



MENDOCINO COUNTY  
DEPARTMENT OF TRANSPORTATION  
REQUEST FOR PROPOSALS TO PROVIDE: REDWOOD VALLEY WATER  
INFRASTRUCTURE RETROFIT PROJECT ENGINEERING SERVICES  
DEPARTMENT OF TRANSPORTATION CONTRACT NUMBER 180073  
DEPARTMENT OF TRANSPORTATION PROJECT NUMBER HGMPRVWD

**I. INTRODUCTION**

Mendocino County Department of Transportation (MCDOT) requires the services of a professional engineering firm to provide civil engineering land surveying for preparation of “Ready to Bid” Public Contract Plans, Specifications, and Estimates (PS&E), Construction/Environmental Quality Assurance/Technical (QA/TA) assistance during construction. Services are for a federally funded Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) project. The project’s approved grant is for construction of domestic water delivery systems that mitigate seismic hazards currently threatening Redwood Valley County Water District (RVCWD) infrastructure. The expected outcome is the replacement/retrofit of approximately 15,026 feet of existing water main lines, installation of approximately 5,631 feet of new water main lines where necessary, and replacement of up to 304 water service lateral connections; existing infrastructure within the system was installed to unknown code standards, using unknown materials, and is of unknown age. The project is located in Redwood Valley California; in the County of Mendocino, with connections from private roads to West & Tomki Roads – Madrone Lane CR 234A minor projects on Fisher Lake CR 237 I, CR 237H, Mountain View Lane, CR 2237G, Mohawk Trail & CR 2237F, Inez Way.

The project would be constructed over an eighteen-month period projected to begin in the spring of 2020. Construction of this project would entail trenching and/or subsurface jacking of several utility extension service conduits to service district specifications within the existing easements and or acquiring new easements. Consultant services under this contract are included as Exhibit X and constitute the proposed Scope of Work – subject to final scope and cost negotiations with the successful proposer. **Work Scope Part Number (No.) 1** is for environmental/permit preparation, design professional services; preparation of contract documents, PS&E, utility coordination with full agreements to inspect, accept and serve; property boundary; and ROW description. **Work Scope Part No. 2** is for construction support services, technical assistance, testing, and shop drawing review, inspections, and construction documentation.

Public contract administration and project final approval shall remain with MCDOT. The successful proposer (consultant and/or sub-consultant team) is expected to have the qualifications to

perform both Part No. 1 and Part No. 2 work even if that work is broken into two separate contracts or if Part No.2 is an amendment to the contract defined more clearly after Part No. 1 work is complete.

Proposers have access to background information posted with this Request for Proposal (RFP) at the MCDOT web-page showing preliminary layouts, legacy reports, and studies prepared by the Redwood Valley County Water District. All this information is to be considered at face value and proposers shall negotiate their final scope and cost to perform the work described in this RFP based on their expertise and in consideration of their client – Mendocino County.

Furthermore, the past private design work done by Redwood Valley County Water District; and/or their predecessors and associates, is used here to help define the project background and primary project parameters and is not the final scope of work. The successful proposer will have the full ability to refine and revise any and all aspects of final designs necessary to make this now public, Mendocino County Project, compliant with current codes and standards as well as standards of practice in the industry and Redwood Valley County Water District specifications.

The County has established insurance requirements applicable to professional services agreements, including this proposed agreement. The applicable insurance requirements are listed in Section XVII of this Request for Proposal.

The County has established a Disadvantaged Business Enterprise (DBE) goal for this Agreement of 0%. Refer to the attached Exhibit 10-I “Notice to Proposers DBE Information” for requirements. The goal is 0% because the number of registered DBEs on the State list for this project is small per the calculation and the only other professional “sub-consultant” is also small and under the limit for goal setting by the Caltrans Local Agency method. Nevertheless, proposers are encouraged to list DBE subs and report DBE percentages. Furthermore, MCDOT has sent invitations to all listed DBE professionals on the State list and encourages any consultant teams with DBE subs to list. The selected consultant is expected to take affirmative steps listed in 44 CFR Part 13.36(e) to assure that minority firms, women’s business enterprise, and labor surplus area firms are used when possible.

This Request for Proposal will be executed as a One-Step RFP Method, as described in Chapter 10 of the Caltrans’ *Local Assistance Procedures Manual*.

## **II. DEFINITIONS**

**COUNTY** – The County of Mendocino.

**CONSULTANT** – 1. A person, partnership, firm, corporation, or joint venture submitting a proposal to obtain a COUNTY contract. 2. A Consultant who signs a contract with the COUNTY to perform services.

