



AGENDA ITEM NO.

C14

## COUNTY OF HUMBOLDT

For the meeting of: April 17, 2018

Date: March 30, 2018

To: Board of Supervisors

From: Thomas K. Mattson, Public Works Director

Subject: Second Amendment to the Agreement for Consultant Services with ForEverGreen Forestry Regarding the Provision of Consulting Services Pertaining to the Humboldt County Community Wildfire Protection Plan Update

### RECOMMENDATIONS:

That the Board of Supervisors:

1. Approve, and authorize the Chair of the Board to execute, the attached second amendment to the agreement for consultant services with ForEverGreen Forestry regarding the provision of consulting services pertaining to the Humboldt County Community Wildfire Protection Plan update; and
2. Direct the Clerk of the Board to return two (2) fully executed original copies of the attached second amendment to the Department of Public Works – Natural Resources Planning Division for further processing.

### SOURCE OF FUNDING:

State Responsibility Area Fire Prevention Grant; Title III, Secure Rural Schools and Community Self-Determination Act of 2000 – Trust Fund 3675.

### DISCUSSION:

On January 24, 2017, the Board adopted Resolution No. 17-11 approving a State Responsibility Area Fire Prevention Grant agreement to support the update of the Humboldt County Community Wildfire Protection

Prepared by \_\_\_\_\_ Cybelle Immitt, Senior Planner

CAO Approval \_\_\_\_\_

#### REVIEW:

Auditor MSM County Counsel SM Human Resources KKB Other \_\_\_\_\_

#### TYPE OF ITEM:

☒ Consent  
☐ Departmental  
☐ Public Hearing  
☐ Other \_\_\_\_\_

#### PREVIOUS ACTION/REFERRAL:

Board Order No. C-12

Meeting of: 01/24/2017

#### BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Bass Seconded by Supervisor Fennell

Ayes Bass, Fennell, Sundberg, Bohn  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent Wilson

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

Dated: 4/17/18

By: \_\_\_\_\_  
Kathy Hayes, Clerk of the Board

Plan ("CWPP"). Resolution No. 17-11 further authorized the Humboldt County Public Works Director to sign and execute said agreement as well as other documents necessary to participate in the grant program, including, without limitation, professional services agreements to assist with the implementation of the program. To that end, the county entered into an agreement for consultant services regarding the provision of consulting services related to the CWPP update process ("consultant services agreement") with ForEverGreen Forestry on February 23, 2017.

The extreme events of the 2017 wildfire season brought the importance of having a meaningful and actionable CWPP into clear focus. Increased community interest and the desire to maximize collaboration with wildfire management and preparedness professionals and organizations added unexpected costs to the CWPP update process. In order to develop a more robust plan than originally scoped, an amendment to the consultant services agreement with ForEverGreen Forestry, which increased the maximum amount payable thereunder by Thirteen Thousand Six Hundred Dollars (\$13,600.00), was executed by the Humboldt County Public Works Director on February 1, 2018. However, the additional funding made available through the first amendment to the consultant services agreement was insufficient to cover the increased costs associated with the development of a more detailed CWPP.

The attached second amendment to the consultant services agreement with ForEverGreen Forestry will increase the maximum amount payable thereunder by an additional Seventeen Thousand Four Hundred Dollars (\$17,400.00) in order to ensure that the services needed to complete the CWPP update will continue without interruption or unnecessary delay. The attached second amendment brings the total budget of the consultant services agreement to Sixty-Seven Thousand Four Hundred Dollars (\$67,400.00) which exceeds the amount that the Humboldt County Public Works Director is authorized to sanction without prior Board approval.

Accordingly, staff recommends that the Board approve, and authorize the Chair of the Board to execute, the attached amendment to the consultant services agreement with ForEverGreen Forestry regarding the provision of consulting services pertaining to the CWPP update process.

