



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C11

For the meeting of: March <sup>20</sup>21, 2018

Date: March 12, 2018

To: Board of Supervisors

From: Amy S. Nilsen, County Administrative Officer *AN*

Subject: Agreement with Lew Edwards Group

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve and authorize the Board Chair to sign the attached agreement with The Lew Edwards Group for a ballot measure assessment, preparation and communications consultant related to Measure Z;

SOURCE OF FUNDING: General Fund

DISCUSSION:

In November of 2017 your Board approved a supplemental budget for the County Administrative Office to pursue an agreement with the Lew Edwards Group (LEG) for polling and consulting services related to Measure Z, the half-cent sales tax approved by voters in 2014. The requested action before your Board today is the approval of that agreement. Results of the polling are expected to come back to your Board in the summer of 2018.

Prepared by Sean Quincey

CAO Approval *[Signature]*

REVIEW: Auditor MM County Counsel Sm Human Resources \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. I-1

Meeting of: 11/7/17

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**

Upon motion of Supervisor Wilson Seconded by Supervisor Bass

Ayes Bass, Fernell, Suddberg, Bohn, Wilson

Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 3/20/18

By: *[Signature]*  
Kathy Hayes, Clerk of the Board

During the preparations for the countywide sales tax that came to be known as Measure Z of 2014, and the cannabis excise tax that came to be known as Measure S of 2016, the Board and staff found it useful to use professional firms that conducted statistically valid polling to determine voters' willingness to support a tax increase, assist County Counsel in composing ballot question language, and support staff and the Board with informational messages about the impact of the tax measures. The same two firms that assisted with these efforts in the past are willing to work with the county again to determine voters' support for a potential renewal of the Measure Z. The Lew Edwards Group will subcontract any additional work on the county's behalf.

FINANCIAL IMPACT:

The County Administrative Office's budget has sufficient funding for the polling and consultation portions of this contract (collectively \$82,800). The contract also calls for up to three mailings, which would total \$75,000. The county did not do more than one mailing for either Measure Z or Measure S. Any additional funding needed for the mailing portion of this contract will be done through the Fiscal Year 2018-19 budget process.

OTHER AGENCY INVOLVEMENT:      The Lew Edwards Group

ALTERNATIVES TO STAFF RECOMMENDATIONS:      Board discretion

ATTACHMENTS:

1. Agreement with Lew Edwards Group

## Attachment 1

### Agreement with Lew Edwards Group

**AGREEMENT FOR CONSULTING SERVICES  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
THE LEW EDWARDS GROUP**

This Agreement, entered into this 20 day of March, 2018, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and The Lew Edwards Group, a California corporation, hereinafter referred to as "CONSULTANT," is made upon the following considerations:

WHEREAS, COUNTY, by and through its County Administrative Office, desires to obtain the consultation services of a ballot measure assessment, preparation and communications consultant for assistance in providing strategic advice towards the development of a community survey to be conducted by COUNTY's designated opinion research firm.

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to timely hire employees for the performance thereof; and

WHEREAS, CONSULTANT represents that it is specially trained, skilled, experienced and competent to perform the special services required by COUNTY.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. RIGHTS AND RESPONSIBILITIES OF CONSULTANT:

- A. Provision of Services. CONSULTANT agrees to furnish the services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference. In providing such services, CONSULTANT agrees to confer and cooperate with the Humboldt County Administrative Officer, or designee thereof, hereinafter referred to as "CAO."
- B. Submission of Reports. CONSULTANT agrees to provide COUNTY with any and all reports that may be required by local, state and/or federal agencies for compliance with this Agreement. Any and all reports and/or documents provided by CONSULTANT pursuant to the terms and conditions of this Agreement must be presented to COUNTY in draft form prior to submitting final versions thereof.
- C. Facilities and Materials. CONSULTANT shall furnish any and all offices, furnishings, equipment and other facilities or materials necessary for the performance of this Agreement. CONSULTANT further agrees to pay any and all travel expenses, including meals and lodging, incurred by CONSULTANT during the performance of this Agreement. The parties agree that no personal meetings will be required of CONSULTANT or its subcontractor/s, and all services and reports can be provided to COUNTY via email, teleconference, or video conferencing.
- D. Simultaneous Services. COUNTY hereby acknowledges that CONSULTANT is engaged in revenue planning and assessment, and will be providing services similar to those set forth herein for other clients during the term of this Agreement. CONSULTANT shall not be limited in any way in performing services for other clients that do not constitute a conflict of interest and do not prevent it from discharging its obligations under this Agreement.

