular traffic through the harbor to one-way (to accommodate bike/ped in limited ROW) connecting N. Harbor Dr. to Noyo Point Rd on the west end of harbor (providing a secondary emergency evacuation route where none currently exists), and constructing a roundabout (or other intersection

control) at the intersection on North Harbor Drive and State Route 1 (Main Street) to improve circulation and safety for all modes.

The final plan resulting from this study may be used by State, local, or tribal agencies (e.g., Caltrans, City of Fort Bragg, County of Mendocino, Noyo Harbor District, Mendocino Transit Authority, Sherwood Valley Band of Pomo Indians) to pursue next steps for planning, funding, and implementation of recommended multi-modal improvements.

### **III. SCOPE OF WORK**

#### **Introduction**

Noyo Harbor in the Fort Bragg area is an active mix of fishing industry, commercial, visitor serving, dining and recreation at the south end of the Fort Bragg area below the Noyo Harbor Bridge on SR 1. Lack of safe bicycle and pedestrian access to and through the Noyo Harbor area, mixed with vehicular conflicts and the one way in and out of the harbor has been an identified problem for years. This project will provide a comprehensive study of multimodal access into and through the Noyo Harbor as well as possible implementation of transit access in the harbor. It will look at the feasibility of transitioning traffic through the harbor to one-way, creating a second public egress in the event of emergencies, and constructing a roundabout (or other intersection control) at the intersection on North Harbor Drive and State Route 1 (Main Street). Relevant local planning efforts include the 2017 North Harbor Access Plan and 2019 Noyo Harbor Community Sustainability Plan.

#### **Project Stakeholders**

Project stakeholders are expected to include representatives from Caltrans, City of Fort Bragg, County of Mendocino, MCOG, Noyo Harbor District, Mendocino Transit Authority, Sherwood Band of Pomo Indians, businesses in Noyo Harbor, community and tribal members.

#### **Overall Project Objectives**

Overall project objectives are to identify, research, and analyze multimodal transportation access and circulation in and through the Noyo Harbor and identify recommended improvements for future implementation, in a final plan. The final plan resulting from this study may be utilized to seek grant or other funding for the recommended improvements.

#### **Summary of Project Tasks**

##### **Task 1: Project Meetings**

MCOG, City of Fort Bragg, County of Mendocino, Caltrans, and consultant (project team) will hold monthly status meetings throughout the project. The consultant will work

with MCOG to identify appropriate representatives to serve on a Technical Advisory Group (TAG) to inform the study. The TAG is expected to include representatives from the following agencies: Noyo Harbor District, Mendocino Transit Authority, Sherwood Valley Band of Pomo, City of Fort Bragg, County of Mendocino, MCOG, and Caltrans. Consultant will meet with TAG as needed throughout the project.

The consultant will work with MCOG to identify appropriate representatives to serve on a stakeholder group to inform the study. Consultant will meet with stakeholder group as needed throughout the project. Project team, TAG, stakeholder group meetings are expected to be held virtually, via video and/or teleconference meetings.

<b>Task Deliverables (Responsible Party: Consultant)</b>
<ul style="list-style-type: none"><li>• Monthly project team status meetings, agendas, meeting notes (Consultant, MCOG)</li><li>• Technical Advisory Group (TAG) roster; TAG meetings, TAG agendas and meeting notes (Consultant, MCOG)</li><li>• Stakeholder roster; stakeholder meetings; stakeholder agendas and meeting notes (Consultant, MCOG)</li><li>• Includes travel expense (Consultant)</li></ul>

## **Task 2: Public Participation and Community Outreach**

Robust community and stakeholder engagement is planned for this study, through in person and virtual meeting/workshops, and an online public engagement platform (*direct costs for online subscription fees, i.e., are included in this task*). It is expected that a minimum of three (3) community workshops/events will be held, in addition to online engagement activities. Consultant may propose a mix of in-person and virtual activities that provides flexibility and allows for a diverse range of outreach methods (both in-person and on-line).

To the extent feasible, stakeholder/public outreach for this planning project should be coordinated with the stakeholder/public outreach process the City of Fort Bragg will be undertaking for the Noyo Harbor Blue Economy planning effort. The consultant for this project will be expected to coordinate with the Fort Bragg Special Projects Manager when planning stakeholder/public outreach activities. This may include coordination with the “Blue Economy Outreach Team”.

Consultant shall prepare a detailed Draft Public Outreach Plan and outreach schedule (*based on methods consistent with MCOG’s adopted Public Participation Plan*) with recommendations on how best to engage diverse segments of community, and with recommendations on online engagement tools/platforms, and advertisement of events, for

review and acceptance by the TAG. Based on TAG direction, consultant shall prepare Final Public Outreach Plan.

Consultant shall implement Final Public Outreach Plan, which will include providing information to the community, gathering community input through tabling at public events (farmer's markets, food stores, etc.), an online public engagement platform, surveys, community workshops/focus group meetings, project website, etc. Outreach materials will be made available in both English and Spanish for the limited English proficiency community. Outreach may also include making informational presentations to tribal councils and other community groups. Community leaders, Tribal leaders, interest groups, and employers in the harbor will be contacted to help reach out to disadvantaged communities. Low-tech outreach and input options (posters, flyers, comment cards, etc.) will be distributed throughout the community in a variety of public places that provide essential services (food bank, public kiosks, and utility bill mailers) as appropriate for people without access to technology.

Consultant shall prepare a summary report of public participation efforts and results.

<b>Task Deliverables (Responsible Party: Consultant)</b>
<ul style="list-style-type: none"><li>• Public Outreach Plan and schedule (Draft and Final) (Consultant, MCOG)</li><li>• Direct costs for Online Public Engagement Tools/Subscription Cost (Consultant)</li><li>• Community meetings/workshops; PowerPoint Presentations; flyers; website announcements; and community surveys, presentations at tribal council or community meetings (Consultant, MCOG)</li><li>• Public Participation Summary (Consultant)</li><li>• Includes travel expense (Consultant)</li></ul>

### **Task 3: Existing Conditions/Needs Assessment**

Consultant shall conduct a physical site visit to the Noyo Harbor and surrounding area to view transportation facilities, road network and circulation. Consultant shall research existing motorized and non-motorized transportation access and circulation conditions in and through the Noyo Harbor area, and identify and analyze multimodal mobility barriers and safety concerns. Consultant shall provide information on existing active transportation routes to demonstrate how this project improves connectivity. Results of the survey conducted in Task 2 shall inform this Needs Assessment by providing input from the public and Noyo Harbor stakeholders (employers, employees, fishermen, and visitors). Consultant shall prepare an Existing Conditions/Needs Assessment Report for TAG review.

