

**COUNTY OF MENDOCINO
CONSTRUCTION MANAGEMENT FOR THE
NORTH STATE STREET OVER ACKERMAN CREEK
BRIDGE REPLACEMENT PROJECT**

MENDOCINO COUNTY DEPARTMENT OF TRANSPORTATION ♦ UKIAH, CA 95482 ♦

REQUEST FOR PROPOSAL



CONSTRUCTION MANAGEMENT, INSPECTION, AND MATERIALS TESTING

**DOT PROJECT NO. A1101
FEDERAL PROJECT NUMBER BHLS-5910(081)**

RFP No.	DOT #240007
RFP Issue Date:	May 3, 2024
RFP Submission Deadline:	May 17, 2024
Issued by:	Department of Transportation

REQUEST FOR PROPOSAL
CONSTRUCTION MANAGEMENT FOR THE
NORTH STATE ST OVER ACKERMAN CREEK BRIDGE REPLACEMENT PROJECT
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I. INTENT

This Request for Proposal (RFP) announces the intent of the Mendocino County Department of Transportation (MCDOT) to secure the services of a qualified consultant to provide construction management, inspection, labor compliance, and material testing services to assist MCDOT in the construction oversight of the North State Street over Ackerman Creek Bridge Replacement Project.

This contract has a Disabled Business Enterprise (DBE) goal of 25%.

II. DEFINITIONS

COUNTY – The County of Mendocino.

VENDOR – A person, partnership, firm, corporation, or joint venture submitting a proposal to obtain a COUNTY contract.

CONSULTANT – A vendor who signs a contract with the COUNTY to perform services.

III. PROPOSAL SUBMISSION GUIDELINES

A. Vendors must submit four (4) copies of their proposal: three (3) complete paper copies with original Vendor signature, and one (1) complete copy on USB Flash Drive. The proposal must be formatted in accordance with the instructions of this RFP. Promotional materials may be attached but are not necessary and will not be considered as meeting any of the requirements of this RFP. Proposals must be enclosed in a sealed envelope or package, clearly marked “Mendocino County RFP No. 240007”, and delivered by 3:00 p.m. May 17, 2024 to:

Mendocino County Department of Transportation
340 Lake Mendocino Drive
Ukiah, CA 95482-9432
Attn: Rygg Larsen

Late or facsimile proposals will not be accepted. It is the proposer’s responsibility to assure that its proposal is delivered and received at the location specified herein, on or before the date and hour set. ***Proposals received after the date and time specified will not be considered.*** Note: The unauthorized use of the County’s official logo is strictly prohibited.

- B. Proposers are required to submit with their proposal:
- Attachment A – Proposal Summary and Statement of Responsibility
 - Attachment B – Proposal Checklist/Table of Contents
 - Executive summary of proposal/Introductory Letter
 - Company background and Experience
 - Project Understanding and Approach
 - Scope of Work
 - Project Team Resumés
 - Attachment C – Exceptions to RFP
 - Attachment D – Letters of Reference
 - Attachment E – Certificate of Non-collusion
 - Attachment G – LAPM Exhibit 10-O1: Consultant Proposal DBE Commitment
 - Attachment H – LAPM Exhibit 15-H: Proposer Good Faith Effort
 - Insurance coverage/certificate of insurance
 - Acknowledgement of receipt of addenda, if applicable.
 - Conflict of Interest Statement
 - Attachment L – Certificate of Indirect Costs and Financial Management System
- C. Proposers are expected to examine all provisions, specifications, and instructions included in this RFP. Failure to do so will be at the proposer’s risk.
- D. All prices and proposals must be typed or written in ink. No erasures are permitted. Errors may be crossed out; corrections may be printed in ink or typed adjacent to the error and initialed in ink by the person authorized to sign the bid. **Facsimile, telephone, electronic or verbal proposals will not be accepted.**
- E. Prices shall be stated in the format as requested herein. Where indicated, Vendor shall provide unit of issue and cost per unit. In the event of a discrepancy between the unit price and the extended price for any item, the unit price shall prevail.
- F. All proposals must be dated and signed by a representative authorized to enter into contracts for the proposing vendor.
- G. All proposals will remain in effect and legally binding for at least 90 days from the opening date.
- H. Expenses incurred in preparation of the proposal, site visits, or any other actions related to responding to this RFP shall be the responsibility of the vendor. Any and all damages that may occur due to packaging or shipping of the proposal will be the sole responsibility of the vendor.
- I. All proposals, response inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts, displays, schedules, exhibits and other documentation submitted by vendors shall become the property of the County of Mendocino.
- J. Time when stated as a number of days shall include Sundays through Saturdays, excluding legal holidays.

- K. Vendors must examine all information and materials contained in and accompanying its proposal. Failure to do so will be at the vendor's risk. This will include, but not be limited to, all relevant laws and regulations of the State of California and the United States Government.
- L. The successful vendor will be subject to verification of non-fraud and for listing on the list for debarred contractors/consultants per federal funding requirements.
- M. If proposed, the County reserves the right to obtain equipment items through its own purchase programs.
- N. The County of Mendocino encourages all vendors to participate in our ePayables program as our preferred payment method. The County's ePayables program is designed to provide the highest level of efficiency and service to our vendors ensuring that payments are received in a timely cost efficient manner (please refer to Attachment J- Sample Mendocino County Contract).

IV. PRE-SUBMITTAL INQUIRIES AND POINTS OF CONTACT

- A. Pre-submittal inquires and correspondence shall be directed to:
 - Procedural and Technical inquires:

Rygg Larsen
larsenr@mendocinocounty.gov

- B. All questions regarding this RFP shall be submitted in writing by e-mail.
- C. Questions will be answered as quickly as is practicable. A summary of all questions and responses will be posted on the County website by 4:30pm the first Monday following the inquiry deadline.

<https://www.mendocinocounty.org/departments/transportation/rfps-rfqs-projects-to-bid>

It is the responsibility of all interested firms to access the website for this information.

- D. If a question triggers the need for an addendum to this RFP, an addendum will be issued by 4:30pm the first Monday following the inquiry deadline. It is the responsibility of all interested firms to access the website for this information.

Vendors must include in their proposals, acknowledgement of any and all addenda issued.

- E. The deadline for submitting written inquiries regarding this RFP is indicated in **Section VI - SCHEDULE OF ACTIVITIES.**
- F. Questions submitted after the inquiry deadline will not be answered. Only answers to questions communicated by formal written addenda will be binding.
- G. Mendocino County requires that other Mendocino County management and employees not be contacted by Vendors during the RFP process. **Failure to comply**

with this requirement may disqualify those proposals from further consideration. Contact is limited to the Mendocino County RFP Representatives listed above for any and all technical and procedural inquiries.

V. MODIFICATIONS OR WITHDRAWAL OF PROPOSALS

- A. A proposal that is in the possession of the County may only be altered by letter or facsimile bearing the signature or name of the vendor’s authorized representative, provided it is received **prior to the deadline for submission of proposals**. Telephone, email or verbal alterations will not be accepted.
- B. A proposal that is in the possession of the County may be withdrawn by the proposer **up to the time of the deadline for submission of proposals**.

VI. SCHEDULE OF ACTIVITIES

The County intends to progress in this procurement in a series of orderly steps. The schedule that follows has been developed in order to provide adequate information for vendors to prepare definitive Proposals and to permit Mendocino County to fully consider various factors that may affect its decision. **This schedule is subject to change at the discretion of the County. The County will provide sufficient advance notice to vendors in the event of schedule changes.**

Scheduled Activity	Proposed Date
Letter of interest and Request for Proposal mailed to prospective proposers and posted to County website	May 3, 2024
Inquiry Deadline	May 10, 2024
RFP Submission Deadline	May 17, 2024
RFP Selection and Notification	May 24, 2024
County Board of Supervisors Approval of Recommendation(s)	June 25, 2024
Approximate Contract Start Date	June 26, 2024

VII. SELECTION PROCESS

- A. The County reserves the sole right to judge the contents of vendors’ proposals. The selection process will be governed by the following criteria:
 - 1. The proposals must adhere to the instructions and format as specified in this RFP.
 - 2. The evaluation will include a review of all documents and information relating to the vendor’s services, organizational structure, capabilities, qualifications, past performance, and costs.
 - 3. Vendors may be required to make an oral presentation and interview before final selection is made.
 - 4. The County may evaluate any information from any source it deems relevant to the evaluation.

5. False, incomplete, or unresponsive statements in a proposal may be sufficient cause for its rejection.

VIII. SELECTION CRITERIA

- A. The selection of vendor(s) and subsequent contract award(s) will be based on the criteria contained in this RFP, and as demonstrated in the submitted proposal. Vendor(s) should submit information sufficient for the County of Mendocino to easily evaluate proposals with respect to the selection criteria. The absence of required information may cause the proposal to be deemed non-responsive and may be cause for rejection.
- B. Funding determinations for this RFP will be made through a competitive procurement process and shall be in accordance with all applicable federal, state, and local procurement laws and regulations.
- C. Competitive negotiations require that at least two (2) responsive proposals for the same scope of work and service area must be received in response to an RFP. A competition is considered failed if only one (1) responsive proposal is received. If a competition has been declared failed, the County of Mendocino then has the option to re-compete the procurement or enter into sole-source procurement.
- D. At its sole discretion, MCDOT may conduct interviews with the top ranked vendor. This process may include a request for a presentation from the finalists, proposal fact finding and negotiation of contract terms and conditions at no cost to the County. The presentation may be web-based or in-person.
- E. Proposal Review and Evaluation Process
 1. The proposal will be judged based on service capabilities and experience of the prospective vendor and all persons who will be providing services under contract. The following are the critical areas of the proposals that will be evaluated:
 - a. Adequacy of the described plan/approach to deliver requested services as described in Section XI SCOPE OF SERVICES.
 - b. Experience of the vendor in providing services and quality of work.
 - c. Status of Professional Certification including whether the vendor meets the minimum requirements to provide service.
 - d. All criteria identified in Attachment I, Proposal Evaluation Form.

IX. AWARD AND CONTRACT INFORMATION

- A. The County hereby notifies all proposers that it will affirmatively ensure that minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation, and that no proposer shall be discriminated against on the grounds

of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.