## **III. PROPOSAL SUBMISSION**

- A. Consultants must submit 3 copies of their proposal with original Consultant signature. 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 “**Redwood Valley County Water District Infrastructure Retrofit**”,  
and delivered to:

Attn: Howard Dashiell  
Director of Transportation, County Engineer  
Mendocino County Department of Transportation  
340 Lake Mendocino Drive  
Ukiah, CA 95482-9432

Late or facsimile Proposals will not be accepted unless delivery was out of the control of the sender and proposer can prove the delivery service was at fault.

Note: The un-authorized use of the County’s official logo is strictly prohibited.

**Submittal Deadline: November 19, 2018, at 4:30 p.m.**

- B. In a separate sealed envelope, proposers are required to submit with their proposal package, with original Consultant signature:
  - 1. Certificate of Non-Collusion (Attachment B).
  - 2. Proposal Summary Fact Sheet and Statement of Responsibility (Attachment C).
  - 3. Exhibit 10-O1 “Local Agency Proposer DBE Commitment”.
  - 4. Exhibit 10-O2 “Consultant Contact DBE Information”.
- 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 Proposals must be dated and signed by a representative authorized to enter into contracts for the proposing Consultant.
- E. All Proposals will remain in effect and legally binding for at least 45 days from the opening date.
- F. 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 Consultant. Any and all damages that may occur due to packaging or shipping of the proposal will be the sole responsibility of the Consultant.
- G. 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 Consultant shall become the property of the County of Mendocino.
- H. Time when stated as a number of days, shall include Sundays through Saturdays, excluding legal holidays.
- I. Consultant must examine all information and materials contained in and accompanying its proposal. Failure to do so will be at the Consultant'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.

- J. The successful consultant will be subject to verification of non-fraud and for listing on the list for debarred contractors/consultants per federal funding requirements.

#### IV. PRE-SUBMITTAL INQUIRIES

Pre-submittal procedural or process inquiries may be directed to Howard Dashiell, Director, at (707) 234-2808 or [dashiellh@mendocinocounty.org](mailto:dashiellh@mendocinocounty.org). Proposers are required to submit any technical questions in writing at least 72 hours before Proposals are due, in order for staff to prepare written responses to all consultants. Technical questions will be answered by email only. Technical questions will not be accepted by phone.

#### V. MODIFICATIONS OR WITHDRAWAL OF PROPOSALS

- A. A proposal that is in the possession of the County may be altered by letter or facsimile bearing the signature or name of the Consultant's authorized representative, provided it is received **prior to the deadline for submission of Proposals**. Telephone 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 Consultants 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 Consultants in the event of schedule changes.**

<b>Scheduled Activity</b>	<b>Proposed Date</b>
Request for Proposals mailed to prospective proposers	<b>October 9, 2018</b>
RFP Submission Deadline	See page 3
RFP Selection and Notification	<b>November 21, 2018</b>
Board Authorization to Award	<b>December 18, 2018</b>
Notice of Award	<b>December 22, 2018</b>

#### VII. SELECTION PROCESS

- A. The County reserves the sole right to judge the contents of the Consultants' Proposal. The selection process will be governed by the following criteria:

1. The Proposal 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 Consultant's services, organizational structure, capabilities, and qualifications, past performance.
3. Consultants 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. EVALUATION CRITERIA**

- A. The proposal will be judged based on service capabilities and experience of the prospective Consultant and all persons who will be providing services under contract. The following are the critical areas of the Proposal that will be evaluated by the Selection Committee:
1. Adequacy of the described plan/approach to deliver requested services as described in this RFP.
  2. Experience of Consultant in providing services and quality of work.
  3. Status of Professional Certification including whether the Consultant meets the minimum requirements to provide service.  
There are further parameters noted in Attachment A.

#### **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 Proposal 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. The Consultant agrees that should it be awarded a contract, the Consultant shall not discriminate against any person who performs work there under because of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.
- C. The County reserves the right to reject any or all Proposals and to waive any irregularities if deemed in the best interest of the County to do so. The County will select

the Consultant 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 shall be the sole judge in making such a determination.

- D. The successful Consultant 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 D. It is the Consultant'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. If no exceptions are noted, the County will understand that the Consultant agrees to the terms and conditions as stated in the contract.
- E. In a separate sealed envelope, include a copy of your proposed fee schedule. The fee schedule will not be used during the consultant selection, but may be used by County for comparison purposes during negotiations.
- F. Prior to final selection, Consultants may be required to submit any additional information that Mendocino County may deem necessary to determine the Consultant's qualifications. Should any of the information requested by Mendocino County be considered by the Consultant to be confidential, it must be so stated. Mendocino County will attempt to treat any information submitted by the Consultant as confidential if requested to do so; however, Mendocino County cannot ensure such confidentiality.
- G. Open Procurement
  - 1. The Consultant shall include any latitudes, prohibitions or limitations placed on the purchase of the items presented in the Consultant's Proposal. Items and/or services that Consultant 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 Consultant at the same time.