The 2019 Noyo Harbor Community Sustainability Plan included a wide array of participants in the Noyo Harbor commercial and charter fishing industry, along with working waterfront business owners and operators, property owners, and residents of the adjacent coastal region. Through this robust planning process, stakeholders



identified the top 12 issues facing the harbor, and the number 4 priority was improved north harbor vehicle access and number 12 was improved sidewalks, trails and bicycle lanes. Considering the other major issues currently facing the harbor include lack of fuel dock, deferred dredging, and lack of cold storage for fishing industry, this is a significant finding. This plan will continue the conversations with the stakeholders from the previous study as well as soliciting new participants through the diversification of outreach described above.

<b>Task Deliverables (Responsible Party: Consultant)</b>
<ul style="list-style-type: none"><li>• Existing Conditions/Needs Assessment Report (Consultant, MCOG)</li><li>• Includes travel expense (Consultant)</li></ul>



#### **Task 4: Research and Analysis**

Consultant shall research and analyze opportunities for improved motorized, non-motorized, and transit transportation options in and through the Noyo Harbor.

Consultant shall study the feasibility of transitioning vehicular traffic through the harbor to one-way, connecting North Harbor Drive to Noyo Point Road on the west end of the harbor (providing a secondary emergency evacuation route where none currently exists), and constructing a roundabout (or other intersection control) at the intersection on North Harbor Drive and State Route 1 (Main Street) to improve circulation and safety for all modes. (See attached map).

Consultant shall:

- Analyze the feasibility of transitioning vehicular traffic through the harbor to one-way, connecting North Harbor Drive to Noyo Point Road;
- Analyze the feasibility of constructing a roundabout or other intersection control at the intersection of North Harbor Drive and State Route 1 (Main Street);
- Engage Caltrans District 1 in analyzing the construction of a roundabout or other intersection control at the intersection of North Harbor Drive and State Route 1, including non-motorized improvements;
- Analyze opportunities and constraints for non-motorized route connectivity through the Harbor from North Harbor Drive to Noyo Point Road;
- Analyze community and stakeholder transportation needs and priorities expressed during community outreach and stakeholder meetings;
- Examine opportunities for initiating transit service into the harbor, bike parking, and non-motorized facilities in the study area;
- Develop preliminary alignments and design concepts based on the site assessment and feedback from community outreach and stakeholders, including:
  - 10% and 30% design schematics for vehicular and non-motorized traffic through the harbor along North Harbor Drive to Noyo Point Road and at the intersection of North Harbor Drive and State Route 1,
  - Maps and GIS deliverables for alternative alignments and conceptual drawings for alternative design concepts.

<b>Task Deliverables (Responsible Party: Consultant)</b>
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| <ul style="list-style-type: none"><li>• Research and Analysis Summary Report (Consultant, MCOG)</li><li>• 10% and 30% design schematics (Consultant, MCOG)</li><li>• Maps and GIS deliverables (Consultant, MCOG)</li></ul> |
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**Task 5: Develop Recommendations**

Based on results of tasks 3 and 4, consultant shall develop draft recommendations that are feasible and implementable. Recommendations shall include detailed specifics on how the recommendations may be implemented, including implementing agency; preliminary cost estimates; available funding sources, and implementation plan and schedule. Draft recommendations shall be presented to Technical Advisory Group for review. Based on TAG review and comments, consultant shall prepare final recommendations.

<b>Task Deliverables (Responsible Party: Consultant)</b>
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| <ul style="list-style-type: none"><li>• Recommendations Summary – Draft &amp; Final (Consultant, MCOG)</li></ul> |
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**Task 6: Administrative Draft, Draft and Final Plans**

Consultant shall develop an Administrative Draft *Plan (including deliverables for tasks 2 -5)* for review by the project team. Based on feedback from the project team, consultant shall prepare the Draft “Noyo Harbor Multimodal Circulation Plan” for review by the TAG, stakeholders, and community.

Consultant shall incorporate feedback as appropriate, and shall prepare the Final Plan. *(Final Plan must include a summary and timeline of next steps towards implementation; must credit Caltrans on the cover or title page, and must be submitted in an ADA accessible electronic copy.)*

<b>Task Deliverables (Responsible Party: Consultant)</b>
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| <ul style="list-style-type: none"><li>• Administrative Draft Plan – electronic copy (Consultant, MCOG)</li><li>• Draft Plan – electronic copy (Consultant, MCOG)</li><li>• Final Plan – six (6) print copies, plus electronic copy (Consultant, MCOG)</li></ul> |
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**Task 7: Presentations to Fort Bragg City Council, Board of Supervisors & MCOG Board**

Consultant shall present the Final Plan to the Fort Bragg City Council at a public meeting of the City Council. Consultant shall present the Final Plan to the Mendocino County Board of Supervisors at a public meeting of the Board. Consultant shall present the final plan to the MCOG Board for acceptance, at a public meeting of MCOG.

<b>Task Deliverables (Responsible Party: Consultant)</b>
<ul style="list-style-type: none"> <li>• Presentation to Fort Bragg City Council (Consultant)</li> <li>• Presentation to MCOG Board (Consultant)</li> <li>• Presentation to Mendocino County Board of Supervisors (Consultant)</li> <li>• Presentation materials/slides. (Consultant)</li> <li>• Includes travel expense (Consultant)</li> </ul>

**IV. PROPOSAL REQUIREMENTS**

Each technical proposal shall contain as a minimum, the following elements:

**A. Identification of Prospective Contractor**

The proposal shall include the name of the firm submitting the proposal, its mailing address, telephone number, e-mail address, and the name of an individual to contact if further information is desired.