- B. Vendor agrees that should it be awarded a contract, the vendor shall not discriminate against any person who performs work thereunder because of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.
- C. The County will select the vendor whose proposal is determined by the County to be the most responsive and responsible proposal and of the best advantage to the citizens of Mendocino County. The County reserves the right to reject any proposals and to accept the proposal or proposals which in its sole and absolute judgment shall, under all circumstances, best serve the interests of the County.
- D. The successful vendor will be required to enter into and sign a formal agreement with the County, which agreement will be in effect for the duration of the contract period. A sample contract is attached to this Request for Proposal as Attachment J. It is the vendor's responsibility to review the contract's terms and conditions and to state any exceptions to those conditions in its response to the Request for Proposals (Attachment C). If no exceptions are noted, the County will understand that the vendor agrees to the terms and conditions as stated in the contract.
- E. The terms and conditions of this Request for Proposal as well as the vendor's proposal, and any modifications to said proposal agreed to in writing by both parties shall become a part of the contract.
- F. Prior to final selection, vendors may be required to submit any additional information that Mendocino County may deem necessary to determine the vendor's qualifications. Information submitted in response to a RFP is subject to public disclosure as permitted by the California Public Records Act. Additionally, all proposals and information submitted shall become the property of the County. The County reserves the right to make use of any information or ideas in the proposals submitted.
- G. Open Procurement
 - 1. The vendor shall include any latitudes, prohibitions or limitations placed on the purchase of the items presented in the vendor's Proposal. Items and/or services that the vendor intends to be offered on a unit price basis must be so identified. [The County's objective is to clarify all purchase options.]
 - 2. Mendocino County reserves the right to negotiate changes to the original Proposal(s), including changes in system cost and/or unit price.
 - 3. Mendocino County reserves the right to accept or reject any or all Proposals in whole or in part.
 - 4. Mendocino County reserves the right to negotiate a contract with more than one vendor at the same time.

H. Local Vendor Preference:

1. The County of Mendocino has established a local vendor preference. All informal and formal Invitations to Bid and Request for Proposals for contracts are evaluated with a 5% preference for local vendors. Vendors must claim local vendor preference to be considered (refer to Attachment A – Summary and Statement of Responsibility (Signature Page), Certification No. 6). Please note the following exceptions:
 - a. Those contracts which State Law or, other law or regulation precludes this local preference.
 - b. Public Works construction projects.
2. "Local" vendor preference will be approved as such when, 1) The vendor conducts business in an office with a physical location within the County of Mendocino; 2) The vendor holds a valid business license issued by the County of Mendocino, and provides the name of the Local Agency which issued the license; and 3) business has been conducted in such a manner for not less than six (6) months prior to being able to receive the preference, said vendor provides the business address and how many years the business has been at that location.

X. BACKGROUND INFORMATION

North State Street is the principal arterial which connects the City of Ukiah in the south to the rest of Ukiah Valley to the north. North State Street is the most traveled local road in Mendocino County. In 2010, the County completed improvements to North State Street, both north and south of the Ackerman Creek Bridge, adding a center turning lane, bicycle lanes, and sidewalk in select locations. The narrow two-lane bridge and its approach roadway do not fit the improved roadway capacity and continue to act as a narrow constriction point to traffic as the bridge squeezes a 3-lane road down to a 2-lane road, without sidewalks to cross the bridge. This project will improve traffic operations and public safety by constructing a wider bridge at 3 lanes, with bike lanes and sidewalks.

The Project will be funded with Federal, State, and Local dollars through the Federal Highway Administration's (FHWA) Highway Bridge Program (HBP), requiring CONSULTANT to follow all pertinent local, State, and Federal laws and regulations.

This is a 2 construction-season project. Construction will have 5 stages, including the construction of temporary pedestrian walkways, removing and constructing one side of the bridge the first season, and the other side the next season. During the first construction season, the new bridge will be jacked in order to allow for stormwater clearance along the creek, and lowered into place after extensive stream restoration is completed in the second season. The stream restoration will include removing an existing fish-ladder and downstream check dam.

Traffic will be rerouted to ensure that 2-way traffic is maintained at all times.

XI. SCOPE OF SERVICES

The scope of services for the project includes the following:

A. GENERAL

In general, this scope of work consists of CONSULTANT providing COUNTY a full-time Construction Inspector, part-time Structures Representative, labor compliance, survey spot verification of COUNTY Contractor's (CONTRACTOR) staking and layout, and materials testing, validation, and source inspections. The material testing services are to be provided in whole or part by primary CONSULTANT and/or their subconsultants. In general, this project consists of construction of a new single-span pre-stressed cast-in-place concrete box-girder-bridge on the existing alignment utilizing staged construction over two seasons. CONSULTANT shall maintain daily inspection reports, provide technical responses as required, resolve discrepancies in the contract documents, and prepare and maintain construction project records in accordance with County, Caltrans, and FHWA procedures and standard policies.

This Scope of Services is based on CONSULTANT'S current understanding of the project and the following assumptions:

- Construction is anticipated to start in May/June 2024 and end in October/November 2025. CONTRACTOR will be given 340 working days (two seasons) to complete the project. COUNTY has assumed that there will be minimal non-working days caused by weather or other elements during the contract.
- CONTRACTOR will be working normal shifts throughout the project (little overtime is anticipated). COUNTY anticipates that CONTRACTOR is experienced with this type of work and will diligently pursue timely completion of the project.

CONSULTANT will insure that the project is constructed in compliance with the project plans and specifications.

CONSULTANT will represent COUNTY at the project site. However, any and all decisions regarding changes or materials' suitability shall be made by COUNTY's Resident Engineer.

In addition, CONSULTANT will:

- Establish and maintain project controls including:
 - On-site organization;
 - Internal and external lines of communication and authority.
- Establish procedures for coordinating with COUNTY, COUNTY'S designer, materials sampling and testing, survey control and layout verification, labor compliance, and schedule review.
- Enforce Federal and State laws for occupational safety and health standards for all construction observation activities. Develop a "Code of Safe Practices" and

prepare a “Project Safety Program Statement” for the observation staff. Attend CONTRACTOR tailgate safety meetings at least every ten working days. Perform formal construction site safety reviews at least every five working days. Report accidents to appropriate authorities as soon as possible. Note that CONTRACTOR is responsible for the project’s safety at all times throughout the contract.

- Attempt to resolve field issues before they become claims.
- Establish communication with regulatory agencies affected by the project.
- Coordinate with permitting agencies for CONTRACTOR permit compliance.

A draft Scope of Work is attached as “Exhibit A – Definition of Services” of Attachment J – Sample Mendocino County Contract. Further details may be worked out in contract negotiations.

The work shall comply with the requirements of all the following without limitation, and shall apply to this RFP and any subsequent contract as though incorporated herein by reference:

1. Federal laws
2. State laws
3. Local laws
4. Rules and regulations of governing utility districts
5. Rules and regulations of other authorities with jurisdiction over the procurement of products

All work shall be performed under the guidance of the *Local Assistance Procedures Manual* and the *Local Assistance Program Guidelines* as well as all current design standards applicable to the project.

B. SERVICES TO BE PROVIDED BY CONSULTANT

CONSULTANT shall provide the following services including but not limited to the following Scope of Services listed herein:

1. PRECONSTRUCTION

- a. Review contract plans, specifications, permits, agreements, and other applicable documents. Identify any potential or anticipated problems that should be addressed.
- b. Set up structural project records in accordance with Caltrans/FHWA standard policies.
- c. Assist County Resident Engineer in preparation and conducting a preconstruction conference with the contractor, subcontractors, County Staff, Designers, Biological Monitors, Caltrans, Utility Companies and other involved parties, as available.
- d. Prepare a schedule indicating structure related items that will be submitted by the Contractor for review and approval.
- e. Coordinate and review various structural material testing requirements with material testers.

- f. Perform photo and video documentation of preconstruction site conditions.

2. CONSTRUCTION

- a. Monitor and enforce Federal and State laws for occupational safety and health standards for construction activities. Report accidents to appropriate authorities.
- b. Inspect and monitor the Contractor's compliance with all environmental permit requirements during the life of construction.
- c. Labor Compliance.
- d. Review structural and earthwork submittals:
 - Bridge Removal Plan
 - Temporary Pedestrian Walkways
 - Trenching and Shoring Plans
 - Driven Pile Hammer Information
 - Pile Install Plans
 - Falsework Plans
 - Falsework Grades
 - Deck Dowel Grades
 - Water Detour Management
 - Jacking Plan
 - Stormwater Pollution Prevention Plan (SWPPP)
- e. Determine structural material sources and testing requirements. Schedule and arrange for sampling and testing as required. Provide written notification to County staff for each concrete pour. Keep records of all structural material tests and test results.
- f. Perform ongoing inspection of job site safety and construction work and notify Resident Engineer and County personnel in advance of any significant activities to facilitate their participation.
 - Coordinate, certify, and supervise all required structural and roadway materials test
 - Review and submit structural material test data
 - Inspect bridge removal operation
 - Inspect shoring during structure excavation
 - Inspect driven pile placement
 - Inspect abutment bar reinforcing steel and concrete placement
 - Inspect falsework
 - Inspect bridge deck bar reinforcing steel and concrete placement
 - Inspect concrete and metal beam guard railing placement
 - Inspect bridge approach slab reinforcing steel and concrete placement
 - Inspect bridge closure pour reinforcing steel and concrete placement
 - Perform bridge deck profilograph test.
 - Calculate the installation width of the joint seal and inspect installation
 - Inspect placement of roadway approach fills
 - Inspect HMA paving
 - Layout and Inspect roadway delineation, striping, and signage
- g. Prepare Assistant Resident Engineer's Daily Report

- h. Prepare daily, weekly, and monthly reports as required by the applicable Caltrans directives.
 - i. Prepare estimates for extra work necessitated by differing site conditions, unforeseen work, plan and specification error, etc.
 - j. Maintain daily extra work bills, quantity measurements or such other information as is necessary to document payment to the contractor for the extra work.
 - k. Maintain a set of “Red-Line” plans to note all changes be used as “Final As-built”.
 - l. Determine structural pay quantities.
 - m. Take photographs at significant milestones during construction.
 - n. Perform such other duties as necessary or as requested by the County.
3. POST CONSTRUCTION
- a. Compute the final quantities.
 - b. Submit “Red-Lined” plans.
 - c. Deliver completed project construction files and records to the County saved to a solid-state flash drive.

C. SERVICES TO BE PROVIDED BY COUNTY

MCDOT will make appropriate staff available for meetings and site visits; review all reports and plans for approval: either as the approving agency or prior to submittal to an approving agency; prepare the Board of Supervisors’ packages; schedule any public hearings or meetings; file the Notice of Determination with the County Clerk; prepare any needed Permission to Enter documents for access to private property; complete property appraisals and provide property acquisition for right of way, either by the County or under separate Consultant contract.

MCDOT shall allow CONSULTANT to review all public-accessible data and information (in its Department of Transportation files) that relate to the project.

D. MINIMUM QUALIFICATIONS OF PERSONNEL

It is understood that the services covered under this contract are design professional services and will be performed under the responsible charge of a Registered Engineer in the State of California. It is also understood that all work performed under this contract is considered to be performed by CONSULTANT, whether it be by CONSULTANT or a subconsultant under contract to CONSULTANT.