## **X. SCOPE OF WORK**

Consultants shall provide a scope of work which covers the items outlined below along with any additional items that the Consultant deems necessary in order to deliver the necessary services in accordance with California Office of Emergency Services and the Federal Emergency Management Agency (CalOES/FEMA), Hazard Mitigation Grant Program (HMGP) and other applicable federal requirements.

## **Project Background**

Mendocino County (County) is assisting the owners of this water system – The Redwood Valley County Water District (RVCWD) – by administering HMGP grant funding to retrofit existing water main and service lateral infrastructure for which the County is an eligible applicant.

The County of Mendocino is proposing to construct, by abandoning in place, the existing 4-inch diameter low code water mains and installing new 6-inch water mains, and replacing existing low code water laterals with new 1-inch diameter laterals designed to meet current seismic standards. Approximately 15,026 linear feet of existing low code 4-inch diameter water mains will be abandoned in place and replaced with new 6-inch diameter polyvinyl chloride (PVC) water mains, while 5,631 feet of new 6-inch diameter PVC water main is proposed to be installed in strategic locations throughout the District to create system loops and improve system resilience and water quality. Approximately 7,500 feet of replacement water line will be installed in County roads, with approximately 3,434 feet of new water line and 3,715 feet of replacement water line installed along private roads. No new water line is proposed for placement in County roads. Approximately 700 feet of new water line and 945 feet of replacement water line will be installed through private property and not along a roadway alignment. The project will also identify and replace existing low code 3/4-inch diameter water laterals with 2016 California Residential Code-compliant 1-inch diameter water service laterals. The exact number of laterals to be replaced will be identified in Phase I, and only existing laterals associated with existing or burned residences will be retrofitted; there will be no new (non-replacement) laterals installed. These retrofits will replace the existing infrastructure of questionable construction with new infrastructure designed to meet modern seismic design standards and perform more reliably under seismic hazards.

## **Reason for Project**

HMGP funds made available under DR-4344 – Redwood Fire Disaster. The project will protect critical infrastructure for business, residences and improve the resiliency of the community. The infrastructure improvement project described herein is located near the unincorporated community of Redwood Valley, Mendocino County, California, as identified in the location map(s) accompanying this RFP at the MCDOT website: <https://www.mendocinocounty.org/government/transportation/rfps-rfqs-projects-to-bid> and is broken-up into eight (8) distinct project areas, as depicted on the map.

## ATTACHMENT D

County of Mendocino Department of Transportation (MCDOT)  
Redwood Valley Water Infrastructure Retrofit Project Engineering Services

### SCOPE OF WORK

For a FULL SERVICE Engineering contract.

The following is the proposed *Scope of Work* and understanding of the tasks required for Mendocino County Department of Transportation project number D1800x, the “**Redwood Valley Water Infrastructure Retrofit Project Engineering Services**” Request for Proposal.

The consultant will work closely with a Project Development Team (PDT) comprised of representatives from the Mendocino County Department of Transportation (MCDOT), Mendocino County Executive (CEO), and Redwood Valley County Water District (District) to identify and study potential retrofitted pipeline alignments.

Overall Project Objective: To produce “READY to Bid” engineering Plans, Specifications and Estimates (PS&E) using the Caltrans Standard Specification method with Contract Special Provisions for construction of District facilities to be accepted into District maintenance. The PS&E will build onto the preliminary work done by the grant preparation consultant – LACO, Inc. and presented at the MCDOT webpage with this RFP.

It is understood that any services covered under this contract subject to the Business and Professional Code licensing requirements for Engineers, Land Surveyors or Geologists will be performed under the responsible charge of a duly Registered Professional 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 sub CONSULTANT under contract to CONSULTANT.

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.

**Point of Contact** – Project Manager name, of Successful Consultant, will be the single point of contact for maintaining liaison and coordination throughout the project with the County’s Project Manager and other team leaders.

**Project Title** – In reference to the project in any forms or formal written materials, CONSULTANT shall use the project title of: **Redwood Valley Water Infrastructure Retrofit Project**.

**Project Long Description** – In reference to the project in any forms or formal written materials, CONSULTANT shall use the long project description of: Project Part No. 1 - design professional services – Plans, Specifications and Estimates (PS&E), Environmental Coordination with CEQA/NEPA support - permitting – Property Boundary – Easement Description & Acquisition. Part No. 2 - construction support services, technical assistance, testing, shop drawing review,



inspections and construction documentation. Invoices shall separate Part No. 1 & Part No. 2 services.

**Shipping** – CONSULTANT shall contact COUNTY prior to any overnight or other expedited shipping.

An exception is the use of overnight couriers that offer competitive rates with the US Postal Service. COUNTY will not reimburse for overnight shipping without prior authorization.