**B. Management**

The prospective contractor shall designate by name the project manager to be assigned to this project. The selected contractor shall not cause the substitution of the project manager without prior written approval of the Mendocino Council of Governments.

**C. Personnel**

The prospective contractor shall describe the qualifications of all professional personnel to be employed, including a summary of similar work or studies performed, a resumé for each professional, a statement indicating how many hours (estimated) each professional will be assigned to the contract and what tasks each professional will perform. The contractor shall not cause members of the project team to be substituted without prior written approval of the Mendocino Council of Governments.

**D. References**

The prospective contractor shall provide names, addresses, email addresses and telephone numbers for at least three clients for whom the prospective contractor has performed work similar to that proposed in this request. A summary statement for each assignment shall be provided.

**E. Subcontractors**

If subcontractors are to be used, the prospective contractor must submit a description of each person or firm and the work to be done by each subcontractor. The cost of the subcontract work is to be itemized in the cost proposal in the same format as that of the prime consultant. Consultant mark-up on sub-consultant costs is not allowed.

NOTE: Subcontractors will be obligated to comply with all applicable Federal and State procedures for this contract.

## **F. Methodology**

The prospective contractor shall describe the overall approach to the project, specific techniques that will be used, and specific administrative and operations management expertise that will be employed.

Proposers' responses to the required tasks outlined in the RFP must be specifically numbered the same as in the RFP. If additional tasks are proposed, they should be numbered as sub-tasks under the appropriate existing task.

## **G. Schedule of Tasks**

The proposal shall contain a detailed schedule identifying major tasks to be undertaken to conduct the work and timeframe for each task. The schedule shall also identify all meetings, progress reports, and deliverables.

## **H. Budget**

The prospective contractor shall prepare a detailed budget, by task, for the work to be performed. A sample budget format is attached as **Attachment 1**. The budget shall itemize all items that will be charged to the project, by task, using fully-weighted hourly billing rates for all personnel. **In addition, the methodology for calculating the fully-weighted rates for all personnel must be shown (e.g., labor, overhead rate, fringe, profit, etc.).**

Consultant mark-up on direct costs or subcontractor costs is not allowed.

Reimbursement for travel-related direct costs (hotels, meals, etc.) is limited to approved State rates which may be found on the Caltrans website:

(<http://www.dot.ca.gov/hq/asc/travel/ch12/1consultant.htm>). Receipts are required to be submitted for all direct costs, other than fully-weighted personnel costs.

If subcontractors are to be used, the breakdown of subcontract costs shall follow the same format as that for the prime contractor, including the methodology for calculating fully-weighted rates.

## **I. Debarment**

The proposal shall contain a statement certifying that contractor and subcontractor(s) have not been debarred or suspended from Federal or State programs.

## **J. Accounting System and Cost Principles**

The proposal shall contain a statement certifying that contractor and subcontractors maintain an accounting system that: 1) can segregate and accumulate project costs for adequate documentation to support costs, 2) conforms to Generally Accepted

Accounting Principles (GAAP), and 3) conforms to standards required by 2 CFR, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (eCFR :: Title 2 of the CFR -- Grants and Agreements). A contract shall not be awarded to a consultant without an adequate financial management and accounting system. A pre-award audit may be required.

#### **K. Signature**

The proposal shall be transmitted with a cover letter that must be signed by an official authorized to bind the proposer contractually and shall contain a statement to the effect that the proposal is a firm offer for a 90-day period. The letter accompanying the technical proposal shall also provide the following: name, title, address, telephone number, and e-mail address of individuals with the authority to negotiate a contract and bind the Consultant to the terms of the contract.

#### **L. Disadvantaged Business Enterprise (DBE) Requirements**

This project is below the \$250,000 threshold and does not need a DBE goal calculation/Exhibit 9-D.

### **V. CONTRACTOR AWARD**

#### **A. Proposal Review**

Each proposal will be reviewed to determine if it meets the proposal requirements contained in Section IV. **Failure to meet the requirements for the Request for Proposals will be cause for rejection of the proposal.**

The Mendocino Council of Governments may reject any proposal if it is conditional, incomplete, or contains irregularities. MCOG may waive an immaterial deviation in a proposal. Waiver of an immaterial deviation shall in no way modify the Request for Proposals document or excuse the proposer from full compliance with the contract requirements if the proposer is awarded the contract.

#### **B. Proposal Evaluation**

An evaluation committee will evaluate those proposals that meet the proposal requirements and will determine whether interviews will be needed. MCOG reserves the right to select a Consultant based solely on written proposals. Evaluation will be based on proposer's understanding of work scope requirements demonstrated by qualifications of individuals or firm, successful experience and performance with similar projects, proposal contents and methodology, and cost proposal. Scoring will be as follows:

- Qualifications of Individual or Firm (20 points maximum)
- Experience/Performance (30 points maximum)
- Proposal Contents & Methodology (30 points maximum)
- Cost Proposal, Including Budget/Resource Allocation (20 points maximum)

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Total Points Possible (100 points maximum)

In the event MCOG elects to conduct interviews, a separate score will be used to rank oral responses, as follows:

- Project Understanding (50 points maximum)
- Project Approach (50 points maximum)

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Total Points Possible (100 points maximum)

### **C. Contract Award**

A contract will be negotiated with the individual or firm determined in the proposal evaluation process to be best suited to perform this project. If a contract cannot be negotiated with the individual or firm submitting the highest rated proposal which is in the best interests of the Mendocino Council of Governments, then staff will terminate negotiations with that firm and commence the negotiation process with the firm submitting the second highest rated proposal.

This contract will be awarded using a cost reimbursement payment method. The contract will include all State and/or Federal requirements that "flow down" from the funding sources. *(See attached Attachment 2 – MCOG Sample Contract.)*

## **VI. GENERAL INFORMATION**

### **A. Proposal Submittal**

Proposals must be received no later than **5:00 p.m. on April 12, 2024**. MCOG will accept proposals electronically, without requiring print copies until after contractor selection. Proposals (or link to proposals) may be emailed to MCOG Project Manager Loretta Ellard at [lellard@dbcteam.net](mailto:lellard@dbcteam.net), and must be received by the submittal deadline.