The Full Time Construction Inspector shall meet the appropriate minimum qualifications as required by this contract. The Construction Inspector (s) must at the minimum meet the desired qualifications and experience as described below:

- 1. Has over 5 years of experience with construction inspection of projects that include:
 - a. Oversight of bridge removal and construction projects through the Federal Highway Bridge Program;
 - b. Inspection of bridge removal and bridge construction;

- c. Underground facilities including domestic water and sanitary sewer;
 - d. Roadway reconstruction and realignment;
 - e. Extensive traffic control;
 - f. Transportation enhancements with transit, pedestrian, or bicycle elements;
 - g. Environmental permit compliance.
 - h. Good communicator and articulate speaker who is able to convey vital information in a manner appropriate for a varied audience including the public, County representatives, contractors, consultants and utility representatives;
2. Detail oriented person, organized individual that can prioritize multiple ongoing activities;
 3. Proficient in Administrative office skills such as: Writing reports, memos, letters and contract documentation;
 4. Skilled in the use of typical office computer programs such as Microsoft Word, Excel, Outlook, and PowerPoint;
 5. Is comfortable with fast paced working environment and able to transition as changes in priorities occur;
 6. The ability to accept direction from County staff in positive and open manner;
 7. Can provide firm and clear direction to others;
 8. Working outside of normal business hours (8 am - 5 pm), on nights or weekends as needed based on project construction activities;
 9. Approves and makes recommendations to County staff for change orders and time extensions;
 10. Provides expert assistance on construction matters for design and traffic;
 11. Attends weekly construction meetings and public meetings for varied audience, as needed;
 12. Working outside of normal business hours (8 am - 5 pm), on nights or weekends as needed based on project activities;
 13. The ability to anticipate, plan, coordinate and execute the scheduling of critical path project activities well in advance of actual construction;

E. EQUIPMENT REQUIREMENTS

CONSULTANT shall have and provide adequate office equipment and supplies to complete the work required by this Contract. CONSULTANT shall have and provide adequate field tools, instruments, equipment, materials, supplies, and safety equipment to complete the required field work and that meet or exceed Caltrans Specifications per the Caltrans Manuals. MCDOT can provide space with access to scanner, phone, printer, and kitchen and bathroom facilities in the Department of Transportation offices at 340 Lake Mendocino Drive in Ukiah.

F. QUALITY CONTROL/ASSURANCE MEASURES

Implementing and maintaining quality control procedures to manage conflicts, ensure product accuracy, and identify critical reviews and milestones. Also, provide knowledge, experience, and familiarity Quality Control and Quality Assurance (QC/QA) for California Test Methods and laboratory.

G. RESERVED

XII. PROPOSAL FORMAT AND CONTENT

Proposals submitted in response to this RFP should include the following elements and are to be completed in accordance with the information and outline contained in Attachment B – Proposal Check List/Table of Contents:

A. Executive Summary

Include an executive summary and written narrative, including a detailed description of your organization's experience, qualifications, and commitment to the project. Address the below listed elements at a minimum: experience, stability & growth, commitment, product, and services.

B. Company Background and Experience

MCDOT will only consider submittals from vendors that demonstrate they have successfully completed comparable projects. Experience and focus in the public sector is of vital importance as the County is looking to partner with a firm that has years of experience providing civil engineering, environmental, and project management services on State and/or Federally-funded road and bridge projects.

C. Project Understanding and Approach

Describe the process/approach to be used in providing the services described in Section XI – Scope of Work, of this RFP. Be specific and address all elements.

- Vendor shall demonstrate a clear understanding of the requirements/needs to facilitate the project through Caltrans Local Assistance and the Local Assistance Procedures Manual and Guidelines.
- Describe your cost control and budgeting methodology for this project.
- Describe critical engineering design issues associated with the project and how you will address these.
- Describe critical environmental issues and how you will address these.
- Describe how cost and schedule could be minimized.

D. Construction Management Team

Describe the roles and organization of your proposed team for this project. Include full name, position, licenses or degrees held and a brief summary of relevant experience as related to proposed services; organization chart; list of Board of Directors (if applicable); and licenses (where appropriate). Indicate the composition of subconsultants and number

of project staff, facilities available, and experience of your team as it relates to this project.

Describe your project and management approach. Provide a detailed description of how the team and scope of work will be managed. Key members, including those of subconsultants, may not be substituted during the course of the project without written approval of MCDOT.

All personal information provided will be maintained in confidence as allowed by law.

E. RESERVED

F. Vendor shall develop a detailed draft Scope of Work (SOW). The SOW shall utilize the Task structure as outlined in Section XI, Scope of Work, of this RFP. A proposed draft SOW is included in Exhibit A (Definition of Services) of Attachment J - Sample Mendocino County Contract. The SOW should describe all services to be provided, project understanding, and a description of the process/approach to be used in providing the services described in Section XI, Scope of Services, of this RFP. Should there be any tasks that are expected to be performed by MCDOT, these should also be clearly described as County tasks in the draft SOW. Describe project deliverables for each phase of your work.

G. Include staff resumés for all persons who may perform services under contract. Resumés shall show relevant experience for the Project's Scope of Work, as well as the length of employment with the proposing Vendor. Key members, especially the Project Manager, shall have significantly demonstrated experience with this type of project.

H. Three (3) letters of reference for projects within the past five (5) years shall be submitted for the County to contact, including contact name, phone number, and address (to be listed in Attachment D of this RFP). These references should preferably include municipalities or government agencies wherein similar services were performed as outlined in Section XI. Scope of Work. These projects must illustrate the quality, type, and past performance of the project team.

I. Any exceptions to the terms and conditions as specified in Attachment J - Sample Mendocino County Contract attached to this RFP, must be listed in Attachment C. The terms and conditions not specifically identified will be considered acceptable to Consultant.

J. The proposing Consultant shall include a Conflict-of-Interest Statement disclosing any financial, business or other relationship with the County of Mendocino that may have an impact upon the outcome of the contract or the construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract or the construction project that will follow. The proposing Consultant shall disclose any

financial interest or relationship with any construction company that might submit a bid on the construction project.

Additional Information:

- This project has a DBE goal of 25%. Vendor must submit with their proposal a completed LAPM Exhibit 10-O1, included as Attachment G to this RFP. If the vendor is unable to meet the stated DBE goal, the vendor must also submit a completed LAPM Exhibit 15-H, included as Attachment H to this RFP.
- Additional documents or other material, as appendices, in support of the proposal. The proposal, however, must reference any additional material or documentation on Attachment B – Proposal Checklist/Table of Contents.
- Upon specific request of the County, Vendor shall provide consent and waiver forms permitting County to obtain personal employment/professional qualification information about Consultant who may perform services under this contract from third parties, and releasing third parties from any and all liability for disclosing such information to County.
- Indicate if the proposing Consultant was involved with any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.
- A contract will not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 31 and 2 CFR Part 200.

XIII. FORMAT OF COST PROPOSAL

The Consultant will perform the services stated in the contract using the Method of Payment: Actual Cost-Plus Fixed Fee.

In order to assure that the County of Mendocino is able to acquire professional services based on the criteria set forth in the Brooks Act and Government Code 4526, the proposal shall include a cost proposal for each service of the proposal. Proposing consultants will be required to submit certified payroll records, as required.

Cost proposal shall be submitted in a separate sealed envelope from the proposal. The cost proposal is confidential and will be unsealed after all proposals have been reviewed, and the most qualified consultant has been selected.

The Vendor must itemize all costs, including per hour costs, chargeable to the County as described in this Section, in the separate Cost Proposal. Prices quoted shall be valid for at least ninety (90) days following the proposal submission deadline and if a contract is entered into as a result of this RFP, shall become fixed for the term of the contract.

The County shall be the sole arbiter in the determination of equality. The County reserves the right to reject any proposals and to accept the proposal or proposals which in its sole and absolute judgment shall, under all circumstances, best serve the interests of the County.

XIV. CONTRACT

A. Time is of the essence in awarding the contract. The County reserves the right to cancel any intent to award and proceed to the next vendor if the selected the vendor has not signed the agreement within two (2) weeks after the notification of intent of award.

B. Execution of Contract

1. Upon the acceptance of the vendor's Proposal, County will prepare and submit a contract to the vendor for signature. (See sample contract, as Attachment J, which contains required contractual language.) In the event that the vendor fails, neglects or refuses to execute the contract within two (2) weeks after receiving a copy of the contract from County, County may at its option terminate and cancel its action in awarding the contract and the contract shall become null and void and of no effect.
2. Incorporated by reference into the contract which is to be entered into by County and the vendor pursuant to this Proposal will be (a) all of the information presented in or with this Proposal and the vendor's response thereto, and (b) all written communications between County and the vendor whose Proposal is accepted.

C. No Assignment

Assignment by the successful vendor to any third party of any contract based on the Proposal or any monies due shall be absolutely prohibited and will not be recognized by County unless approved in advance by County in writing.

D. Force Majeure

Neither party shall be liable to the other for any failure or delay in rendering performance arising out of causes beyond its control and without its fault or negligence. Such causes may include, but not be limited to, acts of God or the public enemy, freight embargoes, and unusually severe weather; but the failure or delay must be beyond its control and without its fault or negligence. Dates or times of performance will be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

E. Contract Term

The term of the AGREEMENT shall be from the date the AGREEMENT becomes fully executed by all parties, and shall continue through June 30, 2026 with the option

to extend the AGREEMENT as necessary and allowed under grant funding requirements.

F. Insurance

Prior to commencement of this AGREEMENT, CONSULTANT shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CONSULTANT upon request shall provide a certified copy of the policy or policies. Refer to Exhibit C (Insurance Requirements) of Attachment J - Sample Mendocino County Contract.

XV. REJECTION OF PROPOSALS

The RFP does not commit the County to award a contract, to pay any costs incurred in the preparation of the proposal to this request, or to procure or contract for services or supplies. The County reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel the RFP in part or in its entirety, if it is in the best interest of the County to do so. The County may require the proposer selected to participate in negotiations, and to submit such proposal as may result from negotiations.

Any proposal submitted during this RFP process becomes the property of the County. The County will not be liable for nor pay costs incurred by the respondent in the preparation of a response to this RFP, or any other costs involved including travel.

XVI. GENERAL CONDITIONS

While the intent of the County is to award the contract to the selected vendor, it reserves the right to both either withdraw and/or not award a contract at any time it so desires. Costs incurred in the preparation of response to this RFP will not be reimbursed.

The County has a standard contract service agreement. The successful firm will be required to agree to the terms contained within. Any issues with the insurance coverage or terms of the standard contract service agreement should be mentioned in the response to the Request for Proposals and documented in detail in Attachment C – Exceptions to RFP.

Limitations

- 1) Vendors should expect to have access only to the public records and public files of local government agencies in preparing the proposal or reports. Vendors should not anticipate any compilation, tabulation, or analysis of data, definition or opinion, etc., unless volunteered by a responsible official of that agency.
- 2) The County has the authority to terminate the contract upon written notice to CONSULTANT at any time during the period of the project if the County finds that

CONSULTANT's performance is not satisfactory (as specified in Attachment J – Sample Mendocino County Contract, paragraph 19).