- E. Due Diligence. CONSULTANT shall exercise due diligence and its best efforts in performing the services required by this Agreement. CONSULTANT's obligations under this Agreement shall not be deemed complete until the services and deliverables provided hereunder have been accepted by the COUNTY in writing.

2. RIGHTS AND RESPONSIBILITIES OF COUNTY:

- A. Provision of Data, Reports and Records. COUNTY agrees to provide, as permitted by law, reasonable access to any and all relevant records, data, reports, maps or other information that is necessary for the performance of CONSULTANT's duties and obligations under this Agreement.
- B. Monitoring. CONSULTANT agrees that COUNTY has the right to monitor all activities related to this Agreement, including, without limitation, the right to review and monitor CONSULTANT's records, programs or procedures, at any time, as well as the overall operation of CONSULTANT's programs, in order to ensure compliance with the terms and conditions of this Agreement. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of services provided by CONSULTANT pursuant to the terms and conditions of this Agreement.

3. TERM:

This Agreement shall begin upon execution by both parties and shall remain in full force and effect, unless sooner terminated as provided herein, until November 30, 2018, or upon the completion of, and payment for, all services to be provided pursuant to the terms and conditions of this Agreement, whichever is first.

4. TERMINATION:

- A. Breach of Contract. If, in the opinion of COUNTY, CONSULTANT fails to adequately perform the services required hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein, COUNTY may terminate this Agreement immediately, upon notice.
- B. Without Cause. COUNTY may terminate this Agreement without cause upon fifteen (15) days advance written notice to CONSULTANT. Such notice shall state the effective date of the termination.
- C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide CONSULTANT seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation Upon Termination. In the event of any termination of this Agreement, CONSULTANT shall be entitled to compensation for uncompensated services rendered hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owing to COUNTY resulting from a breach of this Agreement by CONSULTANT.



5. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is One Hundred and Fifty-Seven Thousand, Eight Hundred Dollars (\$157,8000.00). CONSULTANT agrees to perform all services required by this Agreement for an amount not to exceed such maximum dollar amount. However, if local, state or federal funding is reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for services provided hereunder, or terminate this Agreement as provided herein.
- B. Payment Schedule. The specific rates and costs applicable to this agreement are set forth in Exhibit B – Payment Schedule, which is attached hereto and incorporated herein by reference.
- C. Additional Services. Any additional services not otherwise provided for herein shall not be provided by CONSULTANT, or compensated by COUNTY, without prior written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum dollar amount set forth herein shall be the responsibility of CONSULTANT. CONSULTANT shall notify COUNTY, in writing, at least six (6) weeks prior to the date upon which CONSULTANT estimates that the maximum dollar amount will be reached.

6. PAYMENT:

CONSULTANT shall submit to COUNTY monthly invoices itemizing all services rendered pursuant to the terms and conditions of this Agreement. Invoices shall include any and all backup documentation specified by CAO. CONSULTANT shall submit a final invoice for payment within thirty (30) days following the expiration or termination date of this Agreement. Payment for services rendered will be made within thirty (30) days after the receipt of approved invoices. All invoices submitted by CONSULTANT shall be sent to the following address:

COUNTY: County of Humboldt  
Attention: County Administrative Office  
825 Fifth Street, Suite 112  
Eureka, CA 95501

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: County of Humboldt  
Attention: County Administrative Officer  
825 Fifth Street, Suite 112  
Eureka, CA 95501