#### FINANCIAL IMPACT:

As noted above, the attached second amendment to the consultant services agreement with ForEverGreen Forestry will increase the maximum amount payable thereunder to Sixty-Seven thousand Four Hundred Dollars (\$67,400.00). Expenses associated with the attached second amendment to the consultant services agreement will be reimbursed by State Responsibility Area Fire Prevention Grant funding (\$36,400.00) and supplemented by additional funding (\$31,000.00) made available through Title III of the Secure Rural Schools and Community Self-Determination Act of 2000, which is held in trust and may be used for CWPP updates and associated programs. Such expenditures have been included in the approved fiscal year 2017-2018 Natural Resources Planning budget 1720-289 (revenue and expense line items 514060/3109 and 505010/3100, respectively). As a result, approval of the attached second amendment to the consultant services agreement with ForEverGreen Forestry will not impact the Humboldt County General Fund.

The recommended actions support the Board of Supervisors' Strategic Framework by advancing two (2) of the County's core roles: opportunities for improved safety and health and protecting vulnerable populations.

#### OTHER AGENCY INVOLVEMENT:

Humboldt County Fire Safe Council

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### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the attached second amendment to the consultant services agreement with ForEvergreen Forestry regarding the provision of consultant services pertaining to the CWPP update process. However, this alternative is not recommended since it will not allow for the development of a CWPP which contains the best possible strategies and guidance for preparing local communities for wildfire.

### ATTACHMENTS:

1. Second Amendment to the Agreement for Consultant Services with ForEverGreen Forestry (Project No. 289SRA-1) Regarding the Provision of Consulting Services Pertaining to the Humboldt County CWPP Update
2. First Amendment to the Agreement for Consultant Services with ForEverGreen Forestry (Project No. 289SRA-1) Regarding the Provision of Consulting Services Pertaining to the Humboldt County CWPP Update
3. Agreement for Consultant Services with ForEverGreen Forestry (Project No. 289SRA-1) Regarding the Provision of Consulting Services Pertaining to the Humboldt County CWPP Update

## ***ATTACHMENT 1***

**Second Amendment to the Agreement for Consultant Services with ForEverGreen Forestry (Project No. 289SRA-1) Regarding the Provision of Consulting Services Pertaining to the Humboldt County CWPP Update**

**SECOND AMENDMENT  
AGREEMENT FOR CONSULTANT SERVICES  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
FOREVERGREEN FORESTRY  
PROJECT NUMBER: 289SRA-1  
FOR FISCAL YEARS 2017-2018 THROUGH 2018-2019**

This Second Amendment to the Agreement for Consultant Services dated February 23, 2017, as amended on February 1, 2018, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and ForEverGreen Forestry, a sole proprietorship, hereinafter referred to as "CONSULTANT," is entered into this 17 day of April, 2018.

WHEREAS, COUNTY, by and through its Department of Public Works – Natural Resources Planning Division, desired to retain a qualified professional to assist with the update of the Humboldt County Community Wildfire Protection Plan ("CWPP") update; and

WHEREAS, on February 23, 2017, COUNTY and CONSULTANT entered into an Agreement for Consultant Services ("Consultant Services Agreement") regarding the provision of services related to the CWPP update; and

WHEREAS, on February 1, 2018, COUNTY and CONSULTANT agreed to amend the Consultant Services Agreement to increase the maximum amount payable thereunder by Thirteen Thousand Six Hundred Dollars (\$13,600.00); and

WHEREAS, the parties now desire to further amend certain provisions of the Consultant Services Agreement to increase the maximum amount payable thereunder by an additional Seventeen Thousand Four Hundred Dollars (\$17,400.00).

NOW THEREFORE, the parties mutually agree as follows:

1. Section 5 – Compensation of the Consultant Services Agreement is hereby amended to read as follows:

5. COMPENSATION:

The maximum amount payable by COUNTY for services rendered, and costs and expenses incurred, by CONSULTANT pursuant to the terms and conditions of this Agreement is Sixty-Seven Thousand Four Hundred Dollars (\$67,400.00). The specific rates and costs applicable to this Agreement shall be as set forth in Exhibit C – Project Budget.


2. The Consultant Services Agreement is hereby amended to delete Exhibit C – Project Budget ("Exhibit C"), and replace it in its entirety with the modified version of Exhibit C that is attached hereto and incorporated herein by reference. The modified version of Exhibit C attached hereto shall supersede any and all prior versions thereof as of the effective date of this Second Amendment.



3. Except as modified herein, the Consultant Services Agreement dated February 23, 2017, as amended on February 1, 2018, shall remain in full force and effect. In the event of a conflict between the provisions of this Second Amendment and the original Consultant Services Agreement, or any prior amendments thereto, the provisions of this Second Amendment shall govern.


