

**AGREEMENT FOR SERVICES – DESIGN PROFESSIONAL
DESIGN & ENGINEERING SERVICES – HORIZONTAL DIRECTIONAL DRILLING**
Highway 29 Water Main Repairs (PW Numbers 116, 117, 118)

This Agreement is dated this 23rd day of June, 2016, by and between the City of Napa, a municipal corporation (hereinafter referred to as the "City"), and Carollo Engineers, Inc., an employee-owned corporation (hereinafter referred to as "Consultant").

RECITALS

A. The City requires design and engineering services for horizontal directionally drilled (HDD) water pipelines at multiple locations along Highway 29, as described within the City's request for proposal (RFP) issued October 16, 2015, including all subsequent addendums and the Consultant's proposal dated October 2015.

B. The Consultant is qualified and experienced to provide such services.

NOW, THEREFORE, said City and said Consultant for the considerations hereinafter set forth, mutually agree as follows:

1. **SCOPE OF WORK.** Consultant shall perform those services described as Tasks in the Scope of Work and Schedule of Performance attached hereto as Exhibit "A" and incorporated herein by reference within the time frames stated therein.

2. **COORDINATION.** Consultant shall assign Anne Prudhel, P.E., to personally participate in said project and to coordinate the activities of the Consultant.

3. **COMPENSATION.**

A. City shall pay Consultant as compensation in full for such services and expenses at the rates set forth in the Standard Hourly Rates and Charges attached hereto as Exhibit "B" and incorporated herein by reference. Notwithstanding the above, it is agreed that Consultant shall complete all the services set forth in Exhibit "A" for a total sum not to exceed three hundred eighty-eight thousand eight hundred forty-eight dollars (\$388,848). Progress payments will be tied to completion of tasks so all payments are proportional to the work completed.

B. Consultant shall submit itemized monthly statements for work performed. City shall make any payment due within thirty (30) days after approval of the invoice by City.

C. Payments due and payable to Consultant for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of the City. In the event the City has not appropriated sufficient funds for payment of Consultant services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year; payment for additional work is conditional upon future City appropriation.

4. **TERM.** The term of this Agreement shall be from the date of its execution until the completion of the work contemplated by this Agreement and its final acceptance by City unless terminated earlier as provided herein; except that the obligations of the parties under Paragraph 12 (Indemnification) and Paragraph 13 (Insurance) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of this Agreement, and the obligations of Consultant to City shall also continue after said expiration date or early termination in relation to the obligation prescribed by Paragraph 10 (Records of Performance), Paragraph 21 (Taxes), and Paragraph 26 (Confidentiality).

5. **NOTICES**. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

TO CITY:	CITY OF NAPA PUBLIC WORKS – WATER DIVISION ATTN: MICHAEL J. HETHER, P.E. 1340 CLAY STREET NAPA, CA 94559
TO CONSULTANT:	CAROLLO ENGINEERS, INC. ATTN: ANNE PRUDHEL, P.E. 2700 YGNACIO VALLEY ROAD, SUITE 300 WALNUT CREEK, CA 94598

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this Paragraph.

6. **AMENDMENT OF SCOPE OF WORK**. City shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Failure of the Consultant to secure City's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum merit, etc. for work done without the appropriate City authorization.

7. **CITY'S RIGHT TO TERMINATE/SUSPEND CONTRACT**. At any time and for any or no reason, City shall have the right to terminate this Agreement, take possession of the Consultant's work, e.g., studies, preliminary drawings, computations, specifications, etc., insofar as they are complete and acceptable to the City and use the same, and pay the Consultant such equitable proportion of the total remuneration as the work satisfactorily done by the Consultant at the time of such discontinuance bears to the whole of the work required to be done by the Consultant under the terms of this Agreement. Notwithstanding the above, Consultant shall not be relieved from liability to City for damages sustained by virtue of any breach of this Agreement by Consultant, whether or not the Agreement was terminated for convenience or cause, and City may withhold payments not yet made to Consultant for the purpose of setoff until such time as the exact amount of damages due City from Consultant is determined.