## **Scope of Services Both Part No. 1 & Part No. 2**

### **TASK 1 Project Management and Coordination**

Project Management and Coordination will include the following subtasks:

#### **Task 1.1 Project Initiation**

- 1.1.1 Kick-off Meeting** – Includes a meeting at the MCDOT offices followed by a site visit. Attendees will include the COUNTY project manager, a representative from the District, CONSULTANT project manager and point of contact.
- 1.1.2 Preliminary Research** – Includes various historic documents as: as-built plans, for the existing plans and studies etc. COUNTY will assist in this effort to the limit of COUNTY records.
- 1.1.3 Field Investigation** – Includes data gathering on the part of COUNTY and CONSULTANT leading to the completion of the various reports and forms required the project.

#### **Task 1.2 Coordination**

- 1.2.1 Point of Contact** – Project Manager name, of Successful Consultant, will be the single point of contact for maintaining liaison and coordination throughout the project with the County's Project Manager and other team leaders.
- 1.2.3 Project Title** – In reference to the project in any forms or formal written materials, CONSULTANT shall use the project title of: **Part No. 1 – PS&E with Environmental/Permit Coordination** - Redwood Valley Water Infrastructure Retrofit Project, **Part No. 2 – Construction Support** - Redwood Valley Water Infrastructure Retrofit Project.
- 1.2.4 Project Long Description** – In reference to the project in any forms or formal written materials, CONSULTANT shall use the long project description of: Project **Part No. 1** - design professional services – Plans, Specifications and Estimates (PS&E), Environmental/Permit Coordination with full agreements to Inspect, Accept and Serve – Property Boundary – Easement Description. **Part No. 2** - construction support services, technical assistance, testing, and shop drawing review, inspections and construction documentation.
- 1.2.5 Project Short Description** – In e-mails and on forms with restricted space, CONSULTANT shall use the short project description of: Redwood Valley Water Infrastructure Retrofit Project.

**1.2.6 Project Coordination with County** – CONSULTANT will coordinate with the COUNTY through phone conversations, emails, written memoranda, fax etc.

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

**1.2.8 Project Schedule and Budget Management** – CONSULTANT will develop a project schedule outlining tasks and subtasks to be performed.

CONSULTANT will maintain and manage CONSULTANT team’s schedule and budget and sub-consultant contracts.

**1.2.9 Periodic Reports** – CONSULTANT shall submit progress reports at least once each month. The reports shall be sufficiently detailed for the COUNTY to determine if CONSULTANT is performing to expectations, is on schedule and budget, to provide communication of interim findings and to sufficiently address any difficulties or special problems encountered so remedies can be developed.

Status reports will include status of services by: task breakdown, problems encountered, percent of services complete as of the date of the progress report and discussion of schedule changes, work products, issues currently being addressed and other items of interest as applicable one a month minimum. CONSULTANT should plan for semimonthly PDT meetings or phone check in as needed. CONSULTANT shall coordinate all such communication.

**1.2.10 Invoices** – CONSULTANT will prepare periodic invoices providing a summary of CONSULTANT’S work charged by task, including covered dates of service, and copies of invoices from any sub-consultants. Invoices shall include the COUNTY’s project number and consultant agreement number. Invoices shall be consistent with the *Local Assistance Procedures Manual*, Chapter 10, Section 10.8 under “Invoicing (or Progress Payments)”.

Should one contract include several projects, separate invoices shall be issued for each project.

Consultant must have paid all costs included on an invoice before seeking reimbursement from COUNTY. Prepayments are not allowed. The complete chain of charges through the sub-contractor 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 and on up the line. Items on a receipt not listed for reimbursement must be crossed out and initialed by the consultant seeking the reimbursement and the new total noted.

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 the COUNTY’s fiscal year, 1 July through 30 June, not previously invoiced, shall be invoiced, and received by COUNTY, by the second Friday of July.

A sample invoice is given in Consultant Agreement Exhibit B.

Cover letters, project updates etc. may be included with the invoice but not stapled to it.

**1.2.11 Completion Time** – It is emphasized that time is of the essence for work performed under this Agreement.

**1.2.12 Work Quality** – All work under this agreement must be completed to the satisfaction of COUNTY and satisfy all requirements of Hazard Mitigation Grant Program (HMGP). CONSULTANT will document the results of this work.

All charges accumulated within the COUNTY's fiscal year, 1 July through 30 June, not previously invoiced, shall be invoiced, and received by COUNTY, by the second Friday of July.

A sample invoice is given in Consultant Agreement Exhibit F. This format is to be used for all invoices, including sub CONSULTANTS.

Cover letters, project updates etc. may be included with the invoice but not stapled to it.