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

**FOREVERGREEN FORESTRY:**

By:   
Name: TRACY KATELMAN  
Title: Owner

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

**COUNTY OF HUMBOLDT:**

By:   
Ryan Sundberg  
Chair, Humboldt County Board of Supervisors

Date: 4/17/18

**LIST OF EXHIBITS:**

Exhibit C – Project Budget

**EXHIBIT C  
PROJECT BUDGET**

The estimated cost per project category is as follows:

1.	Project Team Activities	\$5,000.00
2.	Community Outreach	\$12,000.00
3.	Draft Updated CWPP	\$50,400.00
	<b>Total</b>	<b>\$67,400.00</b>

## ***ATTACHMENT 2***

**First Amendment to the Agreement for Consultant Services with ForEverGreen Forestry (Project No. 289SRA-1) Regarding the Provision of Consulting Services Pertaining to the Humboldt County CWPP Update**



**FIRST AMENDMENT  
AGREEMENT FOR CONSULTANT SERVICES  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
FOREVERGREEN FORESTRY  
PROJECT NUMBER: 289SRA-1  
FOR FISCAL YEARS 2017-2018 THROUGH 2018-2019**

This First Amendment to the Agreement for Consultant Services dated February 23, 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and ForEverGreen Forestry, a sole proprietorship, hereinafter referred to as "CONSULTANT," is entered into this 1<sup>st</sup> day of February, 2018.

WHEREAS, COUNTY, by and through its Department of Public Works – Natural Resources Planning Division, desired to retain a qualified professional to assist with the update of the Humboldt County Community Wildfire Protection Plan ("CWPP") update; and

WHEREAS, on February 23, 2017, COUNTY and CONSULTANT entered into an Agreement for Consultant Services ("Consultant Services Agreement") regarding the provision of services related to the CWPP update; and

WHEREAS, the parties now desire to amend certain provisions of the Consultant Services Agreement to increase the maximum amount payable thereunder by Thirteen Thousand, Six Hundred Dollars (\$13,600.00).

NOW THEREFORE, the parties mutually agree as follows:

1. Section 5 – Compensation of the Consultant Services Agreement is hereby amended to read as follows:

5. COMPENSATION:

The maximum amount payable by COUNTY for services rendered, and costs and expenses incurred, by CONSULTANT pursuant to the terms and conditions of this Agreement is Fifty Thousand Dollars (\$50,000.00). The specific rates and costs applicable to this Agreement shall be as set forth in Exhibit C – Project Budget.

2. The Consultant Services Agreement is hereby amended to delete Exhibit C – Project Budget ("Exhibit C"), and replace it in its entirety with the modified version of Exhibit C that is attached hereto and incorporated herein by reference. The modified version of Exhibit C attached hereto shall supersede any and all prior versions thereof as of the effective date of this First Amendment.
3. Except as modified herein, the Consultant Services Agreement dated February 23, 2017, shall remain in full force and effect. In the event of a conflict between the provisions of this First Amendment and the original Consultant Services Agreement, the provisions of this First Amendment shall govern.

[Signatures on Following Page]

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

**FOREVERGREEN FORESTRY:**

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

Date: Feb 1 2018

Name: TRACY KATAMAN

Title: Owner

**COUNTY OF HUMBOLDT:**

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

Thomas K. Mattson  
Public Works Director

Date: 2/1/18

**LIST OF EXHIBITS:**

Exhibit C – Project Budget

**EXHIBIT C  
PROJECT BUDGET**

The estimated cost per project category is as follows:

1. Project Team Activities	\$4,000
2. Community Outreach	\$11,000
3. Draft Updated CWPP	\$35,000
<b>Total</b>	<b>\$50,000</b>

### ***ATTACHMENT 3***

**Agreement for Consultant Services with  
ForEverGreen Forestry (Project No. 289SRA-1)  
Regarding the Provision of Consulting Services  
Pertaining to the Humboldt County CWPP Update**



**AGREEMENT FOR CONSULTANT SERVICES  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
FOREVERGREEN FORESTRY  
PROJECT NAME: CWPP Update  
PROJECT NUMBER: 289SRA-1**