The successful contractor will be required to submit two (2) print copies of the proposal prior to contract award, by mail or hand delivery, to:

Loretta Ellard, Project Manager  
 Mendocino Council of Governments – Planning  
 525 South Main Street, Suite G  
 Ukiah, CA 95482

## B. Late Submittals

A proposal is late if received at any time after **5:00 p.m. on April 12, 2024**. Postmarks will **not** suffice. Proposals received after the specified time will not be considered and will be returned to the proposer.

## C. Modification or Withdrawal of Proposals

Any proposal received prior to the date and time specified above for receipt of proposal may be withdrawn or modified by written request of the proposer. To be considered, however, any modified proposal must be received by the date and time specified above.

## D. Schedule

The tentative schedule of activities related to the Request for Proposals is as follows:

<b>Activity</b>	<b>Date</b>
RFP Mail-out	March 14, 2024
Written Question Submittal Deadline	March 28, 2024
Response to Questions Posted to MCOG's website <a href="http://www.mendocinocog.org/">http://www.mendocinocog.org/</a>	April 3, 2024
<b>Proposal Submittal Deadline</b>	<b>April 12, 2024 - 5:00 p.m.</b>
Review of Proposals	April 15-19, 2024
Rank of Proposals	April 22-24, 2024
Interviews (if needed)	April 25-26, 2024
Contractor Selection & Contract Award	April 29, 2024
Project Starting Date - Notice to Proceed	May 6, 2024
Final Report Due	December 31, <b>2025</b>
Presentations of Final Report ( <i>3 Presentations</i> )	November – December <b>2025</b>

## E. Property Rights

Proposals received within the prescribed deadline become the property of the Mendocino Council of Governments and all rights to the contents therein become those of the Council.

## F. Amendments to Request for Proposals

The Mendocino Council of Governments reserves the right to amend the Request for Proposals by addendum prior to the final date of proposal submission. All addenda will be posted on MCOG's website <http://www.mendocinocog.org/>.

## G. Funding

Funding for this project is provided with federal planning grant funds (FTA 5304) provided by Caltrans and programmed in MCOG's FY 2023/24 Overall Work Program. A total of \$200,000 is expected to be available for the Consultant's portion of the project.

## **H. Non-commitment of the Mendocino Council of Governments**

This Request for Proposals does not commit the Mendocino Council of Governments to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract for services or supplies. MCOG reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified individual or firm, or to modify or cancel in part or in its entirety the Request for Proposals if it is in the best interest of the Council to do so.

## **I. Public Domain**

All products used or developed in the execution of any contract resulting from this request will remain in the public domain at the completion of the contract.

## **J. Questions**

Questions regarding this Request for Proposals will only be accepted in writing (correspondence or e-mail). Questions should include the individual's name, name of firm, address, telephone number, and e-mail address, and must be received no later than **5:00 p.m. on March 28, 2024**. Email questions to [lellard@dbcteam.net](mailto:lellard@dbcteam.net) or mail to:

Loretta Ellard, Project Manager  
Mendocino Council of Governments – Planning  
525 South Main Street, Suite G  
Ukiah, CA 95482

Questions and answers will be provided in the form of an addendum to this RFP, and will be posted on MCOG's website <http://www.mendocinocog.org/> by **April 3, 2024**.

## **K. Affirmative Action**

Prospective contractors should be aware that the Equal Employment Opportunity Requirement of Executive Order 11246, as amended by Executive Order 11275, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practices Act and other federal and state laws pertaining to equal employment opportunity are applicable to any contract awarded by the Council of Governments.

## **L. Protest Procedures and Dispute Resolution Process**

The Mendocino Council of Governments' "Protest Procedures and Dispute Resolution Process" shall be utilized to resolve any protests or disputes to this procurement process. (See attached **Attachment 3 - Protest Procedures & Dispute Resolution Process**)

## **M. Web Content Accessibility Guidelines**

In alignment with Caltrans' requirements that documents posted to public websites meet Web Content Accessibility Guidelines, all final deliverables for this project must be



consistent with Web Content Accessibility Guidelines (WCAG) 2.1 Level AA criteria (<https://www.w3.org/TR/WCAG21/>).

To ensure accessibility to the largest audience possible, Arial and Verdana fonts may be used; with a minimum font size of 12 point. Additional information may be found at <https://dot.ca.gov/accessibility>.

**N. MCOG Acknowledgement**

The following acknowledgment of participation must appear on the cover or title page of the final report funded under this project: “This project was funded with Caltrans’ FY 2023-24 Sustainable Communities Competitive Program Grant funds (FTA 5304), plus local matching funds (Local Transportation Funds) provided by the Mendocino Council of Governments, and programmed in MCOG’s FY 2023-24 Overall Work Program. A contract was awarded to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ which included subcontracts with \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.”

**Sample Budget Format**  
**Noyo Harbor Multimodal Circulation Plan**

Firm Name:		Personnel	B. Jones	B. Smith	C. White	A. Parker		Direct Costs	Direct Costs	
		Position/Title	Proj. Mgr	Sr Planner	Planner	Admin. Asst.	Total Hours	Amount	Description	Total
Task #	* Fully Loaded Hourly Billing Rate		\$170	\$150	\$130	\$100	Per Task			
1	Project Meetings		50	75	60	25	210	\$500.00	Travel	\$30,550.00
		<i>Subtotal</i>	\$8,500	\$11,250	\$7,800	\$2,500		\$500.00		\$30,550.00
2	Public Participation & Community Outreach									
		<i>Subtotal</i>								
3	Existing Conditions/Needs Assessment									
		<i>Subtotal</i>								
4	Research & Analysis									
		<i>Subtotal</i>								
5	Develop Recommendations									
		<i>Subtotal</i>								
6	Administrative Draft, Draft & Final Plans									
		<i>Subtotal</i>								
7	Presentations									
		<b>TOTAL</b>	<b>\$8,500</b>	<b>\$11,250</b>	<b>\$7,800</b>	<b>\$2,500</b>	<b>=SUM(G8)</b>	<b>\$500</b>		<b>\$30,550.00</b>

\* Show methodology for calculating fully-weighted billing rates

Additional columns may be added to list detailed subconsultant costs, or a separate page may be added

# MENDOCINO COUNCIL OF GOVERNMENTS

## PROFESSIONAL SERVICES AGREEMENT

[Project Name]

This Professional Services Agreement (“Agreement”) is entered into on [Date], by and between the Mendocino Council of Governments, hereinafter referred to as "MCOG" and [Company Name], hereinafter referred to as “Consultant.”