8. **CORRECTION OF WORK**. The performance of services or acceptance of information furnished by Consultant shall not relieve the Consultant from obligation to correct any defective, inaccurate or incomplete work subsequently discovered and all such work shall be remedied by the Consultant on demand without cost to the City.

9. **DELAYS AND EXTENSIONS**. Time is of the essence concerning performance of this Agreement; however, the Consultant will be granted time extensions for delays beyond the Consultant's control. Time extensions will be equal to the length of the delay or as otherwise agreed upon between the Consultant and the City.

10. **RECORDS OF PERFORMANCE**. Consultant shall maintain adequate records of contract performance costs, expenses, etc., and make these records available for inspection, audit, and copying by the City during the agreement period and for a period of three (3) years from the date of final payment. Such time for retention shall be extended if grant funds are used to fund this project require the same.

11. **SUBCONTRACTING**. The City shall be an intended beneficiary of any work performed by a subconsultant for purposes of establishing a duty of care between subconsultant and City. In accordance with Government Code Section 7550, Consultant agrees to state in a separate section of any filed report the numbers and dollars amounts of all contracts and subcontracts relating to preparation of the report.

12. RELEASE AND INDEMNIFICATION.

A. City, and each of its officers, employees, consultants, and agents, shall not be liable or accountable in any manner for the injury, sickness, disease, emotional injury, or death of any person or damage to property resulting from any cause whatsoever, except to the extent of their active negligence, recklessness, or willful misconduct, and Consultant releases all the foregoing persons and entities from any and all such claims.

B. To the fullest extent permitted by law, Consultant shall defend (with independent counsel approved by City), indemnify, and hold City, including each of its officers, employees, consultants, and agents (individually "indemnitee" or collectively "indemnities"), harmless from claims, demands, disabilities, damages (including consequential and incidental damages), penalties, fines, suits, injury (including injury or death of an employee of Consultant or its subconsultants), actions, losses, fines, and penalties of regulatory agencies, judgments, and liabilities of any kind, nature, and description, as well as for associated investigation and administrative charges and defense costs, including attorney, witness, and consultant's fees, court costs, and costs of alternate dispute resolution (collectively "claims"), directly or indirectly, in whole or in part, arising out of, pertaining to, or relating to, any negligence, recklessness, or willful misconduct of Consultant (including subconsultants, anyone directly or indirectly employed by any of them, or anyone for whom acts anyone of them may be liable), regardless of whether it is caused or contributed to by the negligence (including passive negligence) of an indemnitee. However, to the extent that claims are caused by the active negligence or recklessness or willful misconduct of an indemnitee, the Consultant's indemnification obligation hereunder shall be reduced in proportion to the indemnified party's share of the liability for its active negligence, recklessness, or willful misconduct.

C. With respect to third-party claims against Consultant, this Agreement contains no express indemnity of Consultant by indemnitees, and Consultant waives any and all rights to any kind of implied indemnity against any indemnitee. Consultant shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental or consequential damages to City or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, Consultant shall not be responsible for acts and decisions of third parties, including governmental agencies, other than Consultant's subconsultants, that impact project completion and/or success.

D. The indemnification and defense obligation of this section is not limited to in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under workers compensation, disability, or other employee benefit acts, the terms or applicability or limitations of any insurance held or provided by Consultant or the provisions of Section 13 relating to the provision of insurance.

E. To the fullest extent permitted by law, the indemnities, releases of liability, and limitations on liabilities expressed herein shall apply even in the event of breach of contract and shall survive the termination, rescission, breach, abandonment, or completion of this Agreement.

F. The Consultant's obligation to defend and indemnify shall not be excused because of Consultant's inability to evaluate liability or because the Consultant evaluates liability and determines that the Consultant is not liable to the claimant. The Consultant shall respond within 30 days to the tender of any claim for defense indemnity by City, unless this time has been extended by City.

13. INSURANCE. Without limiting Consultant's indemnification provided herein, Consultant shall take out and maintain, throughout the period of this Agreement, the following policies of insurance placed with insurers (if other than the State Compensation Fund) with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Consultant, its agents, employees or subcontractors:

A. 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 \$1,000,000.00 per occurrence. If work involves explosive, underground or collapse risks, XCU must be included. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

(1) The City, its officers, employees and agents, are covered as insureds 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 the City, its officers, agents and employees.