**Deliverables**

- Monthly invoices – SEPARATE for Part No. 1 - PS&E with Utility Coordination and Part No. 2 – Construction Support

**1.2.13 Communication** – CONSULTANT will use the project number, **D1901**, in e-mails, letters, transmittals etc..

**Deliverables**

- Draft and Final Project Work Plan
- Project schedule with updates as necessary, but at least each quarter
- One month Look Ahead Schedule minimum – semimonthly PDT meeting or phone check as needed.
- Monthly invoices and progress reports
- Project log of issues, action items and decisions
- Communication documents (emails, memos etc.)

**SERVICES TO BE PROVIDED BY COUNTY**

COUNTY will make appropriate staff available for meetings and site visits.

**Scope of Services Part No. 1 – Preparation of “Bid Ready” PS&E, Utility Coordination with full agreements to Inspect, Accept and Serve – Property Boundary – Easement Description Surveying and Mapping.**

**TASK 2 Site Based Surveys**

CONSULTANT will perform topographic and right of way surveys for the proposed project.

**Task 2.1 - Surveying Topographic and Right of Way Mapping**

The topographic survey will be at a drawing scale of 1 inch = 20 feet, unless otherwise requested, with one foot contour intervals. The topographic survey will also include:

Survey of the section containing the project to include the section corners, quarter corners and any other monumented points that may affect the alignment of section lines. Be the project on a section line, the lines of the adjacent section shall be included.

Topographic survey will be provided on NAVD 88 Vertical Elevation and horizontally relate to the California Coordinate System of 1983, Zone 2. Record right of way lines will be plotted on the topographic map with verification of ownership. A record of survey will be prepared following project construction.

Prior to the field survey, Underground Service Alert will be contacted to provide utility markings in the project area.

Topographic survey coverage area will include the area identified in Vicinity and Location Maps - See MCDOT web-page with RFP?

Topographic survey will include all necessary work to produce a topographic map, including features such as, but not limited to: pavement; utility markings, utility poles, driveway, trees six (6) inches and larger, headwalls, bridges, retaining walls, decorative walls and any other pertinent information that could apply to the project during design.

Mapping shall include:

- cross sections at all stations ending in +00 and +50, at either end of the project and one fifty feet beyond both project limits.
- cross sections at all BCs and ECs
- cross sections at intersections at the furthest BCR or ECR from the cross street center line
- grid of intersections with lines at fifteen-foot maximum spacing from MCR to MCR with a minimum of four lines in each direction

#### **Deliverables**

- Base Map in AutoCAD Civil 3D
- Cross-Sections (1"=10' horizontally and 1"=1' vertically)

#### **Task 2.2 - Right of Way**

Prepare one description for permanent right of way acquisition and one description for temporary right of way acquisition. CONSULTANT will provide title reports as necessary; thus will require a sub-agreement for title and escrow services.

Provide Title Reports, Title Insurance, Litigation Guarantees, Escrow Instructions, Escrow Accounts and other related services as required.

Research existing land title documents, maps, etc. as to DISTRICT rights for waterline facilities locations, rights of way and easements.

Prepare Summary Appraisal Reports to determine the fair market value of any rights to be acquired from each subject property and prepared in accordance to professional standards, Uniform Standards of Professional Appraisal Practice (USPAP), and the Caltrans Right-of-Way Manual and all applicable laws and regulations.

Provide (if needed) Review Appraisers to support any eminent domain litigation, including, but not limited to, preparation of appraisal summary statements and related supporting declarations; providing updated statements of valuation; assistance of counsel by providing expert witness analysis and review of defendant's property valuation information; and, preparation for, attendance, and testimony at deposition mediation, and trial proceedings as required.

Provide Acquisition Specialist responsible for: "good faith negotiations" with property owners for the purchase of right-of-way based on values established in the reviewed and approved appraisals; adherence to all professional standards and the Caltrans Right-of-Way Manual and all applicable laws and regulations; preparation of all written correspondence, applicable forms and COUNTY'S standard purchase agreement; coordination with COUNTY staff; AND, performance of notary services related to the signing of acquisition documents.

Provide one trip to flag the existing and proposed right of way at intervals between 50 and 100 feet, for use by the COUNTY and other consultants. Each flag set will be visible from each adjacent flag.

Record right of way lines will be plotted on the topographic map with verification of ownership.

