

Administering Agency: Nevada County Community Development Agency- Building Department

Contract No. _____

Contract Description: Professional Drafting, Architectural, and Engineering Services for Affordable Housing Master Plans

DESIGN/ENGINEERING PROFESSIONAL SERVICES CONTRACT

THIS DESIGN/ENGINEERING PROFESSIONAL SERVICES CONTRACT ("Contract") is made at Nevada City, California, as of October 12, 2021 by and between the County of Nevada, ("County"), and Jackson & Sands Engineering, Inc. ("Consultant"), who agree as follows:

1. **Services** Subject to the terms and conditions set forth in this Contract, Consultant shall provide the services described in Exhibit A. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A.
2. **Payment** County shall pay Consultant for services rendered pursuant to this Contract at the time and in the amount set forth in Exhibit B. The payments specified in Exhibit B shall be the only payment made to Consultant for services rendered pursuant to this Contract. Consultant shall submit all billings for said services to County in the manner specified in Exhibit B; or, if no manner be specified in Exhibit B, then according to the usual and customary procedures which Consultant uses for billing clients similar to County. **The amount of the contract shall not exceed two hundred twenty-nine thousand Dollars (\$229,000).**
3. **Term** This Contract shall commence on, October 12, 2021. All services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** of June 30, 2023
4. **Facilities, Equipment and Other Materials** Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Contract.
5. **Exhibits** All exhibits referred to herein and attached hereto are incorporated herein by this reference.
6. **Electronic Signatures** The parties acknowledge and agree that this Contract may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
7. **Time for Performance** Time is of the essence. Failure of Consultant to perform any services within the time limits set forth in Exhibit A, or elsewhere in this Contract, shall constitute material breach of this contract. Consultant shall devote such time to the performance of services pursuant to this Contract as may be reasonably necessary for the satisfactory performance of Consultant's obligations pursuant to this Contract. Neither party shall be considered in default of this Contract to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

8. **Liquidated Damages**

Liquidated Damages are presented as an estimate of an intangible loss to the County. It is a provision that allows for the payment of a specified sum should Consultant be in breach of contract. Liquidated Damages shall apply shall not apply to this contract. Liquidated Damages applicable to this contract are incorporated in Exhibit E, attached hereto.

9. **Relationship of Parties**

9.1. **Independent Consultant**

In providing services herein, Consultant, and the agents and employees thereof, shall work in an independent capacity and as an independent Consultant and not as agents or employees of County. Consultant acknowledges that it customarily engages independently in the trade, occupation, or business as that involved in the work required herein. Further, the Parties agree that Consultant shall perform the work required herein free from the control and direction of County, and that the nature of the work is outside the usual course of the County's business. In performing the work required herein, Consultant shall not be entitled to any employment benefits, Workers' Compensation, or other programs afforded to County employees. Consultant shall hold County harmless and indemnify County against such claim by its agents or employees. County makes no representation as to the effect of this independent Consultant relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such determination. Consultant shall be responsible for all reports and obligations including but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation and other applicable federal and state taxes.

9.2. **No Agent Authority** Consultant shall have no power to incur any debt, obligation, or liability on behalf of County or otherwise to act on behalf of County as an agent. Neither County nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Contract. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of the County.

9.3. **Indemnification of CalPERS Determination** In the event that Consultant or any employee, agent, or subconsultant of Consultant providing service under this Contract or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the County, Consultant shall, subject to section 12, indemnify, defend, and hold harmless County for all payments on behalf of Consultant or its employees, agents, or subconsultants, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

10. **Assignment and Subcontracting** Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Consultant and may not be transferred, subcontracted, or assigned without the prior written consent of County. Consultant shall not substitute or replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Consultant shall cause and require each transferee, subConsultant, and assignee to comply with the insurance provisions set forth herein, to the extent such insurance provisions are required of Consultant under this Contract. Failure of Consultant to so cause and require such compliance by each transferee, subConsultant, and assignee shall constitute a Material Breach

of this Contract, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

11. **Licenses, Permits, Etc.** Consultant represents and warrants to County that Consultant shall, at its sole cost and expense, obtain or keep in effect at all times during the term of this Contract, any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.

12. **Hold Harmless and Indemnification Contract**

12.1 **Definitions.** For purposes of this Section, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subconsultants, or anyone directly or indirectly employed by either Consultant or its subconsultants, in the performance of this Contract. "County" shall include County, its officials, officers, agents, employees and volunteers.

12.2 **Consultant to Indemnify County.** Where the services to be provided by Consultant under this Contract are Design Professional services, as that term is defined under Civil Code Section 2782.8, Consultant agrees to indemnify, defend and hold harmless, the County, its officers, officials and employees from any damages, losses, judgements, settlements, expenses, costs or liability that County incurs from third party claims, demands, actions, suits or matters connected therewith, that actually or allegedly arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant and/or by any individual or entity for which Consultant is legally liable in the performance of services under this contract, but this indemnity does not apply to liability for damages for bodily injury, property damage or other loss, arising from the sole negligence, active negligence or willful misconduct by the County, its officers, official employees or by any individual or entity for which County is legally liable. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of the County, then Consultant's indemnification and defense obligations shall be reduced in proportion to the established comparative liability of the County and shall not exceed the Consultant's proportionate percentage of fault.

As respects all acts or omissions which do not arise directly out of the performance of Consultant services, including but not limited to those negligent acts or omissions normally covered by commercial general and commercial automobile liability insurance, and to the extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the County, its officers, officials, employees or by any individual or entity for which Consultant is legally liable from and against any claims, demands, losses, liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs, whether actual, alleged or threatened, including reasonable attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) caused in whole or in part, the performance of this Contract by Consultant or by any individual or entity for which Consultant is legally liable, including officers, employees of Consultant, excepting those which arise out of the active negligence, sole negligence or willful misconduct of the County, its officers, officials, employees and volunteers.

12.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage

shall include injury to any personal or real property. Consultant shall not be required to indemnify County for such loss or damage as is caused by the sole active negligence or willful misconduct of the County. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of an indemnified party, then Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability.

- 12.4 **Attorney's Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of County's choice, expert fees and all other costs and fees of litigation, recoverable under applicable law. Notwithstanding the foregoing, if Consultant's obligation to defend, indemnify and hold harmless arises out of Consultant's performance of services for the Project as a "Design Professional," as that term is defined in California Civil Code Section 2782.8, Consultant's obligation shall be limited in accordance with the provisions of Section 2782.8 as it was in effect as of the date of this Agreement.
- 12.5 **Defense Deposit.** The County may request a deposit for defense costs from Consultant with respect to a claim. If the County requests a defense deposit, Consultant shall provide it within 15 days of the request. Notwithstanding the foregoing, if Consultant's obligation to defend, indemnify and hold harmless arises out of Consultant's performance of services for the Project as a "Design Professional," as that term is defined in California Civil Code Section 2782.8, Consultant's obligation shall be limited in accordance with the provisions of Section 2782.8 as it was in effect as of the date of this Agreement.
- 12.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to County. Notwithstanding the foregoing, in no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations.
- 12.7 **Indemnification by Subconsultants.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subConsultant or any other person or entity involved in the performance of this Contract on Consultant's behalf.
- 12.8 **Insurance Not a Substitute.** County does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Contract. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 12.9 **Civil Code.** The parties are aware of the provisions of Civil Code 2782.8 relating to the indemnification and the duty and the cost to defend a public agency by a Design Professional and agree that this Section complies therewith.
13. **Standard of Performance** Consultant shall perform all services required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and in the same or similar locality under the same or similar circumstances. All products of whatsoever nature which Consultant delivers to County pursuant

to this Contract shall conform to the standards or quality normally observed by a person practicing in Consultant's profession. Such standards of care is not warranty or guarantee and Consultant shall have no such obligation

Consultant without additional compensation. Consultant's personnel, when on the County's premises and when accessing the County network remotely, shall comply with the County's regulations regarding security, remote access, safety and professional conduct, including but not limited to Nevada County Security Policy NCSP-102 Nevada County External User Policy and Account Application regarding data and access security. Consultant personnel will solely utilize the County's privileged access management platform for all remote access support functions, unless other methods are granted in writing by the County's Chief Information Officer or his/her designee.

14. **Prevailing Wage and Apprentices** To the extent made applicable by law, performance of this Contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code section 1720, et seq., and shall be in conformity with Title 8 of the California Code of Regulations section 200 et seq., relating to apprenticeship. Where applicable:
- Consultant shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. Applicable prevailing wage determinations are available on the California Department of Industrial Relations website at <http://www.dir.ca.gov/OPRL/PWD>.
 - Consultant and all subconsultants must comply with the requirements of Labor Code section 1771.1(a) pertaining to registration of Consultants pursuant to section 1725.5. Registration and all related requirements of those sections must be maintained throughout the performance of the Contract.
 - Contracts to which prevailing wage requirements apply are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each Consultant and subconsultant must furnish certified payroll records to the Labor Commissioner at least monthly.
 - The County is required to provide notice to the Department of Industrial Relations of any public work contract subject to prevailing wages within five (5) days of award.
15. **Accessibility** It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall comply with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Consultant to provide County contracted services directly to the public, Consultant shall certify that said direct Services are and shall be accessible to all persons.
16. **Nondiscriminatory Employment** Consultant shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex or sexual orientation in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.
17. **Drug-Free Workplace** Senate Bill 1120, (Chapter 1170, Statutes of 1990), requires recipients of state grants to maintain a "drug-free workplace". Every person or organization awarded a contract for the procurement of any property or services shall certify as required under Government Code Section 8355-8357 that it will provide a drug-free workplace.

18. **Political Activities** Consultant shall in no instance expend funds or use resources derived from this Contract on any political activities.
19. **Financial, Statistical and Contract-Related Records:**
- 19.1. **Books and Records** Consultant shall maintain statistical records and submit reports as required by County. Consultant shall also maintain accounting and administrative books and records, program procedures and documentation relating to licensure and accreditation as they pertain to this Contract. All such financial, statistical and contract-related records shall be retained for five (5) years or until program review findings and/or audit findings are resolved, whichever is later. Such records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records, including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits.
- 19.2. **Inspection** Upon reasonable advance notice and during normal business hours or at such other times as may be agreed upon, Consultant shall make all of its books and records available for inspection, examination or copying, to County, or to the State Department of Health Care Services, the Federal Department of Health and Human Services, the Controller General of the United States and to all other authorized federal and state agencies, or their duly authorized representatives.
- 19.3. **Audit** Consultant shall permit the aforesaid agencies or their duly authorized representatives to audit all books, accounts or records relating to this Contract, and all books, accounts or records of any business entities controlled by Consultant who participated in this Contract in any way. All such records shall be available for inspection by auditors designated by County or State, at reasonable times during normal business hours. Any audit may be conducted on Consultant's premises or, at County's option, Consultant shall provide all books and records within fifteen (15) days upon delivery of written notice from County. Consultant shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the Maximum Contract Price.
20. **Termination**
- 20.1. A Material Breach, as defined pursuant to the terms of this Contract or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this Contract, or both, without notice.
- 20.2. If Consultant fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) calendar days written notice to Consultant.**
- 20.3. Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Consultant, the Consultant shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Consultant shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Consultant has no control.

20.4. County, upon giving **thirty (30) calendar days written notice** to Consultant, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

In the event this Contract is terminated:

- 1) Consultant shall deliver copies of all writings prepared by it pursuant to this Contract. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
- 2) County shall have full ownership and control of all such writings delivered by Consultant pursuant to this Contract.
- 3) County shall pay Consultant the reasonable value of services rendered by Consultant to the date of termination pursuant to this Contract not to exceed the amount documented by Consultant and approved by County as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the Contract specified in Exhibit B, and further provided, however, County shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Contract. In this regard, Consultant shall furnish to County such financial information as in the judgment of the County is necessary to determine the reasonable value of the services rendered by Consultant. The foregoing is cumulative and does not affect any right or remedy, which County may have in law or equity.

21. **Intellectual Property** To the extent County provides any of its own original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto, not the property of Consultant (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Consultant by County, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception.
22. **Waiver** One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Contract shall not operate as a waiver of any subsequent breach or default by the other party.
23. **Conflict of Interest** Consultant certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this Contract. In addition, Consultant agrees that no such person will be employed in the performance of this Contract unless first agreed to in writing by County. This includes prior Nevada County employment in accordance with County Personnel Code.
24. **Entirety of Contract** This Contract contains the entire Contract of County and Consultant with respect to the subject matter hereof, and no other Contract, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Contract, shall be binding or valid.
25. **Alteration** No waiver, alteration, modification, or termination of this Contract shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 19, Termination.

26. **Survival** The provisions of Sections 9 and 12 shall survive any termination or expiration of this Agreement and any License granted herein.
27. **Governing Law and Venue** This Contract is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. The venue for any legal proceedings regarding this Contract shall be the County of Nevada, State of California. Each party waives any Federal court removal and/or original jurisdiction rights it may have.
28. **Compliance with Applicable Laws** Consultant shall exercise due and responsible professional care in complying with those applicable federal, state and local laws, codes, ordinances, rules and regulations at the time Consultant renders the Services to be provided by this Contract.
29. **Additional Consultant Responsibilities**
- A. To the extent Consultant is a mandated reporter of suspected child and/or dependent adult abuse and neglect, it shall ensure that its employees, agents, volunteers, subconsultants, and independent Consultants are made aware of, understand, and comply with all reporting requirements. Consultant shall immediately notify County of any incident or condition resulting in injury, harm, or risk of harm to any child or dependent adult served under this Contract.
 - B. Consultant will immediately notify County of any active complaints, lawsuits, licensing or regulatory investigations, reports of fraud or malfeasance, or criminal investigations regarding its operations. Consultant agrees to work cooperatively with County in response to any investigation commenced by County with regard to this Contract or the clients served herein, including providing any/all records requested by County related thereto.
 - C. Consultant shall employ reasonable background check procedures on all employees, prospective employees, volunteers and consultants performing work involving direct contact with minor children or dependent adults under this Contract, including fingerprinting and criminal records checks, sexual offender registry checks, and reference checks, including both personal and professional references.
30. **Certification of Documents Liability**
Consultant shall not be required to execute certificates, consents or reliance letters that would require knowledge, services or responsibilities beyond the scope of this Agreement, and shall not be required to sign any documents that would result in Consultant having to certify the existence of conditions whose existence Consultant cannot reasonably ascertain beyond its standard of care. County also agrees not to make resolution of any dispute with Consultant or payment of any amount due to Consultant in any way contingent upon Consultant's signing any such certification.
31. **Unauthorized Change to Plans**
In the event County, County's contractors or subcontractors or anyone for whom County is legally liable, makes or permits any changes beyond the final approval by the Building Official to be made to any reports, plans, specifications or other construction documents prepared by Consultant without obtaining Consultant's prior written consent, County agrees to waive any claim against Consultant and to release Consultant from any liability arising directly or indirectly from such changes. In addition, County agrees (1) to the fullest extent permitted by law, to indemnify and hold harmless Consultant in accordance with section 12 and (2) to include in any contracts for construction appropriate language that prohibits any contractor or subcontractors of any tier from making any changes or modifications to Consultant's construction documents without the prior written approval of Consultant and that further requires contractor to indemnify both Consultant and County from any liability or cost arising from such changes made without such proper authorization.

32. **Cost or Budget Estimate**

Consultant's services shall include a construction cost estimate with each plan set in accordance with the estimated cost for materials required for constructability. Pricing shall be in accordance with the cost price index for construction labor and building materials at the time the plans are approved by the Building Official.

It is recognized that neither Consultant nor County has control over the costs of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, Consultant and County cannot and does not warrant or represent that bids or negotiated prices to construct the part of the Project, unauthorized changes made in the field by Contractor or from an estimate of the Cost of the Work or evaluation prepared by Consultant will be consistent with the cost estimate provided at the time the Building Official has approved the building plans.

33. **Additional County Construction Services**

It is agreed that Consultant's services under this Agreement do not include project observation, review of the Contractor's performance or any other construction phase services. County assumes all responsibility for all construction phase services including, **but not limited to:**

- Site inspections
- issuance of permits
- Certificates of substantial and final completion

County waives any claims against Consultant that may be in any way connected with County's decision not to retain Consultant to performance construction phase services. County agrees, to the fullest extent permitted by law, to indemnify and hold harmless Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities.

34. **Waiver of Personal Liability**

It is intended by the parties to this Agreement that Consultant or its incorporated consultant(s) services, in connection with the Project, shall not subject Consultant or its consultant individual employees, officers or directors to any personal legal exposure for the risks associated with the Project or this Agreement, or any Addenda. Therefore, and notwithstanding anything to the contrary contained herein, County agrees that as County's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Consultant, a California corporation or its incorporated consultant(s), and not against any Consultant or its consultant individual employees, officers or directors.

35. **No Third Party Beneficiaries**

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either County or Consultant. Consultant's services hereunder are being performed solely for the benefit of County, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder, including any construction contractor or any construction subcontractor (regardless of tier), any employee or agent of the construction contractor or any subcontractor or any person, including any consultant of Consultant (regardless of tier), a third-party beneficiary of any obligations between County and Consultant.

36. **Jobsite Safety**

Consultant shall not supervise, direct or have control over general contractor or its subcontractors, regardless of tier, any employee or agent thereof (hereinafter "Contractor") work. Consultant shall not have authority over or responsibility for the construction means,

methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of Contractor. Consultant does not guarantee the performance of the construction contract by Contractor and does not assume responsibility for Contractor's failure to furnish and perform its work in accordance with the Construction Documents.

37. **Limited Ownership Transfer**

All documents prepared or furnished by CONSULTANT pursuant to this CONTRACT are CONSULTANT'S INSTRUMENTS OF SERVICE, have been prepared for use solely with respect to this PROJECT, and CONSULTANT shall retain an ownership and property interest therein. CONSULTANT grants COUNTY a license to use CONSULTANT'S INSTRUMENTS OF SERVICE for the purpose of marketing and providing fully approved plans sets specific to the PROJECT. Reuse or modification of any such documents by COUNTY outside of the scope of the PROJECT, without CONSULTANT'S written permission, shall be at COUNTY'S sole risk, and COUNTY agrees to indemnify and hold harmless CONSULTANT from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by COUNTY or by others acting through COUNTY.

COUNTY acknowledges that INSTRUMENTS OF SERVICE and other work product of CONSULTANT may be stored and delivered to COUNTY and others in electronic files ("Data"), and that anomalies and errors can be introduced into the Data when it is transferred or used in conjunction with incompatible computer equipment or software. CONSULTANT'S Data is being furnished "as is" and CONSULTANT shall have no duty to modify or update the Data. CONSULTANT reserves the right to retain an archival paper or electronic copy of the Data delivered to COUNTY or the general contractor which shall be referred to and shall be conclusive proof and govern in all disputes over the form or content of the Data furnished by CONSULTANT.

38. **Force Majeure**

Consultant shall not be responsible for delays caused by factors beyond Consultant's reasonable control, including but not limited to delays caused because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, , When such delays beyond Consultant's reasonable control occur, County agrees that Consultant shall not be held responsible for damages, nor shall Consultant be deemed in default of this Contract.

39. **Information Provided by Others**

Consultant shall be entitled to rely, without liability, on the completeness and accuracy of any and all information and data provided by County, County's consultants and contractors, with approval of the Building Official, without the need for independent verification. Notwithstanding the foregoing, Consultant shall use its reasonable judgment and experience in determining whether such reliance is advisable.

County will also require its consultants and contractors to promptly notify County if its consultants or contractor(s) observes or becomes aware of faults or defects in documents prepared by Consultant and County will provide prompt written notice to Consultant.

40. **Notification** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

COUNTY OF NEVADA:

Nevada County
Community Development Agency – Building Department
Address: 950 Maidu Ave.
City, St, Zip Nevada City, CA 95959
Attn: Craig Griesbach
Email: craig.griesbach@co.nevada.ca.us
Phone: 530-265-1583

CONSULTANT:

Name of firm
Jackson & Sands Engineering, Inc.
Address 900 E. Main Street Ste.# 102
City, St, Zip Grass Valley, CA 95945
Attn: Sean Jackson
Email: sean@jacksonandsandsengineering.com
Phone: 530-648-4232

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

Executed as of the day first above stated:

Authority: All individuals executing this Contract on behalf of Consultant represent and warrant that they are authorized to execute and deliver this Contract on behalf of Consultant.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

COUNTY OF NEVADA:

By: _____ Date: _____

Printed Name/Title: Honorable Dan Miller, Chair, of the Board of Supervisors

By: _____

Attest: Julie Patterson Hunter, Clerk of the Board of Supervisors

Approved as to Form – County Counsel:

By: _____ Date: _____

CONSULTANT: Jackson & Sands Engineering, Inc.

By: _____ Date: _____

Name: Sean Jackson

* Title: President

By: _____ Date: _____

Name: _Frank Sands_____

* Title: _____Secretary_____

****If Consultant is a corporation, this Contract must be signed by two corporate officers; one of which must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation (California Corporations Code Sec. 313).***

Exhibits

- A. Schedule of Services
- B. Schedule of Charges and Payments
- C. Insurance Requirements

EXHIBIT A

SCHEDULE OF SERVICES

Consultant shall provide Design, Drafting, & Engineering to support the Community Development Agency- Building Department to streamline the efforts of achieving affordable and workforce housing development, improving access to a less expensive and more streamlined permitting process and improving achievability of construction for housing in Nevada County, Sierra County, Placer County, Town of Truckee, City of Grass Valley, and City of Nevada City. Consultant will provide multi-disciplinary services including, but not limited to plan design, drafting, engineering and updates to final Plan Sets as needed for building code compliance.

1. Plans

Architectural design of single-family dwelling plans meeting the following three plan ranges and snow load design to support 30, 50, 70 and 490psf.

- a. **400-600sqft:**
2-story ADU with 1-bedroom, 1-bathroom over 2-car garage w/ exterior access to dwelling
- b. **600-800sqft:**
single-story 2-bedroom, 1-bathroom single-family dwelling/ADU w/ 1- car garage
- c. **1,000-1,200sqft:**
single story 3-bedroom, 2-bathroom single-family dwelling/ADU w/ 2-car garage

Each of the 3 layouts will have 1 roof plan included. The 600-800 and 1000-1200 sqft units will each have a garage option, which will change the roof plan for those units.

2. Reuse of Plan Sets

- 2.1 All complete/approved Plan Sets may be reused (provided to builders/customers) free of charge for up to 23 total uses (regardless of size or jurisdiction).
- 2.2 The reuse will include energy calculations being certified for an address specific site.
- 2.3 Additional use of the plans (beyond the 23) will be charged at a flat fee of \$1,200 each paid directly to the Consultant.
- 2.4 The Building Department shall maintain an active directory of Plan Sets that are reused. Directory shall include the following information but not limited to:
 - Customer Name
 - Subject Property location
 - Jurisdiction of subject property
 - Plan Set provided
 - General Contractor associated with the planned construction for the project
- 2.5 The Building Department shall provide a report to Consultant at minimum, bi-annually. The reuse report shall include the following information:
 - Number of Plan Set(s) reused
 - Types of Plan Set(s) reused

3. Consultant Responsibility to Support Reuse Plan Sets

- Consultant agrees to provide support to any person who assumes ownership of Reuse Plan Sets. Fees may apply and shall be charged directly to the person in possession of the Reuse Plan Set and paid directly to the Consultant for any changes needed or requested beyond the fully approved Plan Set.

4. Minimum Requirements for Plan Sets

Consultant must design, draft and engineer each plan set to include the below listed requirements at minimum.

- 4.1 Structural engineering for all structural components including but not limited to foundation, floor framing, roof framing, lateral loading, vertical loading, beam, and wall designs.
- 4.2 Prefabricated truss calculations for roof slopes must be between 4/12 and 6/12 pitches. Calculations shall include loading from a roof mounted solar photovoltaic system.
- 4.3 Minimal decks and stairways should be included in the designs as needed to meet minimum code requirements, architectural appeal and affordability.
- 4.4 Energy calculations must be designed for all building orientations.
- 4.5 Residential fire sprinkler plans and hydraulic calculations must include options for well and water meter connections. The fire sprinkler design must be completed by a licensed engineer.
- 4.6 Residential roof mounted solar photovoltaic plans and calculations must meet the mandatory solar design standards shown in the California Energy Code.
- 4.7 All plans and calculations must be designed to meet minimum code requirements in accordance with the California Code of Regulations, Title 24, 2019 California Building Standards Codes and adopted Nevada County, Placer County, City of Grass Valley, City of Nevada City, County of Sierra, and Town of Truckee Ordinances. If conflicts occur, Consultant to work directly with Nevada County Building Department staff to make modifications as necessary.
- 4.8 Plan designs must be separated into ground snow loading values of 30psf, 50psf, 70psf, and 490psf ground snow load including unbalanced snow loading and related high elevation design standards per state and local requirements.
- 4.9 Plan designs, calculations, and related submittal documents shall meet all minimum Nevada County, City of Grass Valley, City of Nevada City, County of Sierra, Town of Truckee and Placer County residential plan submittal and checklist requirements including plumbing, electrical, and telecommunication plans.
- 4.10 Typical site plans showing standard utility connections (i.e. sewer/septic, water, dry utilities) and standard drainage improvements around structures

5. Design Considerations

- 5.1. The design must have conventional framing and bracing methods to improve ease of construction and affordability. Encourage design and construction with limited mechanical hardware to limit material costs. High value shear walls should be avoided unless necessary.
- 5.2. Shall include central HVAC or ductless heat pump heating/cooling designs with options for wood and/or pellet stove installations.

- 5.3. Plans shall include open floor plans and passive solar designs as much as possible.
- 5.4. Design and engineering shall include foundation details for both slab-on-grade and raised floor construction assemblies to allow construction flexibility specific to the site conditions.
- 5.5. Designs shall include options for various Wildland Urban Interface (WUI) compliant siding and Class A roofing options as part of the building elevations including installation specifications.
- 5.6. Designs shall include some options for easy transition/adaptability for persons with disabilities with aging-in-place in mind.
- 5.7. Design shall include alternate elevations to change exterior/interior appearances for each master plan. This can be minor architectural options typical to designs for subdivision communities, garage option plans, etc.

6. Additional Requirements

- 6.1 Consultant shall include a release and approval from all design professionals involved in all plans allowing use of plans, calculations, and all associated documents. This shall allow use of these plans for all customers in the unincorporated areas of the County, the City of Grass Valley, the County of Sierra, the Town of Truckee, the City of Nevada City and Placer County. Trusses must be completed by Diamond Truss Company (or Consultants designated Truss company) and if proposed vendor is not Diamond Truss Company (or Consultants designated Truss Company) then the Customer must submit revised Truss Calcs to applicable Agency for review approval.
- 6.2 The Consultant shall have the ability to transfer and manage documents digitally using Adobe PDF, CAD. Consultant must digitally stamp/sign all associated documents and plans.
- 6.3 Consultant must model designs in such a format that is easy to share and market to the communities.
- 6.4 Consultant shall work directly with County Building Official to review and finalize all plan submittal packages for use. A complete and thorough plan review must be conducted by County upon Consultant design finalization.
- 6.5 The Consultant shall, within ten (10) working days after the effective date of the Contract, submit a timeline for plan completion to the County Building Official for review and approval.

7. Re-reviews and Building Code updates

- 7.1 Consultant will re-review and revise all final designs for building code updates in accordance to the California Building Standards Codes update schedule of changes.
- 7.2 First revision January 1, 2023. Cost to negotiated at that time. Each additional revision shall be based on negotiated cost and approved by County Building Official

8. County Obligations

- 8.1 County will coordinate plan review with the other jurisdictions to ensure expedited response and a centralized communication strategy.
- 8.2 County will develop all forms required for distribution of Plans to be sold to interested builders/owners/contractors for the construction of Plans.
- 8.3 County will develop marketing materials for distribution and advertising of Plans to perspective buyers.
- 8.4 County will coordinate all re-reviews and building code updates with Consultant as needed.

EXHIBIT B

SCHEDULE OF CHARGES AND PAYMENTS

1. Maximum Limit & Fee Schedule

Consultant's compensation shall be paid at the schedule shown below. Reimbursement of travel, lodging and miscellaneous expenses is not authorized. All expenses of Consultant, including any expert or professional assistance retained by Consultant to complete the work performed under this contract shall be borne by the Consultant.

The total of all payments made under this Contract shall not exceed the amount shown in Section 2 of this Contract, which is inclusion of 30, 50, 70 and 490psf plan sets.

2. Payment Schedule

The County will make progress payments upon receipt of fully approved invoice by the Building Official within thirty (30) days after the billing is received and approved by County and as outlined in Exhibit A for the not to exceed amount for Plan Sets and associated snow load design.

3. Fee Schedule

Additional services may be requested at the rates defined below

Jackson & Sands	
Classification	Rate
Senior Engineer/ Project Management	\$135.00
Junior Engineer	\$120.00
Drafting	\$100.00
Russell Davidson Architecture & Design	
Classification	Rate
Principle	\$148.50
Designer	\$132.00
Drafter	\$110.00
Melas	
Classification	Rate
Project Manager	\$187.00
Senior Designer	\$154.00
Energy Analyst	\$121.00
CAD Tech	\$99.00

4. Invoices

Invoices shall be submitted to County in a form and with sufficient detail as required by County including Plan Sets being worked on, number of hours performed, classification of staff and associated rates, Contract number and dates of services performed.

Work performed by Consultant will be subject to final acceptance by the County project manager(s).

Submit all invoices to:

Nevada County

Community Development Agency- Building Department

Address: 950 Maidu Ave.

City, St, Zip Nevada City, CA 95959

Attn: Vera De Ferrari

Email: CDAFiscal@co.nevada.ca.us

Phone: 530-265-1554

Unless otherwise agreed to by County, all payments owed by County to Consultant under this Contract shall be made by Automated Clearing House (ACH). In the event County is unable to release payment by ACH the Consultant agrees to accept payment by County warrant.

EXHIBIT C

INSURANCE REQUIREMENTS

Insurance. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. Coverage shall be at least as broad as:

- (i) **Commercial General Liability CGL:** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than, on an annual policy period basis, **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- (ii) **Commercial Automobile Liability** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. **(Note – required only if auto is used in performance of work, submit waiver to Risk for approval to waive this requirement)**
- (iii) **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than, on an annual policy period basis, **\$1,000,000** per accident for bodily injury or disease. **(Not required if Consultant provides written verification it has no employees).**
- (iv) **Professional Liability** (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than, on an annual policy period basis, **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (i) **Additional Insured Status: The County, its officers, employees, agents, and volunteers are to be covered as additional insureds** on the Commercial General Liability policy with respect to liability arising out of the work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. Commercial General liability coverage can be provided in the form of an endorsement to the Consultant’s insurance (at least as broad as ISO Form CG 20 10 04 13 or both CG 20 10, CG 20 25, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used.)
- (ii) **Primary Coverage** For any claims related to this contract, the **Consultant’s insurance with the exception of Worker’s compensation, Employers’ Liability and Professional Liability policies, shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, employees, agents, and volunteers. Any insurance or self-insurance maintained by the County, its officers, employees, agents,

and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

- (iii) **Notice of Cancellation** This policy shall not be changed without Consultant's insurance company first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Nevada.
- (iv) **Waiver of Subrogation** Consultant hereby grants to County a waiver of any right to subrogation which any insurer or said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- (v) **Sole Proprietors** If Consultant is a Sole Proprietor and has no employees, they are not required to have Workers Compensation coverage. Consultant shall sign a statement attesting to this condition, and shall agree they have no rights, entitlements or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees.
- (vi) **Deductible and Self-Insured Retentions** Deductible and Self-insured retentions must be declared to and approved by the County. The County may require the Consultant to provide proof of ability to pay losses and related investigations, claims administration, and defense expenses within the retention. The Policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County. **(Note – all deductibles and self-insured retentions must be discussed with risk, and may be negotiated)**
- (vii) **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- (viii) **Claims Made Policies** if any of the required policies provide coverage on a claims-made basis: **(note – should be applicable only to professional liability)**
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If the coverage is canceled or non-renewed, and not replaced with another **claims-made policy form with a Retroactive Date**, prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.
- (ix) **Verification of Coverage** Consultant shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain and provide verification of the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- (x) **SubConsultants** Consultant shall require and verify that all subConsultants maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that County is an additional insured on insurance required from subConsultants. For CGL coverage subConsultants shall provide coverage with a format at least as broad as CG 20 38 04 13.

(xi) **Special Risks or Circumstances** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

County's right to require Consultant to obtain higher insurance policy limits, or obtain additional insurance policies, shall not exceed:

1. Professional Liability Insurance: Not subject to increase beyond required two million (\$2,000,000) per claim, and two million (\$2,000,000) aggregate limit.
2. Commercial General Liability: Two million (\$2,000,000) per occurrence, and four million (\$4,000,000) general aggregate limit.
3. Excess (Umbrella) Liability Insurance: Two million (\$2,000,000) each occurrence, and two million (\$2,000,000) general aggregate limit.
4. Additional Insurance Policy: Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limit no less than, on an annual policy period basis, (\$2,000,000) per occurrence or claim, (\$2,000,000) aggregate.

County's right to require Consultant to list a new additional insured(s) under (2) and 3) above shall be subject to mutual agreement, such consent to not be unreasonably withheld, and subject to written amendment to this Agreement.

The additional premium attributable to such increases in coverage shall be promptly reimbursed by County.

(xi) **Conformity of Coverages** If more than one policy is used to meet the required coverages, such as an umbrella policy or excess policy, such policies shall be following form with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

(xii) **Premium Payments** The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

(xiii) **Material Breach** Failure of the Consultant to maintain the insurance required by this Contract, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Contract.

(xiv) **Certificate Holder** The Certificate Holder on insurance certificates and related documents should read as follows:

County of Nevada
950 Maidu Ave.
Nevada City, CA 95959

Upon initial award of a contract to your firm, you may be instructed to send the actual documents to a County contact person for preliminary compliance review.

Certificates which amend or alter the coverage during the term of the contract, including updated certificates due to policy renewal, should be sent directly to Contract Administrator.

SUMMARY OF CONTRACT

Consultant Name Jackson & Sands Engineering, Inc.

Description of Services Professional Drafting, Architectural, and Engineering Services for Affordable Housing Master Plans

SUMMARY OF MATERIAL TERMS

Max Annual Price: \$229,000

Contract Start Date: 10/12/2021

Contract End Date: 6/30/2023

Liquidated Damages: N/A

INSURANCE POLICIES

FUNDING:

Commercial General Liability (\$2,000,000)	Click or tap here to enter text.
Automobile Liability (\$1,000,000)	Click or tap here to enter text.
Worker's Compensation (Statutory Limits)	
Professional Errors and Omissions(\$2,000,000)	

LICENSES AND PREVAILING WAGES

Designate all required licenses: Licensed engineers and Licensed Architect on behalf of proposed Subconsultant for this work.

NOTICE & IDENTIFICATION

COUNTY OF NEVADA:

CONSULTANT:

Nevada County
 Community Development Agency – Building Department
 Address: 950 Maidu Ave.
 City, St, Zip Nevada City, CA 95959
 Attn: Craig Griesbach
 Email: craig.griesbach@co.nevada.ca.us
 Phone: 530-265-1583

Name of firm
 Jackson & Sands Engineering, Inc.
 Address 1250 East Ave. #10
 City, St, Zip Chico, CA 95926
 Attn: Sean Jackson
 Email: sean@jacksonandsandsengineering.com
 Phone: 530-648-4232

Consultant is a: (check all that apply)

- Corporation: Calif., Other, LLC,
- Non- Profit Corp Yes No
- Partnership: Calif., Other, LLP, Limited
- Person: Individ., Dba, Ass'n Other

EDD Worksheet Required

Yes No

ATTACHMENTS

- Exhibit A:** Schedule of Services
- Exhibit B:** Schedule of Charges and Payments
- Exhibit C:** Insurance Requirements