This Agreement, entered into this 23<sup>rd</sup> day of February 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and ForEverGreen Forestry, a Sole Proprietorship, hereinafter referred to as "CONSULTANT," is made upon the following considerations:

WHEREAS, COUNTY, by and through its Department of Public Works – Natural Resources Planning Division, desires to retain the services of CONSULTANT to assist with the update of the Humboldt County Community Wildfire Protection Plan update; and

WHEREAS, such work involves the performance of professional and technical services of a temporary and occasional character, and COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, Pursuant to California Government Code Section 31000, COUNTY may retain independent contractors to perform special services for COUNTY or any department thereof; and

WHEREAS, CONSULTANT has represented that it is qualified to perform said services.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. OBLIGATIONS OF CONSULTANT:

- A. Professional Services. CONSULTANT agrees to furnish professional consulting services in accordance with the criteria, schedule and fiscal requirements set forth in Exhibit A – Scope of Services, Exhibit B – Project Schedule, Exhibit C – Project Budget and Exhibit D – Billing Rate Schedule, which are attached hereto and incorporated herein by reference. In providing such services CONSULTANT agrees to fully cooperate with the Humboldt County Department of Public Works Director or designee thereof, hereinafter referred to as "Director."
- B. Additional Services. No additional services shall be performed by CONSULTANT prior to the execution of a written amendment to this Agreement and the issuance of a separate "Notice to Proceed" authorizing the performance of such additional services. Any amendments authorizing the performance of additional services shall include a detailed description of such services, the dollar value thereof and the method by which such services shall be compensated.

2. OBLIGATIONS OF COUNTY:

- A. Provision of Necessary Data and Materials. COUNTY shall provide CONSULTANT with all background data necessary for CONSULTANT to complete the services required hereunder.
- B. COUNTY Representative. COUNTY shall designate a representative with complete authority to transmit instructions and information, receive correspondence, interpret policy and define

decisions pertaining to this Agreement. COUNTY's representative shall have overall charge and responsibility of COUNTY's activities and obligations hereunder. All correspondence pertaining to the performance of CONSULTANT's duties and obligations contained herein shall be submitted to COUNTY's representative.

- C. Review of Submitted Materials. COUNTY shall thoroughly review all draft reports, sketches, proposals and other documents submitted by CONSULTANT. COUNTY shall provide CONSULTANT with a written response pertaining to the review of documents submitted by CONSULTANT within Thirty (30) calendar days from the receipt thereof.

3. TERM:

This Agreement shall begin upon execution by both parties and remain in full force and effect for a period of Seven Hundred and Thirty (730) calendar days, unless sooner terminated as provided herein.

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 shall have the right to cancel or terminate this Agreement immediately, upon notice.
- B. Without Cause. COUNTY may terminate this Agreement without cause upon thirty (30) days advance written notice. 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 terminated, 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. 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.

5. COMPENSATION:

The maximum amount payable by COUNTY for services rendered, and expenses incurred, by CONSULTANT pursuant to the terms and conditions of this Agreement is THIRTY-SIX THOUSAND FOUR HUNDRED Dollars (\$36,400). The specific rates and costs applicable to this Agreement shall be as set forth in Exhibit C – Project Budget.

6. PAYMENT:



CONSULTANT shall submit to COUNTY monthly progress reports and invoices which itemize all work completed as of the invoice date. All invoices submitted by CONSULTANT shall be in a format approved by, and shall include backup documentation as specified by, Director and the Humboldt County Auditor-Controller. CONSULTANT shall submit a final undisputed invoice for payment not more than thirty (30) days following the expiration or termination date of this Agreement. Payment for services rendered and expenses incurred hereunder shall be made within thirty (30) days after the receipt of approved invoices.

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and 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  
Department of Public Works – Natural Resources Planning  
Attn: Cybelle Immitt  
1105 Second Street  
Eureka, CA 95501

CONSULTANT: ForEverGreen Forestry  
Attn: Tracy Katelman  
P.O. Box 1276  
Eureka, CA 95502

8. REPORTS:

CONSULTANT agrees to provide COUNTY with any and all reports which may be required by local, state or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

9. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. CONSULTANT agrees to timely prepare accurate and complete financial, performance and payroll records 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 work performed.
- 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 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 such records available during normal business hours to inspection, audit and reproduction by

COUNTY and any duly authorized local, state 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 or federal agencies. All examinations and audits conducted under this section shall be strictly confined to those matters connected with the performance of this Agreement.

