

AGREEMENT FOR SERVICES

This agreement ("Agreement"), dated as of March 23, 2021 ("Effective Date") is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and Sonoma Valley Fire District (hereinafter "District").

R E C I T A L S

WHEREAS, District represents that it is a duly qualified Fire District and has retained SCI Consultants, experienced in the preparation of fire mitigation impact fee nexus studies and related services; and

WHEREAS, the District Board of Directors has considered, conducted a public hearing, and adopted fire mitigation fees tailored to meet the District's community needs; and

WHEREAS, in the judgment of the County Administrator's Office, it is necessary and desirable to employ the services of District for preparing fire mitigation impact fee nexus studies and taking all steps necessary to ensure full compliance with the California Mitigation Fee Act (Gov. Code §§66000 et seq.).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

A G R E E M E N T

I. Scope of Services.

1.1 District's Specified Services. District shall perform the services described in Exhibit "A," attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit "A" and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit "A", the provisions in the body of this Agreement shall control.

1.2 Cooperation With County. District shall cooperate with County and County staff in the performance of all work hereunder.

1.3 Performance Standard. District shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in District's profession. County has relied upon the professional ability and training of District as a material inducement to enter into this Agreement. District hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of District's work is not in accordance with such level of competency and standard of care, County, in its sole

discretion, shall have the right to do any or all of the following: (a) require District to meet with County to review the quality of the work and resolve matters of concern; (b) require District to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

- a. District shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by District to perform work hereunder, District shall remove such person or persons immediately upon receiving written notice from County.
- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. District shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County.
- c. In the event that any of District's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of District's control, District shall be responsible for timely provision of adequately qualified replacements.

2. Payment. Pursuant to the California Mitigation Fee Act (Gov. Code §§ 66000-66025), local agencies may establish mitigation fees ("fees") in connection with the approval of a development project to offset the costs of new public facilities that become necessary as a result of development. Under existing state law, District cannot directly adopt mitigation fees pursuant to Health and Safety Code §§13800-13970, but the Mitigation Fee Act authorizes the County to adopt fees on behalf of District to offset the impacts of new development on fire equipment and fire capital facilities, and authorizes County to collect and disburse fees on behalf of District subject to and in accordance with this Agreement. District agrees to fully compensate County to reimburse its costs for the services to administer, collect, account for and report on the fees in compliance with the Mitigation Fee Act and recover the full costs of providing these services ("Administrative Costs"). County shall automatically withhold two percent of the total District's impact fees before distributing the proceeds to District. If the County's Administrative Costs exceed two percent, County shall give 60 days notice to District. County shall, in its sole discretion, withhold the full amount to recover its Administrative Costs before distributing the proceeds to District.

3. Term of Agreement. The term of this Agreement shall be from March 23, 2021 through March 23, 2030 unless terminated earlier in accordance with the provisions of Article 4 below, and shall automatically renew for five (5) year periods thereafter unless either party gives six (6) months written notice of non-renewal. The County Administrator has delegated authority, in

coordination with County Counsel's Office, to extend the term of the Agreement as needed to comply with the California Mitigation Fee Act.

4. Termination.

4.1 Termination for Cause. Notwithstanding any other provision of this Agreement, should District fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving District written notice of such termination, stating the reason for termination.

4.2 Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, District, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by District or District's subcontractors, Districts, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.3 Payment Upon Termination. Upon termination of this Agreement by County, District shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by District.

4.4 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or County Administrator, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification. District agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including District, that arise out of, pertain to, or relate to District's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. District agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such District's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. District's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at District's expense, subject to District's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for District or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance. With respect to performance of work under this Agreement, District shall maintain and shall require all of its subcontractors, Districts, and other agents to maintain, insurance as described in Exhibit B, which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute District's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for District's performance of this Agreement shall be extended by a number of days equal to the number of days District has been delayed.

8. Representations of District.

8.1 Standard of Care. County has relied upon the professional ability and training of District as a material inducement to enter into this Agreement. District hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of District's work by County shall not operate as a waiver or release.

8.2 Status of District. The parties intend that District, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. District is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, District expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

8.3 No Suspension or Debarment. District warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. District also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the District becomes debarred, District has the obligation to inform the County

8.4 Taxes. District agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. District agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of District's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, District agrees to furnish County with proof of payment of taxes on these earnings.