(2) The policy shall not be canceled or reduced in coverage without thirty (30) days prior written notice ten (10) days for non-payment of premium to City by mail.

B. Automobile liability insurance with coverage at least as broad as ISO Form numbers CA 0001 06 92, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than \$1,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be canceled or reduced in coverage without thirty (30) days prior written notice ten (10) days for non-payment of premium to City by mail.

C. Worker's Compensation insurance meeting statutory limits of Labor Code which policy shall [contain or be endorsed to contain a waiver of subrogation against City, its officers, agents, and employees and] provide for thirty (30) days prior written notice to City in the event of cancellation. If Consultant has no employees, Consultant may sign and file the following certification in lieu of insurance:

"I am aware of the provisions of 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 the provisions of that code before commencing with and during the performance of the work of this contract."

D. Professional liability insurance/errors and omission coverage in an amount no less than \$1,000,000.00 combined single limit (CSL). If insurance is written on a claim-made basis, Consultant agrees to maintain such insurance in effect for at least three (3) years following completion of performance under this Agreement.

E. Consultant shall furnish City with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by City. The endorsements shall be on forms provided by City or as approved by City Attorney. Any deductible or self-insured retention over \$100,000.00 shall be disclosed to and approved by City. If Consultant does not keep all required insurance policies in full force and effect, City may, in addition to other remedies under this Agreement, terminate or suspend this Agreement.

14. **STANDARD OF CARE.** City relies upon the professional ability of Consultant and representations regarding the type of work to be performed as a material inducement to entering into this Agreement. Consultant shall perform the professional services hereunder in accordance with the prevailing engineering standard of care by exercising the skill and ability normally required of engineers performing the same or similar services, under the same or similar circumstances, in the State of California. Consultant is responsible for the work of all employees, subconsultants, and agents, and the negligence of one of them, if not adequately remedied by Consultant, shall be conclusively deemed to be the negligence of Consultant. Consultant agrees that the acceptance of his work by City shall not operate as a waiver or release of said obligation of Consultant. The absence, omission, or failure to include in this Agreement, items which are normally considered to be a part of generally accepted professional procedure or which involve specialized professional judgment appropriate to the type of work to be performed under this Agreement shall not be used as a basis for submission of inadequate work or incomplete performance.

15. **Covenant Against Contingent Fees.** The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

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

17. **Statement of Economic Interest.** If City determines Consultant comes within the definition of Consultant under the Political Reform Act (Government Code §87100), Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with the Clerk of the City of Napa disclosing Consultant and/or such other person's financial interests. In such case, Consultant shall not make or participate in making or in any way attempt to use Consultant's position to influence a governmental decision in which Consultant knows, or has reason to know, Consultant has a financial interest other than the compensation promised by this Agreement. Consultant represents that Consultant has diligently conducted a search and inventory of Consultant's economic interests, as defined in the regulations promulgated by the Fair Political Practices Commission, and has determined that Consultant does not, to the best of Consultant's knowledge, have an economic interest that would conflict with Consultant's duties under this Agreement. Consultant will immediately advise the General Counsel of Authority if Consultant learns of an economic interest of Consultant's during the term of this Agreement.

18. **Default.** If Consultant should fail to perform any of his obligations hereunder, within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, City may terminate this Agreement by giving Consultant written notice of such termination, stating the reason for such termination. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee; provided, however, that the City may withhold payments not yet made to Consultant for the purpose of setoff until such time as the exact amount of damages due City from Consultant is determined.

19. **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. The services to be performed by Consultant are intended solely for the benefit of City. No person or entity not a signatory to the Agreement shall be entitled to rely on Consultant's performance of its services hereunder, and no right to assert a claim against Consultant by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Consultant's services hereunder.

20. **Independent Contractor.** The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall have control of the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of the City and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides its employees. In the event City exercises its right to terminate this Agreement, Consultant expressly agrees that he/she shall have no recourse nor right of appeal under rules, regulations, ordinances or laws applicable to employees.