- C. Audit Costs. In the event of an audit exception or exceptions, the party responsible for not meeting the requirements of the project 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.

10. MONITORING:

CONSULTANT agrees that COUNTY has the right to monitor all activities related to this Agreement, including 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 performed by CONSULTANT pursuant to the terms of this Agreement.

11. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In 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 and regulations, including, but not limited to: California Welfare and Institutions Code Sections 827, 5328 and 10850; California Health & Safety Code Sections 1280.15 and 130203; the California Confidentiality of Medical Information Act ("CMIA"); the federal Health Information Technology for Economic and Clinical Health Act, ("HITECH Act"); the federal 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 federal and state 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 CMIA and any other applicable local, state and federal laws or regulations.

12. 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 becomes a Nuclear Weapons Contractor.

13. NONDISCRIMINATION COMPLIANCE:

- A. Professional Services and Employment. In connection with the execution of this Agreement, CONSULTANT shall not 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, or any other classification protected by local, state or federal laws and regulations. Nothing herein shall be construed to require employment of unqualified persons.
- B. Compliance with Anti-Discrimination Laws. CONSULTANT further assures that it will abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, California Welfare and Institutions Code Section 10000, CDSS MPP Division 21, United States Executive Order 11246, as amended, and any other applicable local, state and federal laws and regulations. Practices in hiring, compensation, benefits and firing are among the employment practices subject to this requirement.

14. DRUG-FREE WORKPLACE:

By signing this Agreement, CONSULTANT hereby certifies that CONSULTANT 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. 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. Noncompliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement and/or termination thereof, and CONSULTANT may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONSULTANT violates the certification by failing to carry out the above-referenced requirements.

15. INDEMNIFICATION:

To the fullest extent permitted by law, and in accordance with California Civil Code Section 2782.8, CONSULTANT shall hold harmless, defend and indemnify COUNTY, its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney fees and other costs of litigation, arising out of, or in connection with, CONSULTANT's negligence, recklessness or willful misconduct in the performance of the services required in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

16. 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. Workers' Compensation Insurance, as required by the California Labor Code, with statutory limits and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000) 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. If CONSULTANT has no employees, CONSULTANT may sign and file the following certification in lieu of insurance:

*"I am aware of the provisions of the California Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and I will comply with provisions of that code before commencing with and during the performance of the work of this Agreement."*

CONSULTANT:

  
Tracy Katelman  
Principal

2-22-17  
Date

- B. 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  
Risk Management  
825 Fifth Street, Room 131  
Eureka, CA 95501

County of Humboldt  
Department of Public Works – Natural Resources Planning  
Attn: Cybelle Immitt  
1106 Second Street  
Eureka, California, 95501

CONSULTANT: ForEverGreen Forestry  
Attn: Tracy Katelman  
P.O. Box 1276  
Eureka, CA 95502

17. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two 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, directors, employees, licensees, invitees, assignees and subcontractors.

18. THIRD PARTY BENEFICIARIES:

CONSULTANT shall require that all subcontractors hereunder agree to be bound by the terms and conditions of this Agreement as applicable. However, nothing in this provision shall operate to confer any rights, remedies, obligations or liabilities upon any third parties.

19. COMPLIANCE WITH APPLICABLE LAWS:

CONSULTANT agrees to comply with all local, state and federal laws and regulations applicable to the services covered by this Agreement. CONSULTANT further agrees to comply with all applicable local, state and federal licensure and certification requirements.

20. 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.

21. 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.

22. ASSIGNMENT:

CONSULTANT shall not delegate its duties or 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.

23. AGREEMENT SHALL BIND SUCCESSORS:

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

24. NO WAIVER OF DEFAULT:

A. General Waivers. 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.

B. Payment. 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 the 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.

25. 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.

26. AMENDMENT:

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

27. 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 and 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. It is hereby understood that COUNTY's acceptance of the services performed by CONSULTANT hereunder shall not operate as a waiver or release of any breach of this Agreement.