- 3) Contract payments will be made on the basis of satisfactory performance by the CONSULTANT as determined by the County. Final payment to CONSULTANT will only be made when the County finds that the work performed by CONSULTANT to be satisfactory and the final work product and documents submitted meet the tasks of the project and is accepted by the County.

XVII. LIST OF ATTACHMENTS

- Attachment A – Proposal Summary and Statement of Responsibility (Signature Page)
- Attachment B – Proposal Checklist/Table of Contents
- Attachment C – Exceptions to RFP
- Attachment D – Letters of Reference
- Attachment E – Certificate of Non-collusion
- Attachment F – LAPM Exhibit 10-I
- Attachment G – LAPM Exhibit 10-O1
- Attachment H – LAPM Exhibit 15-H
- Attachment I – Proposal Evaluation Form
- Attachment J – Sample Mendocino County Contract
- Attachment K – Sample Cost Proposal
- Attachment L – Certificate of Indirect Costs and Financial Management System

**ATTACHMENT A
PROPOSAL SUMMARY AND STATEMENT OF RESPONSIBILITY (SIGNATURE PAGE)**

County of Mendocino
Department of Transportation



N. State St. over Ackerman Creek Bridge Replacement Project

RFP No. 240007

RFP No.	240007
RFP Issue Date:	May 3, 2024
RFP Submission Deadline:	May 17, 2024

Proposals must be enclosed in a sealed envelope or package, clearly marked "Mendocino County RFP No. 240007", and delivered by 3:00 p.m. May 17, 2024 to:

Mendocino County Department of Transportation,
Attn: Rygg Larsen
340 Lake Mendocino Drive
Ukiah, CA 95482.

Questions regarding this RFP should be directed to:
Procedural and Technical inquires:

Rygg Larsen
LarsenR@MendocinoCounty.gov

This Proposal Summary and Statement of Responsibility (Signature Page) must be included with your submittal in order to validate your proposal. Proposals submitted without this page will be deemed non-responsive.

Vendor Authorized Representative

Company Name: _____ Date: _____

Representative: _____

Title: _____

Phone: _____

Address: _____ Fax: _____

Federal Tax ID No.: _____ Email: _____

RFP Contact Information (if different then above)

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Address: _____ Email: _____

Certifications:

1. Do you agree to comply with specifications, RFP instructions, draft contract requirements and other pertinent references contained in this RFP?
 YES NO

2. Do you agree that the proposal will stand firm and will not be withdrawn for a period of 90 days after the proposal is opened?
 YES NO

3. Do you certify that all statements in the proposal are true? This shall constitute a warranty, the falsity of which shall entitle the County to pursue any remedy authorized by law, and shall include the right, at the option of the County, of declaring any contract made as a result thereof to be void.
 YES NO

4. Do you agree to provide the County with any other information the County determines is necessary for accurate determination of your qualifications to provide services?
 YES NO

5. Do you agree that the proposal amount includes all costs incident to the proposed contract?
 YES NO

6. The County of Mendocino has adopted a Local Vendor Preference. Does your company meet the criteria for the five percent cost preference as a local vendor for the County of Mendocino, as described in Section IX(H)(2) AWARD AND CONTRACTING INFORMATION?
 YES NO

7. Do you agree to be an ePayable as described in Attachment I- Sample Mendocino County Contract?
 YES NO

To the best of my knowledge and belief, the information provided in this initial determination of responsibilities is true and correct.

Authorized Representative:	(Printed name)
Signature:	

Date:	
-------	--

**ATTACHMENT B
PROPOSAL CHECK LIST/TABLE OF CONTENTS**

This proposal checklist identifies the various components that must be submitted with your proposal. This form is to be completed and included in the proposal and must be located directly behind Attachment A.

Follow this sequence in presenting your proposal with the checklist serving as your table of contents.

Proposal Check List/Table of Contents	Page No.
Signature Page (Attachment A)	
Proposal Check List/Table of Contents (Attachment B)	
A. Executive Summary	
B. Company Background and Experience	
C. Project Understanding and Approach	
D. Construction Management Team	
E. Detailed Scope of Work	
F. Project Team Resumes	
G. Letters of Reference (Attachment D)	
H. Exceptions to the RFP (Attachment C)	
I. Conflict of Interest Statement	
Certificate of Non-Collusion, signed by authorized representative (Attachment E)	
Insurance Coverage (Certificate of Insurance)	
Acknowledgment of Addenda (if applicable)	
LAPM Exhibit 10-O1: Consultant Proposal DBE Commitment (Attachment G)	
LAPM Exhibit 15-H: Proposer Good Faith Effort (Attachment H)	
Certification of Indirect Costs and Financial Management System (Attachment L)	

ATTACHMENT D
LETTERS OF REFERENCE

Please list the references (minimum of three (3)) in the section provided below and attach corresponding letters to this form.

Agency	Contact Name/Address	Phone No.	Dates Services Provided (From/Through)

ATTACHMENT E
CERTIFICATE OF NON-COLLUSION

The undersigned certifies, under penalty of perjury, that this proposal has been made in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

(Name of Proposer)

(Signature of Authorized Agent)

_____, 2024
Date

ATTACHMENT F
LAPM EXHIBIT 10-I: NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 25%

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1: Consultant Proposal DBE Commitment must be included in the Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards meeting the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included in best qualified consultant’s executed consultant contract. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.

- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Civil Rights [website](#).
 - 1. Click on the link titled “Access the DBE Query Form”
 - 2. Click on “Start DBE Firms Query” linkSearches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBEs COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its

principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

ATTACHMENT G
LAPM EXHIBIT 10-01: CONSULTANT PORPOSAL DBE COMMITMENT

1. Local Agency: Mendocino County 2. Contract DBE Goal: 25%
 3. Project Description: Construction Management for Ackerman Creek Bridge Replacement Project
 4. Project Location: North State Street (County Road 104) over Ackerman Creek (Mile Post 0.94)
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %

Local Agency to Complete this Section			
17. Local Agency Contract Number: <u>240007</u> 18. Federal-Aid Project Number: <u>BHLS-5910(081)</u> 19. Proposed Contract Execution Date: <u>June 25, 2024</u> 20. Consultant's Ranking after Evaluation: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate			
21. Local Agency Representative's Signature _____ 22. Date _____	23. Local Agency Representative's Name _____ 24. Phone _____	IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. _____ 12. Preparer's Signature 13. Date	_____ 14. Preparer's Name 15. Phone
_____ 25. Local Agency Representative's Title		_____ 16. Preparer's Title	

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

1. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project Location** - Enter the project location as it appears on the project advertisement.
4. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
5. **Consultant's Name** - Enter the consultant's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
8. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
9. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
10. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
11. **Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
12. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
13. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
14. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
15. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
16. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

17. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
18. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
19. **Proposed Contract Execution Date** - Enter the proposed contract execution date.
20. **Consultant's Ranking after Evaluation** - Enter consultant's ranking after all submittals/consultants are evaluated. Use this as a quick comparison for evaluating most qualified consultant.
21. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
22. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
23. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
24. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
25. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

ATTACHMENT G
LAPM EXHIBIT 15-H: PROPOSER GOOD FAITH EFFORTS

Federal-aid Project No.: BHLS-5910(081) Cost Proposal Due Date: May 17, 2024

The County of Mendocino established a Disadvantaged Business Enterprise (DBE) goal of 25% for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) **calendar** days from cost proposal due date or bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer’s or bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions, **please attach additional sheets as needed**:

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to meet or exceed the DBE contract goal.

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
				0.00%
				0.00%
				0.00%
				0.00%

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

ATTACHMENT I
COUNTY OF MENDOCINO SAMPLE PROPOSAL EVALUATION FORM
RFP No. 240007
N. STATE ST. OVER ACKERMAN CREEK BRIDGE REPLACEMENT PROJECT
CONSTRUCTION MANAGEMENT, INSPECTION, AND MATERIAL TESTING

Vendor Name: _____

Evaluated By: _____

		Rating Scale
0	Unacceptable	Non-responsive, fails to meet RFP specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of proposal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFP.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFP specification. This will be the baseline score for each item with adjustments based on interpretation of proposal by Evaluation Committee members.
4	Above Average/Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFP requirements and expectations.
5	Excellent/Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFP specification.

No.	Evaluation Criteria	Rating (0-5)	Weight	Score*
1	Completeness of Response	N/A	Pass/Fail	Pass/Fail
2	Scope of Work		25%	
3	Experience with Similar Kinds of Work		20%	
4	Quality of Staff for Work to be Done		20%	
5	Qualifications		10%	
6	Familiarity w/ State/Federal procedures		10%	
7	Financial Responsibility		10%	
8	Local Presence		5%	
			Score Total	

Highest Score Total is 5

Comments:

Scoring: (To be performed by the Department of Transportation)

Weight X *Rating (per Scale) = Points Total

*Rating Scale: 5 = Excellent 4 = Above Average 3 = Average 2 = Fair 1 = Poor 0 = Unacceptable

The Evaluation Criteria Summary and their respective weights are as follows:

1. Completeness of Response (Pass/Fail)

- Responses to this RFP must be complete. Responses must include the proposal content requirements identified within this RFP and subsequent addenda and address each of the items listed below. Proposals that are incomplete will be rated a Fail in the Evaluation Criteria, and will receive no further consideration.

2. Scope of Work (25%)

- Demonstrates familiarity of project and understanding of work completed to date and project objectives moving forward.
- Adequacy of the detailed Scope of Work to deliver requested services as described in this RFP.
- Scope addresses all known project needs and appears achievable in the timeframes set forth in the project schedule.
- Deliverables are appropriate to schedule and scope set forth in this RFP.

3. Experience with Similar Kinds of Work (20%)

- Do the references as provided in the proposal demonstrate adequate experience with similar kinds of work?

4. Quality of Staff for Work to be Done (20%)

- Proposes adequate and appropriate disciplines of project team.
- Some or all of team members have previously worked together on similar project(s).
- Team is managed by an individual with appropriate experience in similar projects, and their time is appropriately committed to the project.
- Proposed team members, as demonstrated by enclosed resumés, have relevant experience for their role in the project.

- Key positions required to execute the project team's responsibilities are appropriately staffed to provide adequate capability to perform both volume and quality of needed work within project schedule milestones.
- Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.

5. Qualifications (10%)

- Specific qualifications, and technical expertise of the firm and sub-consultants to conduct services as requested in this RFP.

6. Familiarity with State and Federal Procedures (10%)

- Experience working with State-funded and/or Federal Aid projects; experience working with local governments; etc.
- CONSULTANT has an adequate financial management and accounting system as required by 48 CFR Part 31 and 2 CFR Part 200.

7. Financial Responsibility (10%)

- Ability to meet payment schedule.
- Proposer has a system for managing cost and budget, and evidence of successful budget management for similar projects.