#### **Deliverables**

- Prepare Legal Descriptions
- Prepare Right-of-Way Plats
- Assist Right-of-Way Certification
- Stake Right-of-Way Limits Easement and Lines
- Right-of-Way Plats and Legal Descriptions
- Identify and coordinate any right-of-entry agreements
- Set temporary stakes for easement areas and Right-of-Way lines
- Record of survey (following project construction if required by law)
- Appraisals
- Acquisition Agreements
- Record Deeds for easements
- Process unrecorded entry agreements where appropriate

#### **Task 2.3 – Utility Location Coordination**

CONSULTANT will provide coordination so that all utility conflicts are identified and proper notice and coordination, per Caltrans Standards, is given to the affected utilities owners. This includes overhead utility lines (electrical and communication) and others as identified. At this point, no other utilities beyond the overhead utilities are expected.

#### **Deliverables**

- Prepare Conflict Maps (if required)
- Prepare County Utility Specification Agreements with conditions of acceptance.
- Utility required documentation & will accept assurances.

### **TASK 3 Geotechnical**

CONSULTANT will be required to make subsurface investigations. CONSULTANT will be responsible to make preliminary geotechnical surveys. CONSULTANT shall evaluate past work provided and propose whatever additional work deemed necessary.

#### **Task 3.1 Design Recommendations**

Shall include a description of the project; a site description; geologic conditions; a summary of field explorations, laboratory testing and design recommendations.

- 3.1.1 Trenching & Earthwork** – CONSULTANT shall make recommendations for trenching, backfill, compaction etc. CONSULTANT shall consider economics of options to trenching such as underground pulling grips with pulling cables and duct through conduit, plowing or directional boring.
- 3.1.2 Record Data Analysis** – CONSULTANT shall make recommendations for the seismic stability, existing geologic hazards, etc. LACO Technical Memo (posted at MCDOT Web-page with this RFP) lists some references – if designer concurs reflect in PS&E.

**Task 3.2 Conduit System Stabilization and Resiliency** - CONSULTANT shall make recommendations and specifications for water system design in view of an anticipated magnitude 6.7 earthquake on the San Andreas or Maacama Faults. Project objectives are to mitigate to the extent possible “high” ground shaking causing damage or loss of the water system.

- 3.2.1 California General Construction Permit** – CONSULTANT shall prepare post-project mitigation – water balance plan in conformance with State Law.

#### **Task 3.3 Geotechnical Design Documentation**

CONSULTANT shall evaluate past work provided and propose whatever additional work deemed necessary. Shall include a summary of field explorations, laboratory testing and design recommendations. Design recommendations shall include construction techniques to optimize constructed soils conditions and the objective of the project and any potential threats to the project, as surface or subsurface drainage.

##### **Deliverables**

- Draft submittals shall be one hard copy, and e-mailed PDF and Word DOC (2003) files. Comments will be made on the Word document and e-mailed back to CONSULTANT.
- Final reports to be signed by COUNTY shall be one printed copy more than required by the approving agency. All will be signed. The number required by the approving agency will be submitted by COUNTY.
- If no COUNTY signature is required, CONSULTANT may submit directly to the approving agency and send one copy to COUNTY.
- Upon approval of any report, one copy shall be submitted to COUNTY as a complete, uniformly bound, approved document.

#### **TASK 4 Environmental and Permitting Compliance Environmental Services in Support of Project**

This task is for the identification of the project environmental impacts and descriptions of mitigation measures to be utilized to minimize those impacts in accordance with NEPA/CEQA or any required permit conditions.

CONSULTANT shall prepare documents for COUNTY to satisfy Federal and State environmental regulations. Tasks to be completed by CONSULTANT include preparation of National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) technical studies, agency permit applications and coordination and mediation of public meetings. All documents submitted to COUNTY shall include a written description of the proposed project, design alternatives (if any), as well as a demonstrated purpose and need of the project. CONSULTANT shall prepare all documents required by the Preliminary Environmental Study (PES) signed by DISTRICT. All documents are to be completed to the satisfaction of COUNTY and DISTRICT and CONSULTANT is responsible to make revisions and re-submit to COUNTY, based on comments received.

##### **Deliverables**

- Draft submittals: one hard copy, one e-mailed PDF and one Word DOCX files. Comments will be made on the Word document and e-mailed back to CONSULTANT. (Third party attachments and file handling services are not to be used to transfer any data to COUNTY.)
- Final reports: one printed bound copy more than that required by the approving agency shall be submitted to COUNTY. All will have original signatures. The number required by the approving agency will be submitted by COUNTY.
- Upon approval of any report, one copy shall be submitted to COUNTY as a complete, uniformly bound, approved document and a duplicate PDF.
- Any report submitted to the approving agency for final approval shall be complete, including the results of all communications with the approving agency.

#### **Task 4.0 Environmental Project Management and Co-ordination**

This task is included as a billing item only. CONSULTANT's proposal should include this item. The duties performed within this task are defined in Task 1.