21. **Taxes.** Consultant agrees to file 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. Consultant agrees to indemnify and

hold the City harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations.

22. **EMPLOYMENT PRACTICES**. Consultant shall not discriminate in its performance under the Agreement either directly or indirectly on the grounds of race, color, religion, sex, age, national origin, or other prohibited grounds in its employment practices, and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or other prohibited grounds.

23. **COMPLIANCE WITH LAW**.

A. Consultant shall study and comply with all applicable federal, state and local laws, rules and regulations affecting the Consultant and his/her work hereunder and shall ensure that all subcontractors do the same. Consultant represents and warrants to City that Consultant has and will keep in effect during the term of this Agreement all licenses (including but not limited to the City of Napa business license), permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice Consultant's profession and to do the work hereunder.

B. Consultant agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of Consultant performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. Consultant shall make the required documentation available upon request to City for inspection.

24. **TITLE TO DOCUMENTS**. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement, including the unlimited license to use the same for completion and maintenance of the project described in this Agreement, shall be vested in the City, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the City. Any reuse of completed documents or use of partially completed documents without written verification or concurrence by Consultant for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Consultant. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to the City without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of City during the term of this Agreement or until ninety (90) days after receipt of final payment from City.

25. **RIGHT TO ADEQUATE ASSURANCE OF PERFORMANCE**. 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 arises with respect to the performance of either party, the other may in writing demand adequate assurance of due performance, and until it receives such assurance, may, if reasonable, suspend any performance for which the agreed return has not been received. "Reasonable" includes not only the conduct of a party 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 exceed fifteen (15) 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.

26. **CONFIDENTIALITY**. Consultant shall treat all information obtained from City in the performance of this Agreement as confidential and proprietary to City. Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential. Consultant agrees that it will not use any information obtained as a consequence of the performance of work for any purpose other than fulfillment of Consultant's scope of work. Consultant will not disclose any information prepared for City, or obtained from City or obtained as a consequence of the performance of

work, to any person other than City, or its own employees, agents or subcontractors, who have a need for the information for the performance of work under this Agreement unless such disclosure is specifically authorized in writing by the City. Consultant shall advise City of any request for disclosure of information or of any actual or potential disclosure of information. Consultant's obligations under this paragraph shall survive the termination of this Agreement.

27. **ACCIDENT REPORT.** If any damage (including death, personal injury, or property damage) occurs in connection with the performance of this Agreement, Consultant shall promptly submit to the City Clerk's Office a written notice of such accident with the following information:

- A. Name and address of the injured or deceased person(s);
- B. Name and address of any witness;
- C. Name and address of Consultant's insurance company; and
- D. A detailed description of the damage and whether any City property was involved.

28. **ELECTRONIC COMMUNICATIONS.** During the course of this Agreement, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer software and Internet access. Consultant and the City acknowledge that the Internet is occasionally victimized by the creation and dissemination of so-called viruses or similar destructive electronic programs. Consultant and the City view the issues raised by these viruses seriously and have invested in document and e-mail scanning software that identify and reject files containing known viruses. Consultant agrees to update its system with the software vendor's most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the parties may occasionally reject a communication. The parties acknowledge that this occurrence is to be expected as part of the ordinary course of business. Because the virus protection industry is generally one or two steps behind new viruses, neither party can guarantee that its respective communications and documents will be virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each party will use all reasonable efforts to assure that its communications are virus free, neither party warrants that its documents will be virus free. Each party agrees to advise the other if it discovers a virus in its respective system that may have been communicated to the other party.

29. **ELECTRONIC OR MAGNETIC DATA.** If the Scope of Work requires that Consultant provide documents in electronic or magnetic formats, they shall be provided in a manipulative form. City recognizes that electronic or magnetic data and its transmission may be damaged, may develop inaccuracies during use, and may contain viruses or other destructive programs, and that software and hardware operating systems may become obsolete. Consultant shall not be liable for any loss of use, profit, or any other damages arising from City's reuse, misuse, modification, or misinterpretation of the data submitted in electronic or magnetic form. Nothing contained in this paragraph shall affect the indemnification or standard of care required hereunder for Consultant with respect to Consultant's work and work products delivered in hard copy.