8. Local Presence (5%)

- A statement addressing firm's ability to establish an office within the County or surrounding area.

**ATTACHMENT J
COUNTY OF MENDOCINO
STANDARD SERVICES AGREEMENT**

This Agreement is by and between the COUNTY OF MENDOCINO, hereinafter referred to as the “COUNTY”, and _____, hereinafter referred to as the “CONSULTANT”.

WITNESSETH

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

WHEREAS, COUNTY desires to obtain CONSULTANT for its [Services]; and,

WHEREAS, CONSULTANT is willing to provide such services on the terms and conditions set forth in this AGREEMENT and is willing to provide same to COUNTY.

NOW, THEREFORE it is agreed that COUNTY does hereby retain CONSULTANT to provide the services described in Exhibit “A”, and CONSULTANT accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Definition of Services
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements
- Exhibit D Mendocino County ePayables Information
- Exhibit E DBE Information
- Exhibit F Required Federal-Aid Language

The term of this Agreement shall be from the date this Agreement becomes fully executed by all parties (the “Effective Date”), and shall continue through _____, 20_____.

The compensation payable to CONSULTANT hereunder shall not exceed [Spelled out Contract Amount] (\$[Numerical Amount]) for the term of this Agreement.

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW: Transportation

HOWARD N. DASHIELL, Director DATE

Budgeted: Yes No

Budget Unit: _____

Line Item: _____

Grant: Yes No

Grant No.: _____

CONSULTANT/COMPANY NAME:

By: _____

NAME AND ADDRESS OF CONSULTANT:

COUNTY OF MENDOCINO

By: _____
GLENN McGOURTY, Chair
BOARD OF SUPERVISORS

Date: _____

ATTEST:

DARCIE ANTLE, Clerk of said Board

By: _____
Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of said Board

By: _____
Deputy

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
County Counsel

By: _____
Deputy

Date: _____

INSURANCE REVIEW:

By: _____
Risk Management

Date: _____

EXECUTIVE OFFICE/FISCAL REVIEW:

By: _____
Deputy CEO or Designee

Date: _____

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; **\$50,001+ Board of Supervisors**
Exception to Bid Process Required/Completed _____
Mendocino County Business License: Valid
Exempt Pursuant to MCC Section: _____

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONSULTANT:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that CONSULTANT is an Independent Consultant. CONSULTANT is not the agent or employee of the COUNTY in any capacity whatsoever, and COUNTY shall not be liable for any acts or omissions by CONSULTANT nor for any obligations or liabilities incurred by CONSULTANT.

CONSULTANT shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

CONSULTANT shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which COUNTY may incur because of CONSULTANT's failure to pay such amounts.

t with the terms specified in Exhibit B. In no event shall COUNTY be obligated to pay any request for payment for which a written request for payment and all required documentation was first received more than six (6) months after this Agreement has terminated, or beyond such other time limit as may be set forth in Exhibit B.

7. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the CONSULTANT.
8. **OWNERSHIP OF DOCUMENTS:** CONSULTANT hereby assigns the COUNTY and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the COUNTY, the CONSULTANT, the CONSULTANT's subConsultants or third parties at the request of the CONSULTANT (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

CONSULTANT shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. CONSULTANT agrees to take such further steps as may be reasonably requested by COUNTY to implement the aforesaid assignment. If for any reason said assignment is not effective, CONSULTANT hereby grants the COUNTY and any assignee of the COUNTY an express royalty – free license to retain and use said Documents and Materials. The COUNTY's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and

whether or not CONSULTANT's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

The COUNTY's rights under this Paragraph 8 shall not extend to any computer software used to create such Documents and Materials.

9. CONFLICT OF INTEREST: The CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement.

10. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Facsimile transmission: When sent by facsimile to the facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that, (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To COUNTY: COUNTY OF MENDOCINO
340 Lake Mendocino Drive
Ukiah, CA 95482
Attn:

To CONSULTANT: [Name of Consultant]
[Number and Street]
[City, State, Zip Code]
ATTN:

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

11. **USE OF COUNTY PROPERTY:** CONSULTANT shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
12. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** CONSULTANT certifies that it will comply with all Federal, State, and local laws, rules and regulations pertaining to nondiscrimination in employment.
 - a. CONSULTANT shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an “Equal Opportunity Employer” or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, pregnancy, disability, sex, sexual orientation, gender identity, ancestry, national origin, age, religion, Veteran’s status, political affiliation, or any other factor prohibited by law.
 - b. CONSULTANT shall, if requested to so do by the COUNTY, certify that it has not, in the performance of this Agreement, engaged in any unlawful discrimination.
 - c. If requested to do so by the COUNTY, CONSULTANT shall provide the COUNTY with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.
 - d. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.
 - e. The CONSULTANT shall include the provisions set forth in this paragraph in each of its subcontracts.
13. **DRUG-FREE WORKPLACE:** CONSULTANT and CONSULTANT's employees shall comply with the COUNTY’s policy of maintaining a drug-free workplace. Neither CONSULTANT nor CONSULTANT's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any COUNTY facility or work site. If CONSULTANT or any employee of CONSULTANT is convicted or pleads *nolo contendere* to a criminal drug statute violation occurring at a County facility or work site, the CONSULTANT, within five days thereafter, shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.
14. **ENERGY CONSERVATION:** CONSULTANT agrees to comply with the mandatory standards and policies relating to energy efficiency in the State of California Energy Conservation Plan, (Title 24, California Administrative Code).

15. **COMPLIANCE WITH LICENSING REQUIREMENTS:** CONSULTANT shall comply with all necessary licensing requirements and shall obtain appropriate licenses. To the extent required by law, CONSULTANT shall display licenses in a location that is reasonably conspicuous. Upon COUNTY's request, CONSULTANT shall file copies of same with the County Executive Office.

CONSULTANT represents and warrants to COUNTY that CONSULTANT and its employees, agents, and any subConsultants have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

16. **AUDITS; ACCESS TO RECORDS:** The CONSULTANT shall make available to the COUNTY, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the COUNTY, and shall furnish to the COUNTY, within sixty (60) days after examination, its authorized agents, officers or employees such other evidence or information as the COUNTY may require with regard to any such expenditure or disbursement charged by the CONSULTANT.

The CONSULTANT shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the CONSULTANT in the performance of this Agreement. If such books and records are not kept and maintained by CONSULTANT within the County of Mendocino, California, CONSULTANT shall, upon request of the COUNTY, make such books and records available to the COUNTY for inspection at a location within County or CONSULTANT shall pay to the COUNTY the reasonable, and necessary costs incurred by the COUNTY in inspecting CONSULTANT's books and records, including, but not limited to, travel, lodging and subsistence costs. CONSULTANT shall provide such assistance as may be reasonably required in the course of such inspection. The COUNTY further reserves the right to examine and reexamine said books, records and data during the four (4) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the COUNTY, and the CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for four (4) years after the COUNTY makes the final or last payment or within four (4) years after any pending issues between the COUNTY and CONSULTANT with respect to this Agreement are closed, whichever is later.

17. **DOCUMENTS AND MATERIALS:** CONSULTANT shall maintain and make available to COUNTY for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 8 of this Agreement. CONSULTANT's obligations under the preceding sentence shall continue for four (4) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by COUNTY), and CONSULTANT shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following the COUNTY's last payment to CONSULTANT under this Agreement.

18. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
19. **TERMINATION:** The COUNTY has and reserves the right to suspend, terminate or abandon the execution of any work by the CONSULTANT without cause at any time upon giving to the CONSULTANT notice. Such notice shall be in writing and may be issued by any county officer authorized to execute or amend the contract, the County Chief Executive Officer, or any other person designated by the County Board of Supervisors. In the event that the COUNTY should abandon, terminate or suspend the CONSULTANT's work, the CONSULTANT shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to CONSULTANT for its [Services] shall not exceed \$[Contract Amount] payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment or lack of funding.
20. **NON APPROPRIATION:** If COUNTY should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the products set forth in this Agreement, or other means of performing the same functions of such products, COUNTY may unilaterally terminate this Agreement only upon thirty (30) days written notice to CONSULTANT. Upon termination, COUNTY shall remit payment for all products and services delivered to COUNTY and all expenses incurred by CONSULTANT prior to CONSULTANT'S receipt of the termination notice.
21. **CHOICE OF LAW:** This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
22. **VENUE:** All lawsuits relating to this contract must be filed in Mendocino County Superior Court, Mendocino County, California.
23. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
24. **ADVERTISING OR PUBLICITY:** CONSULTANT shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of COUNTY in each instance.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between COUNTY and CONSULTANT relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated

herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. This Agreement may not be modified except by a written document signed by both parties. In the event of a conflict between the body of this Agreement and any of the Exhibits, the provisions in the body of this Agreement shall control.

26. HEADINGS: Herein are for convenience of reference only and shall in no way affect interpretation of this Agreement.
27. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
28. ASSURANCE OF PERFORMANCE: If at any time the COUNTY has good objective cause to believe CONSULTANT may not be adequately performing its obligations under this Agreement or that CONSULTANT may fail to complete the Services as required by this Agreement, COUNTY may request from CONSULTANT prompt written assurances of performance and a written plan acceptable to COUNTY, to correct the observed deficiencies in CONSULTANT's performance. CONSULTANT shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of COUNTY's request and shall thereafter diligently commence and fully perform such written plan. CONSULTANT acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
29. SUBCONTRACTING/ASSIGNMENT: CONSULTANT shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the COUNTY's prior written approval.
 - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Only the department head or his or her designee shall have the authority to approve subConsultant(s).
 - c. CONSULTANT shall remain fully responsible for compliance by its subConsultants with all the terms of this Agreement, regardless of the terms of any agreement between CONSULTANT and its subConsultants.
30. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 8), and Conflict of Interest (Paragraph 9), shall survive termination or expiration for two (2) years.

31. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
32. INTELLECTUAL PROPERTY WARRANTY: CONSULTANT warrants and represents that it has secured all rights and licenses necessary for any and all materials, services, processes, software, or hardware (“CONSULTANT PRODUCTS”) to be provided by CONSULTANT in the performance of this AGREEMENT, including but not limited to any copyright, trademark, patent, trade secret, or right of publicity rights. CONSULTANT hereby grants to COUNTY, or represents that it has secured from third parties, an irrevocable license (or sublicense) to reproduce, distribute, perform, display, prepare derivative works, make, use, sell, import, use in commerce, or otherwise utilize CONSULTANT PRODUCTS to the extent reasonably necessary to use the CONSULTANT PRODUCTS in the manner contemplated by this agreement.