#### **Task 4.1 NEPA Compliance**

The Lead Agency for NEPA compliance shall be FEMA/CalOES. FEMA/CalOES and regulatory agencies for NEPA compliance may require special studies outlined below. The content and format requirements of environmental technical studies and NEPA documents prepared in support of this project must follow the guidance set forth in the current FEMA/CalOES Standard Environmental References. These studies could include:

- 4.1.1 NEPA Exemption** – Approving agency hopes for exemption but if not support for a FONSI may be required; if so, a contract amendment shall be issued.
- 4.1.2 Noise Studies** – Technical Memorandum or full analysis relating to noise increases and vibrations due to construction activities such as heavy equipment use and increased traffic due to construction. Studies shall be formatted in accordance with the grant requirements.
- 4.1.3 Hazardous Materials** –Data collection may include but is not limited to historical land

use documents, interviews, historical and current aerial photography, fire insurance maps, topographic maps or additional pertinent informational resources. Where potentially hazardous materials (e.g.: lead paint, naturally occurring asbestos/serpentine, hydrocarbons etc.) are identified within the project area through initial research and leads to further site investigations (e.g.: Preliminary Site Investigation (PSI) and/or Detailed Site Investigation (DSI) (federal Phase 2 Environmental Site Assessment)), a contract amendment shall be issued.

- 4.1.4 Wetlands** – CONSULTANT shall delineate any jurisdictional areas. Where preliminary studies lead to a Wetlands Report, a contract amendment shall be issued.
- 4.1.5 Biological Resources** – Where potential impacts to threatened and endangered species or their habitat are identified, a LACO Biological Technical Memorandum (posted at MCDOT Web-page with this RFP) lists some references – if designer concurs reflect in PS&E.
- 4.1.6 Biological Evaluation (BE) or Biological Assessment (BA)** – The BE or BA summarizes the potential of effects to listed plant and animal species. Where BE or BA is required, a contract amendment shall be issued.
- 4.1.7 Waters of the United States and the States** – Delineation of Waters of the US, including wetlands, is to be formatted in accordance with the Army Corps of Engineers (ACOE). Where preliminary studies lead to a Wetlands Report, a contract amendment shall be issued.
- 4.1.8 Cultural Resources** – Section 106 requirements include development of an Area of Potential Affects (APE) Map delineating both potential archaeological sites (horizontal and vertical) and historic architecture within the project, including locations of potential project staging areas. A Historic Property Survey Report (HPSR), Historic Resources Evaluation Report (HRER) and Archeology Survey Report (ASR) may be required in accordance with the Army Corps of Engineers (ACOE). Where preliminary studies lead to a Wetlands Report, a contract amendment shall be issued.
- Tribal Consultation may be required. This will include time and travel to meet with appropriate tribes as well as working with COUNTY, FEMA/CalOES and Tribes on specifically requested project features, including but not limited to hiring of tribal study monitor(s), design element requests or replanting of vegetative species utilized by Native American people. CONSULTANT should assume two meetings within the County. If more is needed for this item, a contract amendment shall be issued.
- 4.1.8.1 Advanced Archaeological Studies** – Additional studies (e.g. Extended Phase 1 and Phase 2 treatment and data recovery plans may be required for the project. Where List-Eligible structures or potentially historic sites are discovered, State Historic Preservation Office consultation may be required. If more is needed for this item, a contract amendment shall be issued.
- 4.1.9 Farmlands** – A memorandum shall be completed determining the presence or absence of Prime and Unique Farmlands. If more is needed for this item, a contract amendment shall be issued.
- 4.1.10 Section 4(f)** – Public Lands and National Registry of Historic Sites eligibility evaluation.



If more is needed for this item, a contract amendment shall be issued.

**4.1.11 NEPA Documentation** - FEMA/CalOES prepares its NEPA document, which is expected to be a NEPA Categorical Exclusion. CONSULTANT will coordinate with FEMA/CalOES for NEPA documentation, including wetlands only practicable findings, flood plains only practicable findings, and other findings, as applicable. Should a FONSI be required then a contract amendment shall be issued.

**4.1.12 Monitoring** – (Future item)

#### **Task 4.2 CEQA Compliance**

COUNTY hopes that a CEQA Exemption Class II Section 15302(c) Replacement or Reconstruction of existing utility without intent to increase service area. CONSULTANT shall document that no exceptions to the exemptions exist. The DISTRICT or the COUNTY could serve as lead agency under CEQA. CONSULTANT shall, if necessary, prepare the CEQA Initial Study, Negative Declaration and/or Mitigated Negative Declaration (IS/MND) using the environmental checklist form provided by DISTRICT/COUNTY. An administrative draft shall be submitted to DISTRICT/COUNTY for review and comment. Once DISTRICT/COUNTY comments are incorporated, CONSULTANT is responsible for preparation of the Notice of Intent to Adopt a Mitigated Negative Declaration and Notice of Completion. At the conclusion of the 30 day public review, CONSULTANT shall incorporate public and agency comments (if any) and DISTRICT/COUNTY - approved responses into a Final Draft IS/MND as an appendix. CEQA documents are to be completed to DISTRICT/COUNTY satisfaction. DISTRICT/COUNTY will be responsible for preparing the Board package, scheduling the public hearing and filing the Notice of Determination with the County Clerk.