8.5 Records Maintenance. District shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection at any reasonable time. District shall maintain such records for a period of five (5) years following completion of work hereunder.

8.6 Conflict of Interest. District covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. District further covenants that in the performance of this Agreement no person having any such interests shall be employed.

8.7 Statutory Compliance/Living Wage Ordinance. District agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, District expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

8.8 Nondiscrimination. Without limiting any other provision hereunder, District shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

8.9 AIDS Discrimination. District agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

8.10 Assignment of Rights. District assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by District in connection with this Agreement. District agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. District's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as County may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of County.

District shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of County.

8.11 Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of District.

9. Demand for Assurance. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

10. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

11. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO: COUNTY: Sonoma County Administrator's Office
Terri Wright, Principal Administrative Analyst
575 Administration Drive, Suite 104A
Santa Rosa, CA 95403
(707) 565-3775
Terri.Wright@sonoma-county.org

TO: DISTRICT: Sonoma Valley Fire District
Stephen Akre, Fire Chief
630 Second St. West
Sonoma, CA 95476
(707) 996-2102
stevea@svfra.org

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

12. Miscellaneous Provisions.

12.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

12.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. District and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. District and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

12.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

12.4 No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

12.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

12.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

12.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

12.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

12.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

DISTRICT: Sonoma Valley Fire District

By: [Signature]

Name: Stephen Akre

Title: Fire Chief

Date: 2/17/2021

APPROVED AS TO FORM FOR DISTRICT:

By: [Signature] 2/17/21
District Counsel

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE REVIEWED AND ON FILE:

By: _____
County Administrator

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
County Counsel

Date: _____

AGREEMENT EXECUTED:

By: _____
County Administrator

Date: _____

ATTEST:

Clerk of the Board of Supervisors

Exhibit A Scope of Work

A. Compliance with Mitigation Fee Act. District shall ensure that any fee County imposes and collects on its behalf complies with the requirements of the Mitigation Fee Act, including, but not limited to, Government Code sections 66001, 66006, 66007, 66008, 66011 and 66018. If any fee is owed by a particular developer and is not paid, District shall bear full responsibility for collection of fees owed.

B. Deposit, Investment and Disbursement of Fees. County shall deposit collected fees in accordance with Government Code section 66006(a) and may invest them in its sole discretion. County shall transfer fees collected to District on a quarterly basis. County and District agree to work in good faith to resolve any issues within a reasonable time and County may withhold disbursement until the issue has been resolved.

C. Accounting and Audit. District shall account for and expend fees in compliance with Government Code sections 66006, 66008, and 66011, including ensuring that the requisite public notice is provided. District has the sole responsibility to account for the expenditure of fees and perform at its own expense any audit required under the Mitigation Fee Act or as requested by the County. To the extent District needs information from County to comply with subdivision 66006(b), District shall request the information from County in writing and provide County with no less than twenty (20) days to respond.

If any audit relating to County's creation, collection or disbursement of fees in behalf of District is requested under subdivision 66006(d) or section 66023, County, in its sole discretion and subject to the limitation in section 66023(c), may elect to (1) perform the audit and be reimbursed for the costs and staff time incurred in undergoing the audit; or (2) contract with an independent auditor for any audit related to fees collected or disbursed under this Agreement and the auditor fees are not covered by subdivision 66023(c), District shall reimburse County for all of the uncovered fees and costs charged by the independent auditor. District shall promptly respond to all requests for information made by County in relation to any audit.

D. Nexus Study and Government Code section 66001 findings. District shall ensure compliance with the finding requirements under California Government Code section 66001. District shall submit any necessary supporting documentation and proposed findings required no later than sixty (60) days before findings are required under that subdivision and shall take the necessary steps to ensure the findings will be considered by County in the time required (See District's Nexus Study and Fire District Board Resolution with the necessary findings attached as Exhibit C). Prior to requesting County to make Government Code section 66001 findings, the District's Board of Directors shall independently consider and approve any such necessary supporting documentation and proposed findings and submit its action and findings with its request to the County. District shall promptly provide any additional information County requests relevant to the five-year findings. Based on the information District provides, County shall consider the information and make findings, if appropriate, under subdivision 66001(d)(1).