30. **CITY-PROVIDED INFORMATION AND SERVICES.** City shall furnish Consultant available studies, reports and other data pertinent to Consultant's services; obtain or authorize Consultant to obtain or provide additional reports and data as required; furnish to Consultant services of others required for the performance of Consultant's hereunder, and Consultant shall be entitled to use and rely upon all such information and services provided by City or others in performing Consultant's services under this Agreement.

31. **ESTIMATES AND PROJECTIONS.** In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for potential projects, Consultant has no control over cost or price of labor and material; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance cost; competitive bidding procedures and market conditions; time or quality of performance of third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Therefore, Consultant makes no warranty that City's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinion, analyses, projections, or estimates.

32. **ACCESS.** City shall arrange for access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform services hereunder.

33. **COPYRIGHTS/PATENTS.** Consultant represents that the work provided hereunder shall not unlawfully infringe on any copyrighted or patented work.

34. **GENERAL PROVISIONS.**

A. **Headings.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

B. **Severability.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

C. **Governing Law, Jurisdiction, and Venue.** The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.

D. **Attorney's Fees.** In the event any legal action is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred, whether or not such action proceeds to judgment.

E. **Assignment and Delegation.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated without the written consent of City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.

F. **Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

G. **Waivers.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

H. **Time.** Time is of the essence in carrying out the duties hereunder.

I. **Entire Agreement.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

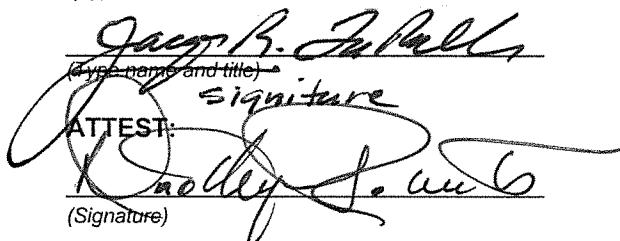
J. **Each Parties' Role in Drafting the Agreement.** Each party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

K. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF NAPA:

Jacques R. LaRochelle, Public Works Director
(Type name and title)


(Signature)

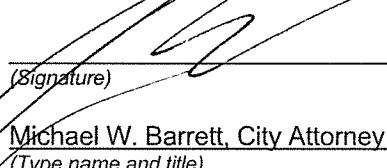
Dorothy Roberts, City Clerk
(Type name and title)

COUNTERSIGNED:


(Signature)

For Desreee Brun, City Auditor
(Type name and title)

APPROVED AS TO FORM:


(Signature)

Michael W. Barrett, City Attorney
(Type name and title)

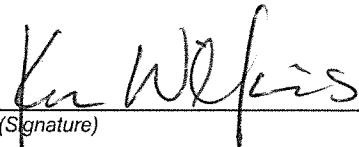
Budget Code: Assigned by Project

53942-DR15WLOP13
53942-DR15WLOP14
53942-DR15WLOP25

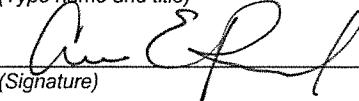
CONSULTANT:

Carollo Engineers, Inc. / Corporation

(Type name of Consultant/form of organization)


(Signature)

Ken Wilkins, Senior Vice President
(Type name and title)


(Signature)

Anne Prudhel, Associate Vice President
(Type name and title)

Address: 2700 Ygnacio Valley Road, Suite 300
Walnut Creek, CA 94598

Telephone: (925) 932-1710

*Corporation, partnership, limited liability corporation, sole proprietorship, etc.

Unless corporate resolution delegates an individual to sign contracts, an agreement with a corporation shall be signed by the President or Vice President and the Secretary or Treasurer of the corporation. A general partner shall sign on behalf of a general partnership. The managing member, if authorized, may sign on behalf of a limited liability corporation.