### RECITALS:

**MCOG** may retain independent contractors to perform special, technical, expert, or professional services. **Consultant** is equipped, staffed, licensed, and prepared to provide such services.

**MCOG** is lead agency for the [Project Name], hereinafter referred to as the "**Project**," funded by [grant name, funding source and amount/s] from the [State of California, Department of Transportation], hereinafter referred to as the "**State**." **MCOG** shall be responsible to **State** for the successful completion of this **Project**, as authorized by resolution of **MCOG**'s Board of Directors.

All services performed by **MCOG**, **Consultant** and any sub-consultants pursuant to this Agreement are intended to be performed in accordance with all applicable Federal, State, and County of Mendocino laws, ordinances, regulations, and Caltrans' published manuals, including the approved grant application. In case of conflict between Federal, State and County of Mendocino laws, ordinances, or regulations, the order of precedence for applicability of these laws shall be Federal, State and County of Mendocino laws and regulations, respectively.

**MCOG** and **Consultant** agree as follows:

### 1. WORK TO BE PERFORMED

**Consultant** agrees to provide those services, tasks and products detailed in the attachments, incorporated herein by reference. Professional services described in Exhibits A and B may be refined or amended by written agreement of **MCOG** and **Consultant**. [confirm Exhibits to be attached and label exhibits appropriately]

- Exhibit A: MCOG's Request for Proposals dated \_\_\_\_\_, with Attachments 1-6
- Exhibit B: Scope of Work, Schedule and Budget
- Exhibit C: Rates of [Consultant] and Sub-consultants
- Exhibit D: Caltrans Local Assistance Procedures Manual Exhibit 10-J  
- Standard Contract Provisions for Sub-consultant/DBE Participation.

**Consultant** agrees to perform any additional services as may be required due to significant changes in general scope of the project or its design, including but not limited to change in size, complexity, or character. Such additional services shall be paid for by Amendment to

this Agreement or by a Supplemental Agreement and shall conform to the rates of payment specified in Section 2 hereof.

## 2. PAYMENT FOR SERVICES

Compensation for services provided shall not exceed \$**[contract amount]** This shall include compensation for completing the tasks and products identified in **Exhibits A and B**. Cost overruns and/or failure to perform within the limits of the proposed budget shall not relieve **Consultant** of responsibility to provide those tasks and products specified in the Exhibits.

**MCOG** shall pay **Consultant** for work satisfactorily completed in accordance with **Exhibits A and B** according to the process in Section 3 below. The method of payment shall be “Actual Cost Plus Fixed Fee,” also known as “Cost Reimbursement,” to include hourly rates plus non-salary expenses and fee (profit), in accordance with **Consultant's** Cost Proposal, as attached hereto and made a part hereof in **Exhibit B**.

## 3. INVOICES AND DISBURSEMENT

**MCOG** will pay **Consultant** no more often than monthly, based on itemized invoices for work completed, by task, including receipts and sufficient documentation of any direct expenses. Charges shall be shown to reflect hourly billing rates for all personnel labor. Monthly invoices shall be accompanied by a brief summary of progress to date, segregated by task. Sub-consultant invoices also shall include a narrative of work completed and documentation of any direct costs. **Consultant** mark-up of direct expenses or of subcontractor invoices are not allowable; therefore, **MCOG** will not pay **Consultant** for any such increases to actual costs incurred.

**MCOG** shall review invoices and may approve them for payment or adjust them after contact with **Consultant**. Total progress payments for each task shall not exceed 100% of the budget for each major task as shown in **Exhibit B**. **MCOG** will make payments within 30 days of receipt of **Consultant's** invoices, or as promptly as its fiscal system allows.

Ten percent (10%) of each invoice shall be retained by **MCOG**. This retention shall be released to **Consultant** within 30 days of receipt of final work deliverables and acceptance by **MCOG** as satisfactory and complete.

[DBE Option: “**MCOG** shall hold ten percent (10%) retainage of each invoice from **Consultant** and shall make quarterly incremental acceptances of portions of the contract work, and release retainage payments to **Consultant** based on these acceptances. **Consultant** shall return all monies withheld in retention from a sub-consultant within 30 days after receiving payment from **MCOG** as defined in Attachment D, Standard Contract Provisions for Sub-consultant/DBE Participation, Section 4(D).”]

Contractor shall make progress payments to its subcontractors, if any, no later than 10 days following receipt of payments by **MCOG**, in accordance with Section 7108.5 of the California Business and Professional Code, unless a longer period is agreed to in writing.

Any delay or postponement of payment over 30 days may take place only for good cause and with MCOG's prior written approval.

Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration. MCOG will provide current information.

If MCOG substantially alters the scope of work, the maximum fee may be changed by Supplemental Agreement or an Amendment signed by both MCOG and Consultant.

#### 4. REPORTS

Due dates and milestones are detailed in **Exhibit B**. Preparation of deliverable work products detailed in **Exhibit B** shall be in formats acceptable to MCOG. MCOG will provide Consultant with guidance on acceptable formats. Consultant shall bear the expense of all printing and reproduction costs of the deliverable products, until final reports and products are accepted by MCOG. Consultant shall provide deliverable products in both print and electronic formats as specified in **Exhibit B**.

#### 5. SERVICES OF MCOG

MCOG shall provide full information as to its requirements for performance of this Agreement, attached as **Exhibit A**. MCOG shall provide program guidance and appropriate monitoring of work task performance under this Agreement. MCOG shall place at the disposal of Consultant all available information pertinent to the project. MCOG will examine all studies, reports, or other submittals from Consultant and will make every effort to provide comments pertaining thereto within ten (10) calendar days of receipt.