E. Annual Reporting Government Code § 66006 (AB 1600 reports). District shall ensure compliance with the annual reporting and finding requirements under California Government Code subdivision 66006. District shall submit any necessary supporting documentation required by the AB 1600 annual report no later than ninety two (92) days before the public meeting required under that section and shall take the necessary steps to ensure the AB 1600 report will be considered by County in the time required. Prior to requesting County to hold a public meeting to consider the annual AB 1600 report, the District's Board of Directors shall independently consider and approve any such necessary supporting documentation and submit its action and findings with its request to the County. District shall promptly provide any additional information County requests relevant to the AB 1600 report. Based on the information District provides, County shall consider the information and the District's AB 1600 report, under subdivision 66006.

F. Five-Year Findings. District shall ensure compliance with the five-year reporting and finding requirements under California Government Code subdivision 66001(d). District shall submit any necessary supporting documentation and proposed findings required no later than sixty (60) days before findings are required under that subdivision and shall take the necessary steps to ensure the findings will be considered by County in the time required. Prior to requesting County to make the five-year findings, the District's Board of Directors shall independently consider and approve any such necessary supporting documentation and proposed findings and submit its action and findings with its request to the County. District shall promptly provide any additional information County requests relevant to the five-year findings. Based on the information District provides, County shall consider the information and make findings, if appropriate, under subdivision 66001(d)(1).

G. New Obligations and Updated Data. District shall stay informed of and ensure compliance with any new obligations arising from the collection of fees on its behalf, including but not limited to amendments to the Mitigation Fee Act and court decisions interpreting it or any new County ordinance(s) governing the collection of fees on behalf of special districts. District shall regularly update its nexus studies to support its fees.

H. Disputes as to Fees. District agrees that its sole remedy is any action to recover fees it claims County should have disbursed to District, including any untimely disbursement, is limited to the amount of the undisbursed fees. District waives any and all right to seek or recover interest on any sum unpaid or owed or any consequential, compensatory, or punitive damages, attorney's fees, or any other relief or recovery other than the fees County collected and should have disbursed to District.

In the event of any application to reduce or appeal a fee by a developer, disagreement regarding the amount or application of any fees collected by County on behalf of District by a third party, or protest under Government Code sections 66020 or 66021, County may refer the matter to District, and within the time requested by County, District shall advise the County in writing as to how District recommends the County proceed. Any disagreement as to the amount or application of any fees or any protest are included in the District's covenant to defend, indemnify and hold County harmless as detailed in Article 5 of this Agreement.

Exhibit B**Section I – Insurance to be Maintained by District**

District shall maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve District from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

- a. Required if District has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. Required Evidence of Insurance: Certificate of Insurance.

If District currently has no employees as defined by the Labor Code of the State of California, District agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If District maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by District.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County. District is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether District has a claim against the insurance or is named as a party in any action involving the County.
- d. **The County of Sonoma, its officers, agents and employees** shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the District in the performance of this Agreement.
- e. The insurance provided to the additional insureds shall be primary to, and non-contributory

with, any insurance or self-insurance program maintained by them.

- f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “F” definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and District and include a “separation of insureds” or “severability” clause which treats each insured separately.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
 - ii. Certificate of Insurance.

3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If District currently owns no autos, District agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

5. Documentation

- a. The Certificate of Insurance must include the following reference: N/A.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. District agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1, 2 or 3 above.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: County of Sonoma, County Administrator's Office, 575 Administration Drive, Suite 104A, Santa Rosa, CA 95403.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. District shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

6. Policy Obligations

District's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

7. Material Breach

If District fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from District resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to District, County may deduct from sums due to District any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

Section II – Insurance to be maintained by District’s Contractors and/or Consultants

District shall ensure that sub-contractors and contracted consultants maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve District from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Professional Liability/Errors and Omissions Insurance

- a. Minimum Limits: \$2,000,000 per claim or per occurrence; \$4,000,000 annual aggregate.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County.
- c. If District’s services include: (1) programming, customization, or maintenance of software: or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
 - i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
 - ii. Claims against District arising from the negligence of District, District’s employees and District’s subcontractors.
- d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the

commencement of the work under this Agreement.

- f. Required Evidence of Insurance: Certificate of Insurance specifying the limits and the claims-made retroactive date.

2. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.