EXHIBIT "A"

**SCOPE OF WORK
AND
SCHEDULE OF PERFORMANCE**

EXHIBIT A: SCOPE OF WORK & SCHEDULE OF PERFORMANCE

The City requires the services of a professional engineering firm to provide design and engineering documents for the installation of a directionally drilled pipeline at select locations as defined in Exhibit B (see below). The City expects the selected firm to provide all work, labor, insurance, equipment, et al. required to successfully navigate all aspects of this phase.

Professional engineering services shall include, but not be limited to the following roles:

Task 1 (Design Preparation)

- 1.1. Preparation: attend one kick-off meeting with City staff to review expectations, discuss design features/project constraints and receive the City's contract administration procedures.
- 1.2. Research: conduct a site and substructure investigation, as well as obtain right-of-way and survey records;
- 1.3. Soils Investigation: conduct a soils investigation that will provide representative parameters and characteristics suitable for design and bidding, which at a minimum shall include, but not be limited to the following tasks:
 - 1.3.1. Performance of a site-specific geotechnical investigation to confirm the probable subsurface conditions along the proposed pipeline corridors. The geotechnical information derived from field boring(s) and sampling(s) could include but not be limited to soil classifications, gradation curves on granular soil, rock samples, rock hardness and compressive strength. The consultant shall be responsible for determining the number and location(s) of the required boring(s) for the proposed alignment;
 - 1.3.2. Preparation of a soils report (signed by a licensed geotechnical engineer) that contains an analysis outlining the geotechnical conditions impacting the pipeline design and construction which shall follow the guidelines set forth by the California Department of Transportation which could include but not be limited to the following:
 - o Subsurface strata, fill, debris and material;
 - o Particle size distribution (particularly percent gravel and cobble);
 - o Cohesion index, internal angle of friction, and soils classification;
 - o Plastic and liquid limits (clays), expansion index (clays), soil density;
 - o Water table levels and soil permeability.

Note: The soils report will be included as an exhibit in the City's bid documents.

Task 2 (Production of Plans, Specifications and Estimates)

- 2.1. Plans: at a minimum, the level of detail shown on the plans shall include but not be limited to the following:
 - o Right-of-way, survey records and other easement information;
 - o Topographic survey accurately describing the working area and surface elevations along the proposed alignment;
 - o Location and configuration of the drill path (plan & profile), including entry and exit points, entry and exit angles, elevation and radius of curvature;
 - o Locations of all surface improvements and any underground facilities adjacent to the entry/exit pits and proposed drill path relative to other utilities;
 - o Locations of equipment and pipe fusion/layout areas;
 - o Installation of an appropriately sized fusible PVC C905 casing pipe which shall accommodate a twelve-inch fusible C900 carrier pipe;

EXHIBIT A: SCOPE OF WORK & SCHEDULE OF PERFORMANCE (CONTINUED)

- 2.2. Specifications: prepare general provisions and technical specifications (including a bid schedule) in accordance with City format. The specifications shall include the City's list pre-qualified directional drillers.
- 2.3. Estimate: prepare an engineer's estimate that conforms to the City's bid schedule format;

Task 3 (Design Review)

- 3.1. Design Review: obtain design review at 50%, 75% and 100% completion.

Additional site-specific information is included in Exhibit B, entitled Preliminary Engineering Information.

Task 4 (Post-construction Services)

- 4.1. Record Drawings: provision of adequate documentation and as-built drawings showing actual alignment and profile.

Task 5 (Easement and Permit Acquisition)

- 5.1. Caltrans Permit Acquisition
- 5.2. Easement Acquisition (not anticipated but if necessary)

Task 6 (Bid Services)

- 6.1. Bid Support Services

Task 7 (Engineering Services During Construction)

- 7.1. Attend Pre-construction Meeting
- 7.2. Submittals & RFIs
- 7.3. Prepare DC's and Assist w/ Cos
- 7.4. Admin, Meetings & Site Visits

Services to be provided by City

- Provision of agency/utility contacts;
- Field and/or office meetings as needed;
- Any reasonable suggestions made by prospective Firms

EXHIBIT "B"

COMPENSATION RATES AND CHARGES

EXHIBIT B: COMPENSATION RATES AND CHARGES

Consultant shall complete all the services set forth in Exhibit "A" for a total sum not to exceed three hundred eighty-eight thousand eight hundred forty-eight dollars (\$388,848). Progress payments will be tied to completion of tasks so all payments are proportional to the work completed.