CONSULTANT further warrants and represents that it knows of no allegations, claims, or threatened claims that the CONSULTANT PRODUCTS provided to COUNTY under this Agreement infringe any patent, copyright, trademark or other proprietary right. In the event that any third party asserts a claim of infringement against the COUNTY relating to a CONSULTANT PRODUCT, CONSULTANT shall indemnify and defend the COUNTY pursuant to Paragraph 2 of this AGREEMENT.

In the case of any such claim of infringement, CONSULTANT shall either, at its option, (1) procure for COUNTY the right to continue using the CONSULTANT Products; or (2) replace or modify the CONSULTANT Products so that that they become non-infringing, but equivalent in functionality and performance.

33. ELECTRONIC COPIES:

The parties agree that an electronic copy, including facsimile copy, email, or scanned copy of the executed Agreement, shall be deemed, and shall have the same legal force and effect as, an original document.

34. COOPERATION WITH COUNTY

Consultant shall cooperate with County and County staff in the performance of all work hereunder.

35. PERFORMANCE STANDARD

Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all

services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable Federal, State, and local laws, it being understood that acceptance of Consultant's work by County shall not operate as a waiver or release. If County determines that any of Consultant's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of paragraph 19 (Termination) or (d) pursue any and all other remedies at law or in equity.

36. ATTORNEYS' FEES

In any action to enforce or interpret the terms of this agreement, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

[END OF GENERAL TERMS AND CONDITIONS]

EXHIBIT A

STANDARD SERVICES AGREEMENT

DEFINITION OF SERVICES

CONSULTANT shall provide the following services:

In general, this scope of work consists of CONSULTANT providing COUNTY a full-time Construction Inspector, part-time Structures Rep, labor compliance, survey spot verification of COUNTY's Contractor's (CONTRACTOR) staking and layout, and materials testing and validation. In general, this project consists of construction of a new single-span pre-stressed cast-in-place concrete box-girder-bridge on the existing alignment utilizing staged construction over two seasons.

This Scope of Services is based on CONSULTANT'S current understanding of the project and the following assumptions:

- Construction is anticipated to start in May/June 2024 and end in October/November 2025. CONTRACTOR will be given 340 working days (two season) to complete the project. COUNTY has assumed that there will be minimal non-working days caused by weather or other elements during the contract.
- CONTRACTOR will be working normal shifts throughout the project (little overtime is anticipated). COUNTY anticipates that CONTRACTOR is experienced with this type of work and will diligently pursue timely completion of the project.

CONSULTANT will insure that the project is constructed in compliance with the project plans and specifications.

CONSULTANT will represent COUNTY at the project site. However, any and all decisions regarding changes or materials' suitability shall be made by COUNTY's Resident Engineer.

In addition, CONSULTANT will:

- Establish and maintain project controls including:
 - On-site organization;
 - Internal and external lines of communication and authority.
- Establish procedures for coordinating with COUNTY, COUNTY'S designer, materials sampling and testing, survey control and layout verification, labor compliance, and schedule review.
- Enforce Federal and State laws for occupational safety and health standards for all construction observation activities. Develop a "Code of Safe Practices" and prepare a "Project Safety Program Statement" for the observation staff. Attend CONTRACTOR tailgate safety meetings at least every ten working days. Perform formal construction site safety reviews at least every five working days. Report accidents to appropriate authorities as soon as possible. Note that CONTRACTOR is responsible for the project's safety at all times throughout the contract.
- Attempt to resolve field issues before they become claims.
- Establish communication with regulatory agencies affected by the project.
- Coordinate with permitting agencies for CONTRACTOR permit compliance.

TASK 1 Project Management and Coordination

Project Management and Coordination will include the following subtasks:

Task 1.1 Coordination

1.1.1 Point of Contact – The below listed individuals will be the points of contact for maintaining liaison and coordination throughout the project with COUNTY’s Project Manager and other team leaders.

- County staff, Rygg Larsen, as COUNTY’s Resident Engineer and Project Manager will be responsible for any and all decisions regarding changes or materials' suitability.
- Consultant staff, *Name*, will be the primary point of contact and is responsible for day-to-day administration and observation of COUNTY’s contractor during construction.

1.1.2 Project Title – In reference to the project in any forms or formal written materials, CONSULTANT shall use the project title of: North State St over Ackerman Creek Bridge Replacement Project, CR 104, M.P. 0.97.

1.1.3 Project Coordination with County – CONSULTANT will coordinate with COUNTY through virtual meetings, phone conversations, emails, written memoranda, fax, etc.

1.1.4 Project Work Plan – CONSULTANT will develop, implement, and maintain a detailed work plan that includes project goals and objectives, roles and responsibilities, a communication plan, project controls, scope and deliverables, schedule and budget, and CONSULTANT’s Quality Control Plan.

The Project Work Plan will include project authority, communications, and project documentation including, but not limited to:

- (1) Project organization;
- (2) Meetings;
- (3) Communications management;
- (4) Preparation of management reports;
- (5) Design modifications;
- (6) Change orders;
- (7) Schedule management;
- (8) Claims management;
- (9) Inspection and inspection reporting;
- (10) Defective work correction;
- (11) Record drawings;
- (12) Complaint and community relations procedures;
- (13) Safety;
- (14) Photo and video documentation;
- (15) Certified payroll review, DBE compliance, and labor compliance;
- (16) Preparation of documents as needed for Federal, State, and local funds;

- (17) Special inspections;
- (18) Other Tasks, as needed.

1.1.5 Project Schedule - CONSULTANT will obtain a project schedule from CONTRACTOR outlining tasks and subtasks to be performed as provided in COUNTY's Contract Documents. The Project Schedule will include the CONTRACTOR's internal Quality Control process and designated COUNTY review of submitted documents as provided in COUNTY's Contract Documents. CONSULTANT shall ensure the Project Schedule is updated as necessary as provided for in COUNTY's Contract Documents. In addition, CONSULTANT will review, monitor, and document changes to CONTRACTOR's schedule as provided for in COUNTY's Contract Documents.

1.1.6 Budget Management - CONSULTANT will maintain and manage CONSULTANT team's schedule and budget and subCONSULTANT contracts.

CONSULTANT will review Engineer's estimates, contract item payments, material quantities, and change order work.

1.1.7 Invoices – CONSULTANT shall comply with payments terms in Exhibit B

TASK 2 Surveying and Mapping

CONSULTANT will provide survey verification of critical layouts and elevations. Typical verification may include:

- Survey Control
- Abutment layouts
- Pile locations
- Top of abutment elevations
- Other locations as required.

TASK 3 Utility & Right of Way Co-ordination

Task 3.1 Property Owner Co-ordination

All construction on or near private property will be carried out in accordance with the plans, specifications, and any Right of Way agreements between the property owners and COUNTY.

Task 3.2 Utility Co-ordination

Utilities pass through this construction site. Though no conflicts are anticipated, CONSULTANT must be prepared to coordinate with utility owners as needed.

TASK 4 Labor Compliance

CONSULTANT will ensure CONTRACTOR complies with all applicable labor laws. Duties will include:

- Monitoring and auditing certified payrolls of CONTRACTOR's and subCONTRACTOR's personnel for prevailing wages;

- Perform field labor compliance and Equal Employment Opportunity (EEO) interviews using LAPM 16-N: Employee Interview: Labor Compliance EEO, or the Spanish version of this form, LAPM 16-N ESP: ENTREVISTA DE EMPLEADO: CUMPLIMIENTO LABORAL / EEO. Interview a minimum of two employees per contract, per month, including at least one interview from the prime contractor and each subcontractor until such time as the contract is accepted or all employees on the project have been interviewed. The number of interviews taken must constitute a representative sample of workers employed on the project, including a variety of crafts and trades.
- Monitoring CONTRACTOR apprenticeship programs to assure compliance with all State and Federal laws.

TASK 5 Environmental Compliance

Task 5.1 Permit/Environmental Compliance

CONSULTANT will review and enforce requirements stipulated in permits issued by regulatory and environmental agencies per Appendix A of the Special Provisions, Book 1 of 2, Volume 2, and ensure CONTRACTOR abides by Environmental Commitments Record (ECR).

Task 5.2 Storm Water Pollution Prevention Plan (SWPPP)

CONSULTANT shall insure that CONTRACTOR stays in compliance with the Storm Water Pollution Prevention Plan as provided for in COUNTY'S Contract by reviewing for approval CONTRACTOR-developed SWPPP submittal and by monitoring the approved SWPPP for compliance.

TASK 6 Construction Engineering

Task 6.1 Construction Field Inspection and Management

CONSULTANT will assist COUNTY, as requested, with Construction related tasks.

Tasks may include:

- Review of shop drawings, falsework plans, demolition plans, contractor work plans, material submittals, or other submittals as requested by COUNTY.
- Perform "special inspection" observation of CONTRACTOR's work with appropriately trained and qualified field staff. Examples include geotechnical, welding, environmental/cultural monitors, or other specialty fields.
- Assist COUNTY with interpretation of plans and specifications.
- Assist COUNTY with negotiating and preparation of Contract Change Orders.
- Other tasks as requested by COUNTY.

Task 6.2 Periodic Reports

CONSULTANT shall prepare all reports required under Caltrans requirements for the days on-site and shall submit to COUNTY by second working day of the following week. All project files will be maintained per procedures established by COUNTY and Caltrans Local Assistance Procedures Manual & Construction Manual. As part of this sub task, CONSULTANT will:

- (1) Perform daily observation of construction work and job site safety and notify COUNTY in advance of any significant activities to permit their participation. Prepare daily inspection reports. Project control will be provided by COUNTY. CONTRACTOR will be responsible for all construction staking.
- (2) Establish a photo record for the project site and adjacent properties to document pre-construction conditions. Take digital photographs during construction to document CONTRACTOR activities. Develop a photo log with descriptions of the work being recorded, date and time showing typical construction procedures and special or critical installation techniques or conditions.
- (3) Implement system for organizing, tracking, filing, and managing paper/electronic correspondence including letters, information requests, submittals, contracts, reports, O&M manuals, progress payments, and change orders.

Deliverables will include:

- paper files
 - electronic files
 - correspondence logs
 - Inspection Daily Diaries
 - Assistant Resident Engineer Diaries
- (4) In the event that it appears that the CONTRACTOR may submit a claim for extra work, maintain records so that COUNTY can appropriately deal with it.
 - (5) Monitor and audit certified payrolls of CONTRACTOR and CONTRACTOR's subCONTRACTOR's personnel to verify CONTRACTOR compliance with all State and Federal laws.
 - (6) Review potential contract change orders (CCO) for contractual and technical merit. Prepare independent cost estimate and schedule analysis of work. Prepare CCO's covering extra work (authorized by COUNTY). Negotiate CCO's for extra work keeping COUNTY fully informed of status (approval of the change orders will be by COUNTY). Maintain daily extra work bills, quantity measurements, or such other information as necessary to document the payment to the CONTRACTOR for the extra work. Maintain change order summary reports.
 - (7) Other tasks as requested by COUNTY.