#### 6. TERM OF AGREEMENT

The term of this Agreement shall be from [start date—spelled out] to [end date]. Execution of this Agreement by MCOG shall constitute Consultant's authority to proceed immediately with the performance of the work described by **Exhibit B**, provided that evidence of insurance has been received by MCOG as specified under Section 11 below.

All work by Consultant shall be completed and all deliverables submitted to and in the possession of MCOG by due dates listed in **Exhibit B**. Extensions of due dates shall be made only upon written authorization by MCOG. Consultant shall not be held responsible for delays caused by circumstances beyond its control.

Consultant acknowledges that timely performance of services is an important element of this Agreement and will perform services in a timely manner consistent with sound professional practices.

#### 7. PROJECT INSPECTION AND ACCOUNTING RECORDS

**Consultant** agrees that duly authorized representatives of **MCOG and State** shall have right of access to the **Consultant's** files and records relating to the **Project** and may review the work at appropriate stages during performance of the work. **Consultant** must maintain accounting records and other evidence pertaining to costs incurred, which records and documents shall be kept available at **Consultant's** offices during the contract period and thereafter for three (3) years from the date of final payment, or until annual audit resolution is achieved, whichever is later. (See also Section 13.)

#### 8. OWNERSHIP OF FINAL REPORTS AND PRODUCTS:

All original reports and documents together with such backup data as required by this Agreement shall be and shall remain the property of **MCOG and State**.

**Consultant** is advised that Government Code Section 7550 states, “(a) Any document or written report prepared for or under the direction of a state or local agency, that is prepared in whole or in part by nonemployees of the agency, shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the document or written report; if the total cost for the work performed by nonemployees of the agency exceeds five thousand dollars (\$5,000). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of the document or written report.

“(b) When multiple documents or written reports are the subject or product of the contract, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.”

[Opt.: “**MCOG** shall have unlimited future rights to use any models or computer programs which may be developed during the course of this study, and **MCOG** shall be exempt from any extra charge or license fee imposed by **Consultant** for such use, unless specifically identified in the proposal.”]

#### 9. TERMINATION

At any time **MCOG** may suspend indefinitely or abandon the project, or any part thereof, and may require **Consultant** to suspend the performance of its services. In the event **MCOG** abandons or suspends the project, **Consultant** shall receive compensation for services rendered to date of abandonment and suspension in accordance with the provisions of Sections 2 and 3 herein.

It is understood and agreed that should **MCOG** determine that any part of the work involved in the program is to be suspended indefinitely, abandoned, or canceled, this Agreement shall be amended accordingly. Such abandonment or cancellation of a portion of the program shall in no way void or invalidate this Agreement as it applies to any remaining portion of the project.

If, in the opinion of **MCOG**, **Consultant** fails to perform or provide prompt, efficient and thorough service, or if **Consultant** fails to complete the work within the time limits provided, **MCOG** shall have the right to give notice in writing to **Consultant** of its intention to

terminate this Agreement. The notice shall be delivered to **Consultant** at least seven (7) days prior to the date of termination specified in the notice. Upon such termination **MCOG** shall have the right to take **Consultant's** studies, and reports insofar as they are complete and acceptable to **MCOG** and pay **Consultant** for its performance rendered, in accordance with Sections 2 and 3 herein, prior to delivery of the notice of intent to terminate, less the amount of damages, general or consequential, if any, sustained by **MCOG** due to the breach of this Agreement by **Consultant**. Said termination of the Agreement shall not relieve **Consultant** of its liability to **MCOG** for any damages, general or consequential, which **MCOG** may sustain as a result of **Consultant's** failure to satisfactorily perform its obligations under this Agreement.

## 10. RESPONSIBILITY FOR CLAIMS AND LIABILITIES

**Consultant** shall indemnify and hold harmless **MCOG** and its agents and officers against and from any and all claims, lawsuits, actions, liability, damages, losses, expenses, and costs (including but not limited to attorney's fees), brought for, or on account of, injuries to or death of any person or persons including employees of **Consultant**, or injuries to or destruction of property including the loss of use thereof, arising out of, or resulting from, the performance of the work described herein, provided that any such claim, lawsuit, action, liability, damage, loss, expense, or cost is caused in whole or in part by any negligent or intentional act or omission of the **Consultant**, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Where **Consultant** is found to have caused the injury, damage, or loss only in part, **Consultant** shall hold **MCOG** harmless only to the extent **Consultant** caused the injury, damage, or loss. **MCOG** agrees to timely notify **Consultant** of any such negligence claim and to cooperate with **Consultant** to allow **Consultant** to defend such a claim.

**MCOG** shall indemnify and hold harmless **Consultant**, its officers, agents, and employees from any and all claims, suits, losses, damages, costs (including reasonable attorney's fees) and demands, pure economic damages, administrative fees, penalties and fines imposed, and demands, including reasonable attorney's fees connected therewith, on account of personal injury, including death, or property damage, sustained by any person or entity not a party to this Agreement between **Consultant** and **MCOG** and arising out of the performance of such Agreement to the extent such injury, death or damage is caused by the negligence or willful misconduct of **MCOG** or its contractors or their respective employees, officers and agents.

## 11. INSURANCE

**Consultant**, at its expense, shall secure and maintain at all times during the entire period of performance of this Agreement, insurance as set forth herein with insurance companies acceptable to **MCOG** for **MCOG's** protection, its elected or appointed officials, employees and volunteers, **Consultant** and any other independent contractor from any and all claims which may arise from operations under this Agreement, whether operations be by **Consultant**, by its sub-consultants, or by anyone directly or indirectly employed by either of them.

**Consultant** shall provide to **MCOG** Certificates of Insurance evidencing minimum coverage as specified below:

Vehicle/Bodily Injury - \$250,000 Each Person, \$500,000  
Each Occurrence and Vehicle/Property Damage - \$250,000  
Each Occurrence

OR

Combined Single Limit Vehicle Bodily Injury and Property  
Damage Liability - \$1,000,000 Each Occurrence

AND

General Liability - \$1,000,000 per Occurrence for Bodily  
Injury, Personal Injury and Property Damage

AND

Worker's Compensation and Employer's Liability: Limits  
as required by the labor code of the State of California.