TASK NO.	ITEM	COST
1	Design Preparation	\$ 132,289
2	Production of Plans, Specifications and Estimate	124,868
3	Design Review	39,838
4	Post Construction Services	11,889
		140,462
		10%
	Subtotal:	\$ 308,884
	Optional Services (Task 5-7)	79,964
	Total:	\$ 388,848

EXHIBIT B: COMPENSATION RATES AND CHARGES (CONTINUED)



CITY OF WINN
ESTIMATE OF LABOR HOURS AND FEE

TASK	CARRIAGE										COST SUMMARY					
	PHC	PH	GLAC/C	PE	Staff Eng	CADD	Civil/Civil Support	Subtotal	OTHER DIRECT COSTS			Sub-consultant	Misc. Chars and Printing	Travel	Total DCCs	Total DCCs
									Hours	Budget	Actual	Subtotal	10.0%			
2018 Fee Schedule Cdn\$	\$185	\$1269	\$160	\$209	\$164	\$17	\$17	\$11,770	11	11	11	\$1,170	11	11	22	22
Project:																
Task 1 - DESIGN PREPARATION																
1.1 Kicker Making	1	6	0	14	6	0	0	35	17,716	\$4,271	\$5	\$1,175	\$5	\$100	\$421	\$421
1.2 Data Research	2	4	0	6	4	0	0	30	\$2,000	\$724	\$5	\$2,751	\$5	\$100	\$472	\$472
1.3 Geotechnical Survey	3	2	0	4	4	0	0	10	\$1,175	\$117	\$5	\$2,750	\$5	\$100	\$374	\$374
1.4 Geotechnical Investigation	4	2	0	4	4	0	0	10	\$1,175	\$117	\$5	\$2,750	\$5	\$100	\$374	\$374
1.5 Permitting	5	2	0	4	4	0	0	10	\$1,175	\$117	\$5	\$2,750	\$5	\$100	\$374	\$374
1.6 Boundary Research and Mapping	6	2	0	2	0	0	0	5	\$2,632	\$474	\$5	\$1,750	\$5	\$100	\$201	\$201
Task 1 Total Hours	4	22	0	42	28	4	0	100	\$20,454	\$1,750	\$16,660	\$1,170,000	\$10,000	\$10,000	\$111,764	\$111,764
Task 1 Total Budget	\$1,121	\$4,720	\$0	\$8,400	\$4,402	\$188	\$0	100	\$16,660	\$1,750	\$16,660	\$1,170,000	\$10,000	\$10,000	\$111,764	\$111,764
Task 1 - PRODUCTION OF PLANS, SPECIFICATIONS, AND ESTIMATES																
2.1 Environmental Review	0	4	0	4	4	0	0	12	\$2,405	\$140	\$0	\$15,000	\$0	\$100	\$100	\$100
2.2 Deriving 50% PSCE	1	16	20	60	10	120	30	30	\$2,000	\$4,065	\$0	\$15,000	\$0	\$100	\$100	\$100
2.3 Deriving 75% PSCE	2	16	14	40	54	64	16	208	\$10,400	\$2,434	\$0	\$15,000	\$0	\$100	\$100	\$100
2.4 Deriving 100% PSCE	3	16	18	18	20	24	5	102	\$19,702	\$1,163	\$0	\$15,000	\$0	\$100	\$100	\$100
2.5 Developing Final PSCE	4	2	0	6	6	6	0	5	\$2,113	\$47	\$0	\$15,000	\$0	\$100	\$100	\$100
Task 2 Total Hours	2	52	0	120	120	117	0	672	\$11,540.24	\$1,062	\$0	\$15,000	\$0	\$100	\$100	\$100
Task 2 Total Budget	\$2,144	\$12,470	\$0	\$12,540	\$24,000	\$17,178	\$0	672	\$11,540.24	\$1,062	\$0	\$15,000	\$0	\$100	\$100	\$100
Task 3 Total Hours																
3.1 50% PSCE Review	2	15	20	16	0	0	0	54	\$1,312	\$637	\$0	\$100	\$0	\$100	\$100	\$100
3.2 75% PSCE Review	2	15	16	16	0	0	0	50	\$12,000	\$3,000	\$0	\$100	\$0	\$100	\$100	\$100