Task 6.3 Project Team Weekly Meetings

CONSULTANT will be available for Project Team Meetings with COUNTY and CONTRACTOR weekly to discuss schedule, task progress, and issues to be addressed. Key team members will be present at each team meeting depending on items to be discussed in person or

virtually.

Task 6.4 Issue/Action Item/Decision Log

CONSULTANT will develop and maintain a project Issue/Action Item/Decision log.

Task 6.5 Site Safety

CONSULTANT will review and monitor CONTRACTOR's safety program for compliance with Cal/OSHA. CONSULTANT will notify CONTRACTOR if unsafe condition is being observed. CONSULTANT will notify the Authority if CONTRACTOR refuses to rectify unsafe condition. CONSULTANT will investigate accidents and make accident reports.

Deliverables placed in the Project Records

- All reports as discussed in Task 6.3 delivered to the Resident Engineer
- Draft and Final Project Work Plan
- CONTRACTOR-developed Project schedule with updates as provided for in COUNTY's Contract Documents
- Project LAPM/LAPG Exhibits, as needed
- Communication documents (emails, memos etc.)

TASK 7 Materials Validation

Task 7.1 Materials Testing

CONSULTANT will perform all materials testing (other than geotechnical testing) in accordance with the Construction Contract documents, Caltrans' standards, and COUNTY's Quality Assurance Program. Typical tests include may include, but are not limited to:

- Compaction Testing
- Gradation and Sand Equivalent
- Asphalt Concrete (AC) Temperature Readings
- AC and concrete batch plant inspections
- Hot Mix Asphalt (HMA) coring density
- Concrete Compressive Strength
- Other tests as needed

CONSULTANT will coordinate timely testing and determination of correct testing methods and procedures for bridge and roadway work. CONSULTANT, with COUNTY approval, will accept or reject materials based on test results.

Task 7.2 Materials Source Inspection

COUNTY staff, with CONSULTANT assistance as requested, will coordinate source inspection for specialty items.

Deliverables

- Copies of all test results

- Source Inspection Quality Management Plan (SIQMP)

TASK 8 Project Construction Closeout

CONSULTANT will coordinate with COUNTY Resident Engineer for project closeout documentation, which may include any of the following:

- Perform final observation of the project upon completion and provide written certification of substantial conformity with PS&E.
- Collect all written warranties provided by vendors, manufacturers, and CONTRACTOR.
- Determine over-runs and under-runs and prepare a report of same with explanation of each.
- Prepare the Final Invoice, Final Detail Estimate, Change Order Summary, Liquidated Damages/Contractors' Claims Report, Materials Certification, Report of Completion, and such other forms and reports as may be required.
- Provide the original set of the project records, including inspections reports, summaries, testing documentation, meeting minutes, RFIs, schedules, correspondence, maps, plans, photo record, shop drawings, submittals, and manufacturers literature. An electronic copy of the project computer files will also be provided.
- Assist COUNTY with post-completion dispute resolution.

Task 8.1 – Project Punch List

CONSULTANT will schedule and conduct a project walk through with COUNTY and CONTRACTOR personnel to establish a “punch list” of items of work that are not satisfactory and assist COUNTY in getting all “punch list” items completed. CONSULTANT will prepare a list of particular items to be addressed to complete the project, or "punch list". The punch list shall be typed, dated, and show the preparer's name and contact telephone number. Each item shall reference the plan sheet number on which the item is drawn, the specifications reference, and the exact shortcoming.

Deliverables

- Three copies of each punch list

Task 8.2 – As-Built Plans

CONSULTANT will obtain from COUNTY a set of full-size plans to be used as a working set of “As-built” drawings to note all changes as they occur. All as-built information shall be legibly handwritten in indelible red ink. Language will be developed for the agreement of CONTRACTOR, CONSULTANT and COUNTY for the completeness and accuracy of the as-built plans. CONSULTANT will co-ordinate with CONTRACTOR to prepare a set of "as-built" plans. The as-built plans shall be on a copy of the approved plans on 22"x34" white paper (Provided by COUNTY). . In addition,

Deliverables

- Original as-built plans

SERVICES TO BE PROVIDED BY COUNTY

- COUNTY will provide a responsible Resident Engineer.
- COUNTY will make appropriate staff available for meetings and site visits.
- COUNTY Resident Engineer will be onsite part-time each week as Lead Inspector to assess accuracy of construction and associated reports.
- COUNTY Lead Inspector will inspect forms and bars prior to any placement of concrete.
- COUNTY will review all reports and changes for approval: either as the approving agency or prior to submittal to an approving agency.
- COUNTY will process all progress payments to CONTRACTOR.
- COUNTY will process CCO's initiated by CONTRACTOR and reviewed by CONSULTANT.
- COUNTY will issue the Notice of Completion once the work has been completed and certification of project completion is submitted by CONSULTANT and accepted by COUNTY.

[END OF DEFINITION OF SERVICES]

EXHIBIT B

PAYMENT TERMS

1. COUNTY shall pay CONSULTANT for all work required in the satisfactory completion of this Agreement in accordance with the attached Consultant Cost Proposal. Direct Labor Costs, Indirect Cost Rates and Fixed Fee may only be altered by approval from COUNTY and through a contract amendment.
2. CONSULTANT's statement of charges shall be submitted to COUNTY monthly.
3. The method of payment for this agreement is Actual Cost Plus Fixed-Fee.
4. Partial payments shall be made to CONSULTANT by COUNTY on a monthly basis in accordance with applicable charges for time-and-expense work that may be authorized by COUNTY. In no event shall the amount paid to CONSULTANT exceed the contract amount without prior written approval of COUNTY.
5. Payments for work completed by CONSULTANT will be made by COUNTY within 30 days of receipt of CONSULTANT's invoice.
6. CONSULTANT agrees that the cost principles and procedures of Title 48, Part 31, Code of Federal Regulations, shall be used to determine the allowability of individual items of cost.
7. CONSULTANT agrees to adhere to the following Invoicing Procedure:
 - CONSULTANT will prepare periodic invoices providing a summary of CONSULTANT's work, including covered dates of service, and copies of invoices from any subCONSULTANTS.
 - Invoices shall be consistent with the Local Assistance Procedures Manual, Chapter 10, Section 10.8 under "Invoicing (or Progress Payments)".
 - Invoices shall be similar in format to the Sample Invoice included in these Payment Terms, including subCONSULTANT invoices.
 - CONSULTANT must have incurred all costs included on an invoice before seeking reimbursement from COUNTY. Prepayments are not allowed.
 - CONSULTANT must pay subCONSULTANTS within 30 days of receipt of payment for each invoice.
 - The complete chain of charges through subCONSULTANT levels must follow through to the invoice to COUNTY.
 - Restaurant charges etc. shall be itemized. Invoices with just a total will be rejected.
 - COUNTY uses the *Caltrans Consultant/Contractor Travel Policy* for reimbursements for travel expenses.
 - If an expense report is used, values on the report must match the receipts. Items on a receipt not listed for reimbursement must be crossed out and initialed by CONSULTANT seeking the reimbursement and the new total noted.
 - CONSULTANT must pay subCONSULTANTS within 30 days of receipt of payment for each invoice.

- Any re-submitted invoice shall be given a new invoice date. The same invoice number and date shall appear on each page of the invoice.
- All charges accumulated within COUNTY's fiscal year, July 1 through June 30, not previously invoiced, shall be invoiced, and received by COUNTY, by the second Friday of July.
- Cover letters, project updates etc. may be included with the invoice but not stapled to it.

[END OF PAYMENT TERMS]

SAMPLE

EXHIBIT C

INSURANCE REQUIREMENTS

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude COUNTY from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law. Insurance requirements shall be in addition to, and not in lieu of, Consultant's indemnity obligations under Paragraph 2 of this Agreement.

CONSULTANT shall obtain and maintain insurance coverage as follows:

- a. Combined single limit bodily injury liability and property damage liability - \$1,000,000 each occurrence.
- b. Vehicle / Bodily Injury combined single limit vehicle bodily injury and property damage liability - \$500,000 each occurrence.

CONSULTANT shall furnish to COUNTY certificates of insurance evidencing the minimum levels described above.

[END OF INSURANCE REQUIREMENTS]

EXHIBIT D

MENDOCINO COUNTY EPAYABLES INFORMATION

The County of Mendocino is currently making credit card payments to all of our vendors and suppliers who qualify. To qualify, vendors need to currently accept credit card payments. To achieve this more efficient form of payment, the County has partnered with Bank of America and their ePayables credit card program. This electronic initiative will yield many benefits to its participants:

- Expedited receipt of cash – electronic credit card payments provide cash flow benefits by eliminating mail and paper check float
- Elimination of check processing costs
- Remittance data transmitted with payment for more efficient back-end reconciliation
- No collection costs associated with lost or misplaced checks
- Reduced exposure to check fraud
- More efficient handling of exception items
- Fits with existing accounting software – requires no purchase of software, no modifications to existing accounts receivable system and no change to bank accounts.
- Going green with paperless electronic credit card payments help conserve the environment by eliminating printing and mailing of paper checks.

For information regarding the payment process, please contact:

Margaret Yates
yatesm@mendocinocounty.gov
(707) 234-6869

[END OF EPAYABLES INFORMATION]

EXHIBIT E

COUNTY OF MENDOCINO AGREEMENT FOR ENGINEERING CONSULTANT SERVICES REYNOLDS HIGHWAY BRIDGE REPLACEMENT AT OUTLET CREEK

DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND FORMS

CONSULTANT must give consideration to DBE firms as specified in 23 CFR 172.5(b), 49 CFR, Part 26, and Exhibit 10-I “Notice to Proposers Disadvantage Business Enterprise Information”, below.

The various DBE-related documents will be due to COUNTY once the final contract amount has been agreed upon.