In the event of breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, **MCOG**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend further work pursuant to this Agreement.

**Consultant** shall not commence work, nor shall it allow its employees or subcontractors or anyone to commence work contemplated through this Agreement until all insurance required hereunder has been submitted to and accepted by **MCOG**. Failure to submit proof of insurance as required herein may result in awarding said Agreement to another bidder.

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve **Consultant** for liability in excess of such coverage, nor shall it preclude **MCOG** from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law.

Before beginning the work, **Consultant** shall furnish to **MCOG** satisfactory proof that it has secured, for the period covered under this Agreement, Workers Compensation Insurance for all persons whom it may employ in carrying out the work completed under this Agreement, in accordance with the "Workers Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any acts amendatory thereof. Such insurance shall be maintained in full force and effect during the period covered by this Agreement.

**Consultant** shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of subcontractor's employees.



## 12. STANDARD OF CARE

The absence, omission, or failure to include in this Agreement items which are considered to be a part of normal procedures for work of this type or which involve professional judgment shall not be used as a basis for submission of inadequate work or incomplete performance.

**MCOG** relies upon the professional ability and stated experience of **Consultant** as a material inducement to entering into this Agreement. **Consultant** understands the use to which **MCOG** will put its work product and hereby warrants that all findings, recommendations, studies and reports shall be made and prepared in accordance with generally accepted professional practices.

**Consultant** will comply with all Federal, State and Local laws and ordinances as may be applicable to the performance of work under this Agreement.

## 13. STATE AND FEDERAL REQUIREMENTS

Non-Discrimination. a) In the performance of work under this Agreement, **MCOG**, **Consultant** and its sub-consultants shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave and denial of pregnancy disability leave.

b) **MCOG**, **Consultant** and its sub-consultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. **MCOG**, **Consultant** and its sub-consultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made part hereof as if set forth in full.

c) **MCOG**, **Consultant** and its sub-consultants shall each give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other labor agreement.

d) **MCOG**, **Consultant** and its sub-consultants will permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by State to investigate compliance with this section.

[Federal Funding Option:]

[Disadvantaged Business Enterprise (DBE) Obligation. **MCOG**, **Consultant** and its sub-consultants 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 contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.”]

Title VI of the Civil Rights Act of 1964. **Consultant** agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, California Civil Code section 51(b) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.

Equal Employment Opportunity. In connection with the performance of this Agreement, **Consultant** shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

Cost Principles. **MCOG, Consultant** and its sub-consultants will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) all parties shall comply with Federal administrative procedures in accordance with Title 2, CFR, part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as applicable. For more information, refer to: <https://www.ecfr.gov/>.

Record Retention and Audits. **MCOG, Consultant** and its sub-consultants shall maintain all source documents, accounting records, and other supporting papers connected with performance of work under this Agreement for a minimum of three (3) years from the date of final payment, or until annual audit resolution is achieved, whichever is later. All such supporting information shall be made available for inspection and audit by representatives of State of California Department of Transportation (State), the California State Auditor, and auditors representing the federal government. Copies will be made and furnished by **MCOG** upon request, at no cost to State.

**MCOG, Consultant** and its sub-consultants shall each establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP), to support invoices and requests for reimbursement that segregate and accumulate project costs by line item, and can produce interim (e.g. quarterly) reports that clearly identify reimbursable costs and other expenditures for the project.

#### 14. COMPLIANCE

**Consultant**, in the conduct of the services contemplated within this agreement, shall comply with all statutes, State or Federal, and all ordinances, rules and regulations enacted or issued by the County of Mendocino.

#### 15. INDEPENDENT CONSULTANT

Both **MCOG** and **Consultant** agree and acknowledge that the relationship between them is that of public entity and independent contractor and shall in no event be considered that of employer/employee. **MCOG** shall compensate **Consultant** by payment of the gross amounts due to **Consultant**, and **Consultant** shall be solely responsible for any federal, state, and local taxes and withholdings that may be applicable.

#### 16. FINANCIAL INTEREST

**Consultant** covenants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. **Consultant** further covenants that in the performance of this Agreement, no person having any such interest shall be employed or subcontracted.

#### 17. SUCCESSOR AND ASSIGNMENTS

**MCOG** and **Consultant** each binds itself, its partners, successors, and executors, administrators, and assigns to the other party to this Agreement, and to the partners, successors, executors, administrators and assigns of such party in respect to all covenants of this Agreement.

Except as noted above, neither **MCOG** nor **Consultant** shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other, however, **Consultant** reserves the right to assign the proceeds due under this Agreement to any bank or person.

In the case of death of one or more members of the firm of **Consultant**, the surviving member or members shall complete the professional services covered by this Agreement.

#### 18. NOTICES

Notices pursuant to this Agreement shall be served via certified United States mail, addressed to the parties as follows:

Nephele Barrett, Executive Director  
Mendocino Council of Governments  
525 South Main St., Suite B  
Ukiah, CA 95482

[Consultant Name, Title]  
[Consultant Company Name]  
[Address]  
[City, State, Zip]

#### 19. VENUE

The venue for this agreement shall be Mendocino County, California.

#### 20. EXTENT OF AGREEMENT:

This Agreement and all exhibits made a part hereof constitute the entire Agreement between the parties. In case of conflict or inconsistency between this Agreement and any exhibits, this

Agreement shall control. This Agreement shall not be modified except by written agreement of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement in duplicate as of the day and year first written above.