28. TITLE TO INFORMATION AND DOCUMENTS:



It is understood that any and all documents, information, and reports concerning the subject matter of this Agreement prepared and/or submitted by CONSULTANT shall become the property of COUNTY. However, CONSULTANT may retain copies of such documents and information for its records. In the event of termination of this Agreement, for any reason whatsoever, CONSULTANT shall promptly turn over all information, writings and documents pertaining to the services provided hereunder to COUNTY without exception or reservation.

29. 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 (television, radio, newspapers and internet). CONSULTANT shall inform COUNTY of all requests for interviews by media related to this Agreement before such interviews take place; and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to Director.

30. SUBCONTRACTS:

CONSULTANT shall obtain prior written approval from COUNTY before subcontracting any of the services to be delivered hereunder. Any and all subcontracts will be subject to all applicable provisions of this Agreement. 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.

31. 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.

32. ATTORNEY FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement from being performed, the prevailing party in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

33. SURVIVAL:

The duties and obligations of the parties set forth in Sections 4(D), 9, 11 and 15 shall survive the expiration or termination of this Agreement.

34. 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 paragraphs 1 through 39 of this Agreement, paragraphs 1 through 39 of this Agreement shall have priority.

35. 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.

36. 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.

37. 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, but not be limited to, 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.

38. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding 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 agreements, promises, representations, understandings and negotiations, whether oral or written, concerning the same subject matter.

39. 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 have entered into this Agreement as of the date written above.

**ForEverGreen Forestry:**

By: Tracy K. Mattson  
Name: Tracy K. Mattson  
Title: Owner

Date: 2/22/17

**COUNTY OF HUMBOLDT:**

By: Thomas K. Mattson  
Thomas K. Mattson  
Public Works Director

Date: 2/23/17

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**  
**(STANDARD PRE-APPROVED FORM)**

Exhibit "A" – Scope of Services  
Exhibit "B" – Project Schedule  
Exhibit "C" – Project Budget  
Exhibit "D" – Billing Rate Schedule

## **EXHIBIT A SCOPE OF SERVICES**

### **1. Project Team Activities:**

CONSULTANT shall participate in convening and coordinating with the Project Team and document their feedback and guidance to be incorporated into the public outreach strategy and the updated CWPP.

### **2. Community Outreach:**

CONSULTANT shall assist with the development of a detailed public outreach strategy and incorporate public input into the updated CWPP. CONSULTANT will provide template outreach and data gathering tools, general guidance, and data analysis while COUNTY will have primary responsibility for conducting all community meetings, managing publicity, and gathering data.

### **3. Draft Updated CWPP:**

CONSULTANT shall be responsible for the research, writing, review of feedback and editing necessary to update the 2013 County CWPP including the following:

- Administrative (Planning Team) Review Draft CWPP;
- Public Review Draft CWPP; and
- Final Draft CWPP
- CWPP Final Review, Revision, and Approval (COUNTY will be primarily responsible for carrying out this task with CONSULTANT support as needed).

**EXHIBIT B**  
**PROJECT SCHEDULE**

February 17, 2017	Begin Work
June 30, 2017	Complete the formation of the Project Team with confirmed roles and responsibilities (CONSULTANT will assist with this)
September 10, 2017	Complete Detailed Public Outreach Strategy (CONSULTANT will assist with this)
March 19, 2018	Complete Administrative Draft CWPP
June 18, 2018	Complete Public Draft CWPP
September 17, 2018	Complete the Final Draft Plan
February 28, 2019	Assist with CWPP Final Review, Revision, and Approval (be available to assist the COUNTY with final amendments requested by the Humboldt County FSC or the Humboldt County Board of Supervisors as needed – September 17, 2018 through February 28, 2019)

**EXHIBIT C  
PROJECT BUDGET**

The estimated cost per project category is as follows:

1. Project Team Activities	\$3,000
2. Community Outreach	\$10,000
3. Draft Updated CWPP	\$23,400
<b>Total</b>	<b>\$36,400</b>



**EXHIBIT D**  
**BILLING RATE SCHEDULE**

The hourly rate for labor by Tracy Katelman of ForEverGreen Forestry is \$110 per hour.

Expenses: \$300 - Travel and office expenses associated with carrying out the activities in this agreement.