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 25 %.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- “Agency” also means “COUNTY”, the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 (Consultant Proposal DBE Commitment) must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards meeting the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 (Consultant Contract DBE Information) must be included in best qualified consultant’s executed consultant contract. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 2. The proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
 1. Click on the link in the left menu titled Disadvantaged Business Enterprise;
 2. Click on Search for a DBE Firm link;
 3. Click on Access to the DBE Query Form located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character

described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

[END OF DBE INFORMATION]

SAMPLE

EXHIBIT F

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

TABLE OF CONTENTS

ARTICLE IV PERFORMANCE PERIOD 64

ARTICLE V ALLOWABLE COSTS AND PAYMENTS..... 64

ARTICLE VI TERMINATION 65

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS 65

ARTICLE VIII RETENTION OF RECORD/AUDITS 66

ARTICLE IX AUDIT REVIEW PROCEDURES..... 66

ARTICLE X SUBCONTRACTING..... 68

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES..... 69

ARTICLE XII STATE PREVAILING WAGE RATES 69

ARTICLE XIII CONFLICT OF INTEREST 73

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION 73

ARTICLE XV PROHIBITION OF EXPENDING COUNTY, STATE, OR FEDERAL FUNDS FOR LOBBYING 74

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE 74

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION 75

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION..... 76

ARTICLE XIX INSURANCE 81

ARTICLE XX FUNDING REQUIREMENTS 81

ARTICLE XXI CHANGE IN TERMS..... 82

ARTICLE XXII CONTINGENT FEE..... 82

ARTICLE XXIII DISPUTES..... 82

ARTICLE XXIV INSPECTION OF WORK..... 83

ARTICLE XXV SAFETY..... 83

ARTICLE XXVI OWNERSHIP OF DATA..... 83

ARTICLE XXVII CLAIMS FILED BY COUNTY’S CONSTRUCTION CONTRACTOR 84

ARTICLE XXVIII CONFIDENTIALITY OF DATA..... 84

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION 85

ARTICLE XXX EVALUATION OF CONSULTANT 85

ARTICLE XXXI PROMPT PAYMENT 85

ARTICLE XXXII TITLE VI ASSURANCES 85

APPENDIX A 86

APPENDIX B 87

APPENDIX C 88

APPENDIX D 88

APPENDIX E 89

SAMPLE

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on from the date this Agreement becomes fully executed by all parties, contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY'S Contract Administrator. The AGREEMENT shall end on June 30, 2026, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on COUNTY until the AGREEMENT is fully executed and approved by COUNTY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. COUNTY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds COUNTY's approved overhead rate set forth in the Cost Proposal. In the event, that COUNTY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by COUNTY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.
- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, COUNTY will pay CONSULTANT a fixed fee of \$(). The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, COUNTY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed

prior to approval of this AGREEMENT.

- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by COUNTY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due COUNTY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:

*Mendocino County Department of Transportation
Attn: Rygg Larsen
340 Lake Mendocino Drive, Ukiah, CA 95482*

- I. The total amount payable by COUNTY including the fixed fee shall not exceed \$(_____).
- J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- B. COUNTY may temporarily suspend this AGREEMENT, at no additional cost to COUNTY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If COUNTY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to COUNTY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to COUNTY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and COUNTY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. COUNTY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by COUNTY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by COUNTY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's

responsibility to ensure federal, COUNTY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by COUNTY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, COUNTY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, COUNTY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI. Accepted rates will be as follows:
 - a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
 2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COUNTY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COUNTY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the COUNTY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the COUNTY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the COUNTY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the COUNTY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the COUNTY.
- E. Any substitution of Subconsultants must be approved in writing by the COUNTY Contract Administrator in advance of assigning work to a substitute Subconsultant.
- F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

- G. Prompt Payment of Withheld Funds to Subconsultants

No retainage will be held by the COUNTY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning

subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the COUNTY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by COUNTY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
 - 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit COUNTY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COUNTY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY.
 - 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant

to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at COUNTY construction sites, at COUNTY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve COUNTY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COUNTY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

- c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.
 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the COUNTY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the

AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, COUNTY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If COUNTY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if COUNTY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by COUNTY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the COUNTY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by

employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this AGREEMENT or any ensuing COUNTY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing COUNTY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to COUNTY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise COUNTY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either COUNTY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any COUNTY employee. For breach or violation of this warranty, COUNTY shall have the right, in its discretion, to terminate this

AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING COUNTY, STATE, OR FEDERAL FUNDS FOR LOBBYING

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
1. No State, Federal, or COUNTY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for

employment are free from such discrimination and harassment.

- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the COUNTY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or COUNTY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the COUNTY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any

federal agency within the past three (3) years;

3. Does not have a proposed debarment pending; and

4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

A. CONSULTANT, subrecipient (COUNTY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The COUNTY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes or work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who enter into a federally-funded agreement will assist the COUNTY in a good faith effort to achieve California's statewide overall DBE goal.

B. The goal for DBE participation for this AGREEMENT is 25%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10- O2: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not

otherwise met.

- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR
26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Replacement of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the COUNTY's written consent. CONSULTANT shall not terminate or replace a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the COUNTY. Unless the COUNTY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

Termination of DBE Subconsultants

After execution of the AGREEMENT, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the COUNTY:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The COUNTY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the COUNTY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).

5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The COUNTY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the COUNTY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The COUNTY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The COUNTY shall request CONSULTANT to:

1. Notify the COUNTY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the COUNTY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and

submit the form to the COUNTY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the COUNTY within 90 days of contract acceptance. The COUNTY will withhold \$10,000 until the form is submitted. The COUNTY will release the withhold upon submission of the completed form.

In the COUNTY's reports of DBE participation to Caltrans, the COUNTY must display both commitments and attainments.

G. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

CONSULTANT must perform CUF evaluation for each DBE working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work and continue to monitor the performance of CUF for the duration of the project.

CONSULTANT must provide written notification to the COUNTY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, CONSULTANT shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

CONSULTANT must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. CONSULTANT must submit to the COUNTY these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

CONSULTANT must notify the COUNTY immediately if they believe the DBE may not be performing a CUF.

The COUNTY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional COUNTY evaluations.

The COUNTY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The COUNTY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the COUNTY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the COUNTY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

CONSULTANT and DBEs must submit any additional CUF related records and documents within five (5) business days of COUNTY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If CONSULTANT and/or the COUNTY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, CONSULTANT must immediately suspend performance of the noncompliant portion of the work. COUNTY may deny payment for the noncompliant portion of the work. COUNTY will ask the CONSULTANT to submit a corrective action plan (CAP) to the LOCAL AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. COUNTY has five (5) days to review the CAP in conjunction with the CONSULTANT's review. The CONSULTANT must implement the CAP within five (5) days of the COUNTY's approval. The COUNTY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a commercially useful function on the Contract, CONSULTANT may have good cause to request termination of the DBE.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified

subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.

- L. For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the COUNTY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish COUNTY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to COUNTY.
 - 2. That COUNTY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.
 - 3. That COUNTY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of COUNTY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, COUNTY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to COUNTY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or COUNTY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. COUNTY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by COUNTY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by COUNTY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, COUNTY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of COUNTY's Contract Administrator and Howard Dashiell, Director of Transportation, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by COUNTY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will

excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit COUNTY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, COUNTY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal- aid contracts).
- E. COUNTY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by COUNTY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with COUNTY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that COUNTY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from COUNTY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with COUNTY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to COUNTY's operations, which are designated confidential by COUNTY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by COUNTY, and receipt of COUNTY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than COUNTY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If

CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by COUNTY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI PROMPT PAYMENT

A. PROMPT PAYMENT FROM COUNTY TO CONSULTANT

The COUNTY shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the COUNTY fails to pay promptly, the COUNTY shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the COUNTY shall act in accordance with both of the following:

- (1) The COUNTY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
- (2) The COUNTY must return any payment request deemed improper by the COUNTY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. PROMPT PAYMENT CERTIFICATION

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the COUNTY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The COUNTY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The COUNTY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

ARTICLE XXXII TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

The [U.S. Department of Transportation Order No.1050.2A](#) requires all federal-aid Department of Transportation contracts between an agency and a consultant to contain Appendices A and E of the Title VI Assurances. Include Appendices B, C, and D if applicable as shown below. In addition, the consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

The clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a COUNTY.

The clauses set forth in Appendix C and Appendix D of this Assurance shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the COUNTY with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. **Compliance with Regulations:** CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. **Nondiscrimination:** CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. **Solicitations for Sub-agreements, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. **Information and Reports:** CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations,

U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility

located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the

U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].* (*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE
ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non- discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE
ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or

activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

[END OF REQUIRED FEDERAL LANGUAGE]

**ATTACHMENT K
SAMPLE COST PROPOSAL
COST-PLUS-FIXED-FEE**

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier

Subconsultant Consultant _____
Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total

LABOR COSTS

- a) Subtotal Direct Labor Costs _____
- b) Anticipated Salary Increase (see page 2 for calculations) _____
- c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] _____

INDIRECT COSTS

- d) Fringe Benefits (Rate: ____%) e) Total Fringe Benefits [(c) x (d)] _____
- f) Overhead (Rate: ____%) g) Overhead [(c) x (f)] _____
- h) General & Administrative (Rate: ____%) i) Gen & Admin [(c) x (h)] _____
- j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] _____

FIXED FEE

- k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee ____% _____

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total

- l) **TOTAL OTHER DIRECT COSTS** _____

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: _____
 Subconsultant 2: _____
 Subconsultant 3: _____
 Subconsultant 4: _____

- m) **TOTAL SUBCONSULTANTS' COSTS** _____

- n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] _____

TOTAL COST [(c) + (j) + (k) + (n)] _____

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

SAMPLE COST PROPOSAL
COST-PLUS-FIXED FEE
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5Year Contract Duration
\$250,000.00	500	=	\$50.00	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation%)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate% each year by total hours)

	Estimated % Completed Each Year	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	20.0%	5000	=	1000	Estimated Hours Year 1
Year 2	400%	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	5000	=	750	Estimated Hours Year 4
Years	100%	5000	=	500	Estimated Hours Year 5
Total	100%	Total	=	5000	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$50.00	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	500	=	\$27,060.80	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation		=	\$257,871.10	
	Direct Labor Subtotal before Escalation		=	\$250,000.00	
	Estimated total of Direct Labor Salary Increase		=	Transfer to Page 1 \$7,871.10	

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

SAMPLE COST PROPOSAL

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal {s} in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles {GAAP}
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) {when applicable}

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements.

Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate {s}.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title: _____

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

ATTACHMENT L
CERTIFICATION OF INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required)

Consultant's Full Legal Name: _____

Important: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate (ICR):

Combined Rate: _____ Or

Home Office Rate: _____ and Field Office Rate (if applicable): _____

Facilities Capital Cost of Money (if applicable): _____

Fiscal Period:* _____

* Fiscal period is annual one year applicable accounting period that the ICR was developed (not the contract period). The ICR is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an ICR(s) for the fiscal period as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the ICR(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31).
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31.
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on the Financial Document Review Request form.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in Title 23 United States Code (U.S.C.) Section 112(b)(2); 48 CFR Part 31.201-2(d); 23 CFR, Chapter 1, Part 172.11(a)(2); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost accounts;
- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;

- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirements.

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

All A&E Contract Information:

- Total participation amount _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____
- Years of consultant’s experience with 48 CFR Part 31 is _____
- Identify the type of audits listed below that the consultant has had performed (if applicable):

Cognizant ICR Audit Local Govt ICR Audit Caltrans ICR Audit

CPA ICR Audit Federal Govt ICR Audit

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the ICR Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name**: _____ Title**: _____

Signature: _____ Date: _____

Phone**: _____ Email**: _____

**An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: Both prime and subconsultants as parties of a contract must complete their own forms. Caltrans will not process local agency’s invoices until a complete form is accepted and approved by the Independent Office of Audits and Investigations.