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Nephele Barrett, Executive Director  
Mendocino Council of Governments

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[Name, Title]  
[Consultant Company Name]

Federal ID No.: \_\_\_\_\_  
[provide Form W-9]

## Mendocino Council of Governments

### Protest Procedures & Dispute Resolution Process

- A. Purpose. The purpose of these procedures is to set forth the procedures to be utilized by the Mendocino Council of Governments (MCOG) in considering and determining all bid protests or objections regarding solicitations, proposed award of a contract, or award of a contract whether before or after award.
- B. General. In order for a bid protest to be considered by MCOG, it must be submitted by an interested party (as defined below in accordance with the procedures set forth herein). A protest which is submitted by a party which is not an interested party or which is not in accordance with the procedures shall not be considered by MCOG, and will be returned to the submitting party without any further action by MCOG.
- C. Definitions. For purposes of these Bid Protest Procedures:
1. The term "Bid" includes any bid or offer submitted by a bidder in response to an Invitation for Bid (IFB), and a proposal submitted by an offeror in response to a Request for Proposals (RFP).
  2. The term "contract" means that document to be entered into between MCOG and the successful bidder and offeror.
  3. The term "days" refers to normal business days of MCOG staff offices.
  4. The term "interested party" means any person: (a) who is an actual or prospective proposer, bidder, or offeror in the procurement involved; and (b) whose direct economic interest would be affected by the award of the contract or by failure to award a contract.
  5. The term "solicitation" means an Invitation for Bids (IFB), Request for Proposals (RFP), or other form of document used to procure equipment or services.
- D. Grounds for Protest. Any interested party may file a bid protest with MCOG on the grounds that:
1. MCOG has failed to comply with applicable Federal or State Law;
  2. MCOG has failed to comply with its procurement procedures;
  3. MCOG has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable;
  4. MCOG has issued restrictive or discriminatory specifications; or,
  5. Award is made to other than the lowest responsive and responsible bidder on formally advertised (IFB) procurements.

E. Contents of Protest

1. A bid protest must be filed in writing and must include:
  - a. The name and address of the protestor.
  - b. The name and number (if available) of the procurement solicitation.
  - c. A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of MCOG procurement procedures, or specific term of the solicitation alleged to have been violated.
  - d. Any relevant supporting documentation the protesting party desires MCOG to consider in making its decision.
  - e. The desired relief, action, or ruling sought by the protestor.

2. Protests must be filed with:

Executive Director  
Mendocino Council of Governments  
525 S. Main Street, Suite B  
Ukiah, CA 95482

3. All protests must be received at the MCOG address listed above during normal office hours of 8:00 a.m. to 5:00 p.m., Pacific Standard Time.
4. If any of the information required by this section is omitted or incomplete, MCOG will notify the protestor, in writing, within one day of the receipt of the protest, and the protestor will be given one day to provide the omitted or incomplete information in order for the protest to be further considered. Note that this provision only applies in the case of a failure to state any grounds for a protest and does not apply to stating inadequate grounds for a protest or the failure to submit documentation.

F. Timing Requirements and Categories of Protests. MCOG will consider the following categories of bid protests within the time period set forth in each category:

1. Any bid protest alleging improprieties in a solicitation process or in solicitation documents must be filed no later than five days prior to the scheduled bid opening or deadline for submittal or proposals, as appropriate, in order to be considered by MCOG. Any protest based on such grounds not filed within this period will not be considered by MCOG. This category of protests includes, but is not limited to, allegation of restrictive or exclusionary specifications or conditions.
2. Any bid protests regarding the evaluation of bids or proposals by MCOG, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with MCOG no later than 72 hours after the protestor's receipt of MCOG's written notice of its decision or intended decision to award a contract. Any protest filed after such date which raises issues regarding the bid proposal evaluation, or the contract approval or award will not be considered by MCOG.

G. Review of Protest by MCOG

1. MCOG will notify the protestor within 3 days of timely receipt of a bid protest that the protest is being considered.
2. In the notification, MCOG will inform the protestor of any additional information required for evaluation of the protest by MCOG, and set a time deadline for submittal of such information. If MCOG requests additional information, and it is not submitted by the stated deadline, MCOG may either review the protest on the information before it, or decline to take further action on the protest
3. In its sole discretion, MCOG may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offerors to submit comments to MCOG relative to the merits of the bid protest. MCOG will set a time deadline for the submittal of such comments, which will be no less than 5 days after MCOG provides notification of the protest.
4. In its sole discretion, MCOG may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by MCOG in deciding the bid protest if it is submitted to MCOG in writing within 3 days after the conference.

H. Effects of Protest on Procurement Actions

1. Upon receipt of a timely protest regarding either the solicitation process of the solicitation documents in the case of sealed bids, MCOG will postpone the opening of bids until resolution of the protest. The filing of the protest will not, however, change the date on which bids are due, unless MCOG determines, and so notifies all bidders, that such a date change is necessary and appropriate to carry out the goals of the procurement and assure fair treatment for all bidders.
2. Upon receipt of a timely protest regarding evaluation of bid or proposals, or the approval or award of a contract, MCOG will suspend contract approval or other pending action, or issue a stop work order if appropriate, until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.
3. Notwithstanding the pendency of a bid protest, MCOG reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:
  - a. Where the item to be procured is urgently required;
  - b. Where MCOG determines, in writing, that the protest is vexatious or frivolous;
  - c. Where delivery or performance will be unduly delayed, or other undue harm to MCOG will occur, by failure to make the award promptly; or,
  - d. Where MCOG determines that proceeding with the procurement is otherwise in the public interest.

- I. Summary Dismissal of Protests. MCOG reserves the right to summarily dismiss all or any portion for a bid protest that raises legal or factual arguments or allegations that have been considered and adjudicated by MCOG in a previous bid protest by any interested party in the same solicitation or procurement action.
  
- J. Protest Decisions
  - 1. After review of a bid protest, the Procurement Officer shall make a recommendation to the Executive Director of the appropriate disposition of such protest.
  - 2. The recommendation shall be made on the basis of the information provided by the protestor and other parties, the results of any conferences, and MCOG's own investigation and analysis.
  - 3. If the protest is upheld, MCOG will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-solicitation, revised evaluation of bids or proposals or MCOG's determination, or termination of the contract.
  - 4. If the protest is denied, MCOG will lift any suspension imposed and proceed with the appropriate state of the procurement process or the contract.
  
- K. Judicial Appeals. A protest adversely affected by a bid protest decision may appeal such decision to an appropriate court of the State of California located in Mendocino County.