CONSULTANT: The Lew Edwards Group  
Attention: Lloyd A. Edwards  
5454 Broadway

8. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. CONSULTANT agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the services provided hereunder, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the services provided hereunder.
- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CONSULTANT, and its subcontractors, related to the services provided hereunder, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after final payment under this Agreement. CONSULTANT hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by COUNTY and any duly authorized local, state and/or federal agencies. CONSULTANT further agrees to allow interviews of any of its employees who might reasonably have information related to such records by COUNTY and any duly authorized local, state and/or federal agencies. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.
- C. Audit Costs. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirements shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because CONSULTANT's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

9. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. During the performance of this Agreement, CONSULTANT may receive information that is confidential under local, state or federal law. CONSULTANT hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act ("CMIA"); the United States Health Information Technology for Economic and Clinical Health Act ("HITECH Act"); the United States Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations ("C.F.R.") Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.
- B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that local, state and federal confidentiality laws are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter

into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMLA and any other applicable local, state and federal laws or regulations.

10. NON-DISCRIMINATION COMPLIANCE:

- A. Professional Services and Employment. In connection with the execution of this Agreement, CONSULTANT, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal laws or regulations. Nothing herein shall be construed to require the employment of unqualified persons.
- B. Compliance with Anti-Discrimination Laws. CONSULTANT further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

11. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

CONSULTANT certifies by its signature below that it is not a Nuclear Weapons Contractor, in that CONSULTANT is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONSULTANT agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONSULTANT subsequently becomes a Nuclear Weapons Contractor.

12. DRUG-FREE WORKPLACE:

By executing this Agreement, CONSULTANT certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, et seq.) and will provide a drug-free workplace by doing all of the following:

- A. Drug-Free Policy Statement. Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful



manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.

- B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:
  - 1. The dangers of drug abuse in the workplace;
  - 2. CONSULTANT's policy of maintaining a drug-free workplace;
  - 3. Any available counseling, rehabilitation and employee assistance programs; and
  - 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services hereunder will:
  - 1. Receive a copy of CONSULTANT's Drug-Free Policy Statement; and
  - 2. Agree to abide by the terms of CONSULTANT's Drug-Free Policy as a condition of employment.
- D. Effect of Noncompliance. Failure to comply with the above-referenced requirements may result in termination of this Agreement, and CONSULTANT may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONSULTANT fails to carry out any of the above-referenced requirements.

13. INDEMNIFICATION:

- A. Hold Harmless, Defense and Indemnification. CONSULTANT shall hold harmless, defend and indemnify COUNTY and its agents officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages and liabilities of any kind or nature, including, without limitation, attorney fees and other costs of litigation, arising out of, or in connection with, CONSULTANT's negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.
- B. Effect of Insurance. Acceptance of insurance required by this Agreement does not relieve CONSULTANT from liability under this provision. This provision shall apply to any and all claims for damages related to the services performed by CONSULTANT regardless if any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by CONSULTANT.

14. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and CONSULTANT is not entitled to any rights hereunder, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. General Insurance Requirements. Without limiting CONSULTANT's indemnification obligations provided for herein, CONSULTANT shall, and shall require that all subcontractors

hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of CONSULTANT, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of One Million Dollars (\$1,000,000.00) per occurrence for any one incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
2. Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
3. Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.
4. Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Two Million Dollars (\$2,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which CONSULTANT may be exposed to liability. CONSULTANT shall require that such coverage be incorporated into its professional services agreements with any other entities.

B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Policy shall provide that COUNTY, its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
  - a. Includes contractual liability.
  - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU Hazards."
  - c. Is the primary insurance with regard to COUNTY.
  - d. Does not contain a pro-rata, excess only and/or escape clause.