3.3 100% PSCE Review	2	15	16	18	0	0	0	50	\$12,000	\$3,685	\$0	\$100	\$0	\$100	\$100	\$100
Task 3 Total Hours	6	48	52	15	18	0	0	154	\$37,786	\$1,012	\$0	\$100	\$0	\$100	\$100	\$100
Task 3 Total Budget	\$1,658	\$12,480	\$0	\$12,530	\$24,000	\$17,178	\$0	154	\$37,786	\$1,012	\$0	\$100	\$0	\$100	\$100	\$100
Task 4 Total Hours																
4.1 Prepare Record Drawings	1	2	0	6	16	40	0	67	\$10,405	\$784	\$0	\$100	\$0	\$100	\$100	\$100
Task 4 Total Budget	\$281	\$220	\$0	\$1,000	\$16,824	\$16,820	\$0	67	\$10,405	\$784	\$0	\$100	\$0	\$100	\$100	\$100
PROJECT Total Hours																
PROJECT Total Costs	\$1,235	\$12,470	\$0	\$12,540	\$24,000	\$17,178	\$0	1,000	\$11,540.24	\$1,062	\$0	\$15,000	\$0	\$100	\$100	\$100
OPTIONAL TASK 1 - EASEMENT AND PERMIT ACQUISITION																
5.1 Obtain Permit Acquisition	0	6	0	4	24	4	0	60	\$1,404	\$702	\$0	\$100	\$0	\$100	\$100	\$100
5.2 Engineering Application	0	10	0	25	24	4	0	6	\$1,250	\$70	\$0	\$100	\$0	\$100	\$100	\$100
OPTIONAL TASK 6 - BID SERVICES																
6.1 Bid Support Services	0	4	0	8	16	4	0	32	\$8,852	\$174	\$0	\$100	\$0	\$100	\$100	\$100
Task 6 Total Hours	0	12,610	\$0	\$1,000	\$26,224	\$188	\$0	12	\$16,185	\$174	\$0	\$100	\$0	\$100	\$100	\$100
Task 6 Total Budget	\$0	\$12,610	\$0	\$1,000	\$26,224	\$188	\$0	12	\$16,185	\$174	\$0	\$100	\$0	\$100	\$100	\$100
OPTIONAL TASK 7 - ENGINEERING SERVICES & DURING CONSTRUCTION																
7.1 Stand-by & Construction Sealing	0	4	0	4	4	4	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
7.2 Submittals & Drawings	0	4	0	4	22	40	18	0	146	\$2,100	\$171	\$0	\$0	\$0	\$0	\$0
7.3 Project Management & Coordination	0	4	0	4	15	24	0	0	92	\$1,325	\$106	\$0	\$0	\$0	\$0	\$0
7.4 Admin/Marketing & Site Visits	0	56	0	12	12	144	0	0	40	\$1,235	\$172	\$0	\$0	\$0	\$0	\$0
Task 7 Total Hours	0	33,240	\$0	\$12,480	\$24,000	\$17,178	\$0	10	\$15,724	\$1,064	\$0	\$100	\$0	\$100	\$100	\$100
Task 7 Total Budget	\$0	\$33,240	\$0	\$12,480	\$24,000	\$17,178	\$0	10	\$15,724	\$1,064	\$0	\$100	\$0	\$100	\$100	\$100
PROJECT Total Hours																
PROJECT Total Costs	0	\$12,470	\$0	\$12,540	\$24,000	\$17,178	\$0	408	\$7,410.54	\$4,790	\$0	\$100	\$0	\$100	\$100	\$100

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the _____, and a duly authorized representative of the firm of _____, whose address is _____, and that neither I nor the above firm I here represent has:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit to secure this Agreement.
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

Except as here expressly stated (if any);

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature