

LICENSE AGREEMENT GRANTING RIGHT OF ENTRY

This LICENSE AGREEMENT GRANTING RIGHT OF ENTRY is made by and between Shasta-Tehama-Trinity Joint Community College District (hereinafter called "Owner"), and the County of Shasta, a political subdivision of the State of California (hereinafter collectively called ("County"), (collectively, the "Parties") with respect to the following:

RECITALS

WHEREAS, the Parties are constructing bicycle facilities as part of Shasta County's Old Oregon Trail & Shasta College Drive ATP Project – Contract No. 704008; and

WHEREAS, the Owner possesses certain real property identified as Assessor's Parcel No. 076-030-008 in the incorporated/unincorporated area of Shasta County, shown on the attached plat, Exhibit "A" attached hereto and incorporated herein. (the "Property"); and

WHEREAS, The terms and conditions of this license is contained within the previously executed Intergovernmental Agreement between the County of Shasta and Shasta-Tehama-Trinity Joint Community College District (Shasta College), as shown on Exhibit "B", attached hereto and made apart hereof; and

WHEREAS, Owner is willing to make the Property available for such use under certain conditions.

NOW THEREFORE, the following is agreed by and between the Parties.

1. GRANT OF LICENSE.

A. Subject to the further provisions of this License, Owner hereby grants a nonexclusive, revocable license to County to enter upon the above-described property for the purpose of studying, surveying, and constructing bicycle facilities. This License Agreement is only a license to utilize the Property and is not a grant of an easement or any other interest in the Property. This Agreement does not grant a right to exclusive use of any particular part of the Property. County understands and agrees that other potential licensees and Owner and its representatives will also have access to the Property.

B. It is further understood that the performance of this work shall not be deemed the acceptance of any dedication to the public nor shall it in any way be deemed to infer or create an obligation on behalf of the County to perform any future maintenance of the Property.

2. TERMS OF LICENSE.

A. This License entitles County employees, consultants, and contractors to enter upon the

above-described property for the purpose of constructing bicycle facilities.

B. County shall not assign the license granted by this Agreement without the written consent of Owner.

3. TERMINATION/REVOCATION FOR CAUSE.

This License shall continue until terminated with or without cause by either of the Parties, upon 90 days written notice to the other party. The License granted by this Agreement may also be revoked for cause at the discretion of Owner for any of the following reasons: (1) violation of any term of this License Agreement; (2) any act or omission on the part of County which results in damage to or destruction of the Property or of any personal property stored in or located at the Property; or (3) violation of any law, rule, or ordinance when on, in, or around the Property. Prior to any such termination, however, Owner shall give County a reasonable time period, not to exceed 30 days, in which to correct violations, acts, or omissions, or make substitute arrangements.

4. INDEMNITY

A. County's Indemnification. County shall indemnify and hold Owner and its officers, directors, agents and employees harmless from and defend Owner and its officers, agents, directors and employees against any and all claims of liability for any injury, death, or damage to any person or property occurring in or on the Premises when such injury, death or damage is caused in part or in whole by the neglect, fault or omission of any duty with respect to the same by County, its agents, contractors or employees. County shall further indemnify and hold Owner and its officers, agents, directors and employees harmless from and against any and all claims arising from any negligence or wrongdoing of County or any of its elected officials, officers, volunteers, agents, contractors, and employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. If an action or proceeding is brought against Owner by reason of any such claim, County, upon notice from Owner, shall defend the same at County's expense provided, however, the County shall not be required to defend nor be liable for damage, injury or death occasioned by the active or passive negligence or intentional acts of Owner or its agents, contractors, or employees. Owner shall provide notice to County within 10 days of receipt or notice of any claim.

B. Owner's Indemnification. Owner shall indemnify and hold County, its elected officials, officers, employees, agents, and volunteers harmless from and defend County against any and all claims of liability for any injury, death, or damage to any person or property occurring in, on or about the Premises when such injury, death or damage is caused in part or in whole by the neglect, fault or omission of any duty with respect to the same by Owner, its agents, contractors or employees. Owner shall further indemnify and hold County, its elected

officials, officers, employees, agents, and volunteers harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under the terms of this license, or arising from any negligence or wrongdoing of Owner, or any of its agents, contractors or employees and from and against all costs, attorney's fees (including fees of County Counsel), expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. If an action or proceeding is brought against County by reason of any such claim, Owner, upon notice from County, shall defend the same at Owner's expense provided, however, that Owner shall not be liable for damage or injury occasioned by the active or passive negligence or intentional acts of County or its agents or employees. County shall be required to provide notice to the Owner within 10 days of receipt or notice of any claim.

4. GOVERNING LAW.

This License will be governed by the laws of California. If any term or provision of this License is found to be unenforceable or void, the term or provision concerned will be construed as enforceable to the maximum extent allowed by law, and the remainder of this Agreement will remain in full force and effect. County agrees that the exclusive venue for any dispute arising out of the relationship of the Parties to this License will be Shasta County, California.

8. AMENDMENT.

This Agreement contains all representations and the entire understanding and agreement between the Parties with respect to this License Agreement Granting Right of Way. This License may not be modified, amended, or changed without the written consent of the Parties.

9. NO PARTY DEEMED DRAFTER.

In the event of a dispute between any of the Parties hereto over the meaning of this Agreement, no party shall be deemed to have been the drafter hereof, and the principle of law that contracts are construed against the drafter does not and shall not apply.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereto have caused this License Agreement Granting Right of Entry to be executed by their duly authorized representatives on the days and year set forth below:

SHASTA-TEHAMA-TRINITY JOINT
COMMUNITY COLLEGE DISTRICT



MORRIS RODRIGUE
Vice President of Administrative Svs.

Date 8/24/17

COUNTY OF SHASTA

DAVID A. KEHOE, CHAIRMAN
Board of Supervisors
County of Shasta County
State of California

Date _____

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
RUBIN E. CRUSE, JR.
County Counsel

By _____
Deputy

By 

David M. Yorton, Jr.
Senior Deputy County Counsel

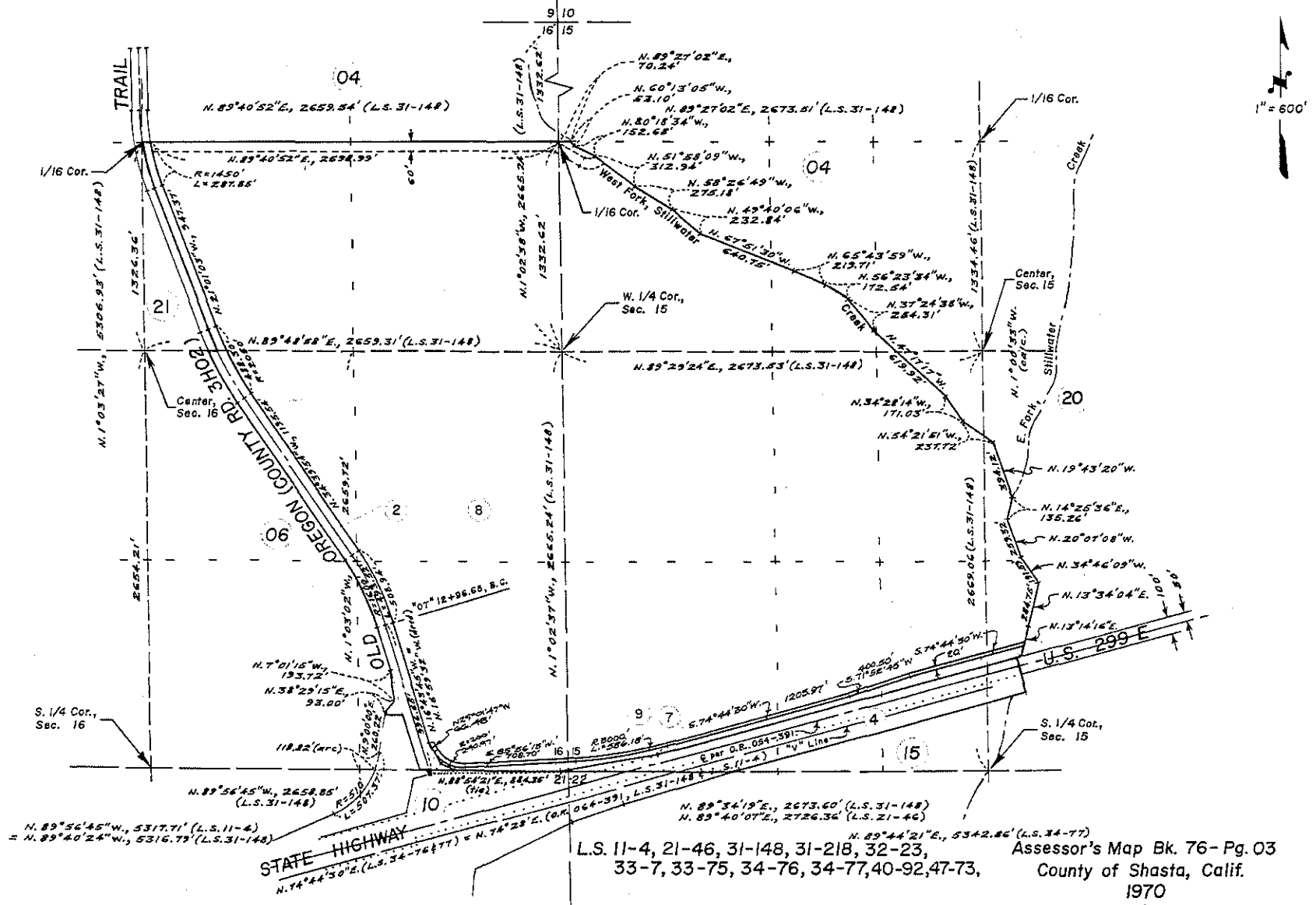
RISK MANAGEMENT APPROVAL

By 

Jim Johnson
Risk Management Analyst III

POR. OF E. 1/2, SEC. 16; & POR. OF W. 1/2 & POR. OF S.E. 1/4, SEC. 15, T. 32N., R. 4W.

76-03



NO WITHHOLDING

This agreement is entered into between the County of Shasta, a political subdivision of the State of California through the Department of Public Works ("County"), and Shasta College.

- A. Pursuant to the terms and conditions of this agreement, Shasta College shall provide a portion of the funding for the construction of bicycle facilities on Old Oregon Trail and the Shasta College South Entrance as part of a State funded Active Transportation Project. Shasta College's share of the project funding shall be 10% of the total project cost not to exceed \$70,000.
- B. Shasta College shall grant a license to the County employees, consultants, and contractors to enter upon campus property to survey, study, and construct bicycle facilities subject to the prior written approval of the College, which shall not be unreasonably withheld.
- C. Shasta College shall remit \$70,000 to Shasta County prior to County's award of a construction contract for the project. Contract award date is anticipated to take place on or after June 1st, 2018 with a project completion date of September 30th, 2018.
- D. Shasta College shall provide a single point of contact for the project duration. Said contact shall have authority to make all non-monetary project decisions on Shasta College's behalf.
- E. Shasta College agrees to maintain project facilities located on its campus after project completion and shall assume all risk, liability and indemnification of County for any and all claims made which are related in any way to the project facilities on College property after project completion.

A. County shall perform all duties under the State's Active Transportation Program as the lead agency in the approval, design, permitting, inspection, and construction of the bicycle facilities in accordance with State regulation and under the direction of the CALTRANS Local Assistance Program. In particular, County shall ensure that any contractors and subcontractors are duly licensed, insured and registered with the Department of Industrial Relations; and that contractors are informed of the obligation to pay the prevailing wage. A payment bond shall be required of the contractor. County agrees to keep College property free of any lien or stop notice.

- B. County agrees to refund to the College 10% of the total cost savings should the total project costs amount to less than \$700,000. Said amount shall be refunded from the amount remitted in Section 1C of this agreement.
- C. County shall provide preliminary plans (50% complete) to the College for review and comment prior to proceeding to final design of the project.
- D. Any refunds due the College under this agreement will take place after the filing of the Notice of Completion for the project.

3. **COMPENSATION.**

Shasta College shall provide a portion of the project costs in accordance with Sections 1 and 2 above.

4. **BILLING AND PAYMENT.**

Invoicing will not be required under this agreement.

5. **TERM OF AGREEMENT.**

The term of this agreement shall commence on the date of signing, and end upon the filing of the notice of completion or final refund of funds to Shasta College whichever is later, unless the agreement is terminated as provided below.

6. **TERMINATION OF AGREEMENT.**

- A. County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased during the term of this agreement.
- B. County's right to terminate this agreement may be exercised by the Shasta County Board of Supervisors, the Shasta County Executive Officer or his or her designee or the Shasta County Public Works Director.
- C. In addition to the foregoing, County may also terminate this agreement immediately, upon oral notice to Shasta College, for any of the following reasons:
 - (1) Lack of adequate funding from federal, state, or County sources;
 - (2) Injunctions or order of any court of competent jurisdiction or finding or determination of any governmental administrative body or agency having competent jurisdiction; or
 - (3) Any other cause beyond the control of County requiring termination.
- D. In the event of termination, County shall refund any sums previously paid to the County by the District for the project and shall return College property

to the condition that existed prior to the signing of the agreement, unless the parties agree in writing otherwise.

7. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS.

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the parties hereto. Shasta College shall be entitled to no other benefits other than those specified herein. Shasta College specifically acknowledges that in entering into and executing this agreement, Shasta College relies solely upon the provisions contained in this agreement and no others.
- B. No changes, amendments or alterations to this agreement shall be effective unless in writing and signed by both parties. However, minor amendments that do not result in a substantial or functional change to the original intent of this agreement and do not cause an increase to the maximum amount payable under this agreement may be agreed to in writing between Shasta College and the County's Public Works Director, as long as the parties use County's standard format amendment contained in the *Shasta County Contracts Manual* (Administrative Policy 6-101).
- C. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

8. NONASSIGNMENT OF AGREEMENT; NON-WAIVER.

Inasmuch as this agreement is intended to secure project funding Shasta College may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of County. The waiver by County of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

9. EMPLOYMENT STATUS OF SHASTA COLLEGE.

Shasta College shall, during the entire term of this agreement, be construed to be an independent contractor, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Shasta College performs the work or services that are the subject matter of this agreement; provided, however, that the work or services to be provided by Shasta College shall be provided in a manner consistent with the professional standards applicable to such work or services. The sole interest of County is to insure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. Shasta College shall not be eligible for coverage under County's workers' compensation insurance plan nor shall Shasta College be eligible for any other County benefit.

10. INDEMNIFICATION.

Each party shall defend, indemnify, and hold the other party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expenses (including reasonable attorney's fees), or claims for injury or damage arising out of the performance of this agreement, but only in proportion to and to the extent such liability, loss, expenses (including reasonable attorney's fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officials, officers, employees, agents, subcontractors, or volunteers. This provision shall survive the completion of the project.

11. INSURANCE COVERAGE.

- A. Without limiting Shasta College's duties of defense and indemnification, Shasta College shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other insurance necessary to protect the County and the public with limits of liability of not less than \$1 million combined single limit bodily injury and property damage; such insurance shall be primary as to any other insurance maintained by County. The College may self-insure to comply with the insurance requirement.
- B. Shasta College shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover Shasta College, subcontractor, Shasta College's partner(s), subcontractor's partner(s), Shasta College's employees, and subcontractor(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Shasta College or subcontractor. Shasta College hereby certifies that Shasta College is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Shasta College shall comply with such provisions before commencing the performance of the work or services prescribed in this agreement.
- C. With regard to all insurance coverage required by this agreement:
 - (1) Any deductible or self-insured retention exceeding \$25,000 for Shasta College shall be disclosed to and be subject to approval by County's Risk Manager prior to the effective date of this agreement.
 - (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Shasta College shall maintain such insurance coverage with an effective date earlier or equal to the effective date of this agreement and continue coverage for a period of three years after the expiration of this agreement and any extensions thereof. In lieu

of maintaining post-agreement expiration coverage as specified above, Shasta College or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported three years after the expiration date of this agreement.

- (3) All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance that names *Shasta County, its elected officials, officers, employees, agents, and volunteers as additional insureds* and provides that when coverage is *reduced or cancelled, a notice of said reduction or cancellation shall be provided to the County within 24 hours*. Any available insurance proceeds in excess of the specified minimum limits and coverage pursuant to the terms of this agreement shall be applicable to the Additional Insured. The additional insureds coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations, and CG 20 37 for completed operations.
- (4) Each insurance policy (except for workers' compensation and professional liability policies), or endorsement thereto, shall contain a "separation of insureds" clause which shall read:

"Separation of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
 - b. Separately to each suit insured against whom a claim is made or suit is brought."
- (5) Shasta College shall provide County with an endorsement or amendment to Shasta College's policy of insurance as evidence of insurance protection before the effective date of this agreement.
 - (6) The insurance required herein shall be in effect at all times during the term of this agreement. In the event any insurance coverage expires at any time during the term of this agreement, Shasta College shall provide, at least 20 days prior to said expiration date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein for not less than the remainder of the term of this agreement or for a period of not less than one year. In the event Shasta College fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within 10 days of the expiration of the endorsement or policy amendment in effect at inception of this agreement,

County may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, Shasta College shall provide County a certificate of insurance reflecting those limits.
- (8) Any of Shasta College's Excess Insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the County.

12. NOTICE OF CLAIM/APPLICABLE LAW/VENUE.

- A. If any claim for damages is filed with Shasta College or if any lawsuit is instituted concerning Shasta College's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect County, Shasta College shall give prompt and timely notice thereof to County. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit.
- B. Any dispute between the parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Shasta County and no other place.

13. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. The parties shall observe and comply with all applicable federal, state, and local laws, ordinances, and codes that relate to the work or services to be provided pursuant to this agreement.
- B. The parties shall not discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV and AIDS) physical or mental disability or use of family care leave.
- C. The parties agree that they are in compliance with and shall continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.

14. ACCESS TO RECORDS/RETENTION.

County, federal, and state officials shall have access to any books, documents, papers, and records of Shasta College that are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of Shasta College or County. Except where longer retention is required by federal or state law, Shasta College shall maintain all records for five years after County makes final payment hereunder.

15. **SHASTA COLLEGE'S COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT REPORTING OBLIGATIONS.**

Shasta College's failure to comply with state and federal child, family, and spousal support reporting requirements regarding Shasta College's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this agreement. Shasta College's failure to cure such default within 90 days of notice by County shall be grounds for termination of this agreement.

16. **LICENSES AND PERMITS.**

Shasta College shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, County, and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement by County.

17. **PERFORMANCE STANDARDS.**

Shasta College shall perform the services required by this agreement in accordance with the industry and/or professional standards applicable to Shasta College's services.

18. **CONFLICTS OF INTEREST.**

Shasta College and Shasta College's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of the work or services required under this agreement.

19. **NOTICES.**

- A. Except as provided in section 6.C. of this agreement (oral notice of termination due to insufficient funding), any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first-class mail to the following addresses:

If to County: Public Works Director
County of Shasta
1855 Placer Street
Redding, CA 96001

If to Shasta College: Vice President Administrative Services
Shasta-Tehama-Trinity Joint
Community College District
P.O. Box 496006
Redding, CA 96049-6006

- B. Written notice shall be deemed to be effective two days after mailing. Any oral notice authorized by this agreement shall be deemed to be effective immediately.

20. AGREEMENT PREPARATION.

It is agreed and understood by the parties that this agreement has been arrived at through negotiation and that neither party is to be deemed the party which created any uncertainty in this agreement within the meaning of Civil Code section 1654.

21. COMPLIANCE WITH POLITICAL REFORM ACT.

Shasta College shall comply with the California Political Reform Act (Government Code sections 87100, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with County's Conflict of Interest Code, with regard to any obligation on the part of Shasta College to disclose financial interests and to recuse from influencing any County decision which may affect Shasta College's financial interests. If required by County's Conflict of Interest Code, Shasta College shall comply with the ethics training requirements of California Government Code section 53234 *et seq.*

22. SEVERABILITY.

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or County ordinance, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, County and Shasta College have executed this agreement on the day and year set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the party on whose behalf his/her execution is made.

Date: APR 26 2016

COUNTY OF SHASTA

Pam Giacomini
PAM GIACOMINI, CHAIRMAN
Board of Supervisors, County of Shasta
State of California

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

By: Mary Hunt
Deputy

Approved as to form:
RUBIN E. CRUSE
County Counsel

FORM APPROVED
Shasta College

By: David M. Yorton, Jr.
David M. Yorton, Jr.
Senior Deputy County Counsel

By: _____

RISK MANAGEMENT APPROVAL

By: Jim Johnson 4/12/16
Jim Johnson
Risk Management Analyst I

SHASTA-TEHAMA-TRINITY JOINT
COMMUNITY COLLEGE DISTRICT

ATTEST:

, Clerk

By: Morris Rodrigue
Name: Morris Rodrigue
Title: Vice President of Administrative Svs.

By: _____