- e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONSULTANT shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
  3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
  4. For claims related to this Agreement, CONSULTANT's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CONSULTANT's insurance and will not be used to contribute therewith.
  5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY, its agents, officers, officials, employees and volunteers.
  6. CONSULTANT shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, COUNTY. If CONSULTANT does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONSULTANT agrees to pay the cost thereof. COUNTY is also hereby authorized with the discretion to deduct the cost of said insurance from the monies owed to CONSULTANT under this Agreement.
  7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CONSULTANT shall be required to purchase additional coverage to meet the above-referenced aggregate limits.
- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt  
Attention: Risk Management  
825 Fifth Street, Room 131  
Eureka, California 95501

CONSULTANT: The Lew Edwards Group  
Attention: Lloyd A. Edwards  
5454 Broadway  
Oakland, CA 94618

15. RELATIONSHIP OF THE PARTIES:

It is understood that this is an Agreement by and between two (2) independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that CONSULTANT shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. CONSULTANT shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

16. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

CONSULTANT agrees to comply with any and all local, state and federal laws, regulations, policies and procedures applicable to the services covered by this Agreement, including, but not limited to, the Americans with Disabilities Act. CONSULTANT further agrees to comply with any and all local, state and federal licensure, accreditation and certification standards or criteria applicable to the services covered by this Agreement.

17. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

18. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

19. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

20. ASSIGNMENT:

CONSULTANT shall not delegate its duties nor assign its rights hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment by CONSULTANT in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by CONSULTANT to obtain supplies, technical support or professional services.

21. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties hereto and to each of their respective heirs, executors, administrators, successors, legal representatives and permitted assigns.

22. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of CONSULTANT. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to any breach or default. COUNTY shall have the right to demand repayment of, and CONSULTANT shall promptly refund, any funds disbursed to CONSULTANT which, in the judgment of COUNTY, were not expended in accordance with the terms of this Agreement.

23. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

24. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

25. STANDARD OF PRACTICE:

CONSULTANT warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession under similar circumstances. CONSULTANT's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

26. CONFLICT OF INTEREST:

CONSULTANT warrants and covenants that no official or employee of COUNTY, nor any business entity in which a COUNTY official or employee has an interest, has been employed or retained to solicit or assist in procuring this Agreement, nor that any such person will be employed in the performance of the services required hereunder without immediate divulgence of such fact to COUNTY.

27. TITLE TO INFORMATION AND DOCUMENTS:

It is understood that any and all final documents, reports, plans, specifications, field data, field notes, calculations, estimates and other final work products concerning the subject matter of this Agreement prepared and/or submitted by CONSULTANT shall become the property of COUNTY. The COUNTY shall have unlimited rights to copy, reproduce, excerpt and cite any and all final work products prepared pursuant to the terms and conditions of this Agreement. However, CONSULTANT may retain copies of all final work products for its records. In the event of termination of this Agreement, for any reason whatsoever, CONSULTANT shall promptly turn over all information, writings, documents and other work products pertaining to the services provided hereunder to

COUNTY without exception or reservation.

28. DISPUTE RESOLUTION:

If a dispute arises involving the interpretation, implementation or enforcement of this Agreement, the parties shall make every reasonable attempt to resolve the problem within thirty (30) days of becoming aware of the dispute. Each party agrees to cooperate with the other party in trying to reasonably resolve all disputes, including, if requested by either party, appointing representatives to meet and engage in good faith negotiations regarding resolution of the dispute. Each party further agrees that informal dispute resolution, including mediation, should an in-person meeting prove unsuccessful, shall be attempted prior to seeking recourse from the courts.

29. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

30. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. CONSULTANT shall inform COUNTY of all requests for interviews related to this Agreement before such interviews take place; and COUNTY shall be entitled to have a representative present at such interviews. Notices required by this provision shall be given to CAO.

31. SUBCONTRACTS:

CONSULTANT shall obtain prior written approval from COUNTY before subcontracting any of the services to be provided hereunder. Any and all subcontracts will be subject to all applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, security and confidentiality requirements provided herein. CONSULTANT shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

32. SURVIVAL:

The duties and obligations of the parties set forth in Section 4(D) – Compensation Upon Termination, Section 8 – Record Retention and Inspection, Section 9 – Confidential Information and Section 13 – Indemnification shall survive the expiration or termination of this Agreement.

33. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

34. INTERPRETATION:



This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

35. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

36. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

37. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, relating to the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior or contemporaneous agreements, promises, representations, understandings and negotiations, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this agreement are hereby ratified.

38. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.


[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first written above.

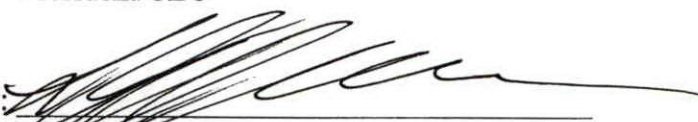
**TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:**

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

**THE LEW EDWARDS GROUP:**

By:   
Catherine Lew  
President/CEO

Date: 3/1/18

By:   
Lloyd A. Edwards  
Secretary-Treasurer

Date: 3/1/18

**COUNTY OF HUMBOLDT:**

By:   
Ryan Sundberg, Chair  
Humboldt County Board of Supervisors

Date: 3/20/18

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**

By: \_\_\_\_\_  
Risk Analyst

Date: \_\_\_\_\_

**EXHIBIT A  
SCOPE OF SERVICES  
THE LEW EDWARDS GROUP**

CONSULTANT will provide to COUNTY in a timely manner the following:

- a) Participate in regularly scheduled telephonic planning sessions;
- b) Assist in the development of updated opinion research studies;
- c) Independently analyze opinion research result(s) and provide Strategic Recommendations;
- d) Recommend a strategy and timeline for County staff and other professionals/consultants assigned to the Project;
- e) Recommend an informational Strategic Communications Plan, conceive and produce informational communications materials, such as brochures, letters, or mailers. Consultant will facilitate delivery to the US Postal Service, but cannot assume responsibility for delivery once mail products are within the control of USPS;
- f) Assist in the development of media materials such as press releases, backgrounders, or statements and responses. Consultant will not be acting as a spokesperson for the County;
- g) Provide strategic input on the ballot question, ordinance and other ballot materials. The parties acknowledge that legal advice or services is not within Consultant's scope of services; and
- h) Update County staff training on informational messages.

**EXHIBIT B  
PAYMENT SCHEDULE  
THE LEW EDWARDS GROUP**

Compensation for services rendered under this agreement shall be based on project tasks. CONSULTANT will submit an invoice describing the services rendered during the invoicing period (see Scope of Services - Exhibit A) to the Humboldt County CAO. CONSULTANT agrees that the maximum possible compensation for services performed and reimbursement of costs incurred under this contract shall not exceed a total sum of **ONE HUNDRED AND FIFTY-SEVEN THOUSAND, EIGHT HUNDRED DOLLARS (\$157,800.00)**, unless specifically authorized in writing by COUNTY. CONSULTANT agrees to perform all services and incur all costs required by this agreement for an amount not to exceed such maximum dollar amount. It is understood by both parties that the COUNTY is not obligated under any circumstances to compensate and/or reimburse the CONSULTANT for any amount more than **ONE HUNDRED AND FIFTY-SEVEN THOUSAND, EIGHT HUNDRED DOLLARS (\$157,800.00)**, the statutory monetary limitation of the Agreement. Payment for work will be made as follows:

- a) Professional Consulting: **FORTY-NINE THOUSAND, NINE HUNDRED DOLLARS (\$49,950)** in ten (10) monthly increments of **FOUR THOUSAND, NINE HUNDRED AND FIFTY DOLLARS (\$4,950)** due and payable on the last business day of each month commencing February 28, 2018 with the last payment due on November 30, 2018;
- b) Polling: Not to Exceed **THIRTY-TWO THOUSAND, EIGHT HUNDRED FIFTY DOLLARS (\$32,850)** all professional and staff time, questionnaire design, sample preparation, pre-test of interview, telephone interviewing, data analysis and cross-tabulation, and presentation of survey results as necessary to complete a voter sample list telephone survey, averaging 20 minutes per interview, of up to 500 likely November 2018 voters by Lew Edwards Group subcontractor FM3 Research, upon completion of studie(s) and invoice by Consultant;
- c) Up to three (3) mailings: **SEVENTY-FIVE THOUSAND DOLLARS (\$75,000)** upon invoice by Consultant. Production shall not commence on a subsequent mailing until the previous one has been paid for.