In addition to Cultural Resources under NEPA above (4.1.8) parallel compliance with AB 52 may be necessary.

##### **Deliverables**

- 15 copies of the public draft version of the IS/MND to the State Clearinghouse for circulation.
- 10 bound hardcopies of the report shall be delivered to COUNTY for local circulation.
- NOE for filing County Recorder

#### **Task 4.3 Project Permitting**

CONSULTANT shall prepare completed application packages for all required permits (and shall make corrections and revisions and resubmit as may be required), to the satisfaction and approval of the governing resource agency and COUNTY. These are:

- **ACOE, Section 404 Nationwide**
- **RWQCB, Section 401 Water Quality Certification**
- **CDFG, Section 1602 Streambed Alteration Agreement**

**4.3.4 CCC, Coastal Development Permit** (if within coastal zone)

COUNTY will submit the permit applications and any fees to the regulatory agencies.

#### **Task 4.4 Supplemental Activities**

If any studies require special equipment, labor or other resources, all arrangements will be made and implemented by CONSULTANT. Depending on scope, a contract amendment shall be issued.

- **Activities in the Right of Way or RVCWD Easements** – Any work performed in the COUNTY right of way will require an Encroachment Permit prior to work. Arrangements may be made with the Land Improvement Division to perform final inspection on the last day of work. Any invoice for the work performed will not be paid until the permitted work is inspected and the permit closed. Portions of the project are in the municipal separate storm sewer systems (MS4) that will require additional reporting.
- **Activities Outside the Right of Way or RVWD Easements** – This work will require a Permission to Enter Agreement form completed by DISTRICT. Any excavation on private property will require additional notice to the property owner. An erosion control plan will be required and the property left in a condition suitable to the property owner and COUNTY.

### **SERVICES TO BE PROVIDED BY COUNTY**

COUNTY will make appropriate staff available for meetings and site visits.

COUNTY will review all reports for approval: either as the approving agency or prior to submittal to an approving agency.

COUNTY will file the Notice of Determination with the County Clerk.

COUNTY will prepare any needed Permission to Enter documents for access to private property.

### **TASK 5 System Hydraulics Analysis and Design Basis Report**

For water distribution system includes: obtaining and reviewing project specific documentation and field review; estimated discharge; hydraulic analysis and flow and pressure analysis

For all projects: project location hydraulic study, preparation of draft final hydraulic report for COUNTY review and preparation of final hydraulic report for COUNTY review and approval.

#### **Deliverables**

- Develop a pipe network in order to analyze discharge and pressure within project.
- Using the results of the hydraulic model and seismic hazard analysis (task 3 above); specify the basis of design for the proposed project domestic water conduit system.
- One copy of each draft report
- Three copies of completely approved final report

### **TASK 6 Draft 65% Plans Specifications and Estimate (PS&E) Submittal**

Includes: 65% project plans; 65% construction schedule, cost estimate and specifications; draft Hydraulic/ Design Basis report and geotechnical report. CONSULTANT shall develop a plan for maintaining existing utility demands within acceptable interruption of water service. New construction will be tied into existing system components. CONSULTANT shall include in their specification special provisions (SSPs) methods to address order of work, interruptions to water service while various segments of work encounter issues, such as pipe cleaning and testing.

CONSULTANT will require the contractor to create special operating plans to ensure that the water

system has sufficient water to operate while the retrofit pipe is converted.

**Deliverables**

- Two complete sets of plans (D-sized) with AutoCAD Civil 3D electronic files.
- List of un-usual design issues confronted in design process and solutions
- Requirements for contractor order of work, interruptions to water service plan submittal.
- 65% construction cost projection

**TASK 7 90% PS&E Submittal**

Includes: 90% project plans; 100% construction schedule, cost estimate and specifications; final hydraulic report and geotechnical report.

Show pipe alignment, valves, hydrants, air release and service lines, connections, and abandonment of existing facilities on both plan and section view sheets. Include detail sheets to include pipe bedding, backfill, pavement, and pavement sections. Develop construction access, staging, and erosion and sediment control plan sheets

**Deliverables**

- Two complete sets of 90% plans (D-sized) with AutoCAD Civil 3D electronic files
- Two sets of 100% design calculations for review and approval.
- Final contractor order of work, interruptions to water service plan submittal.
- 90% construction cost projection

**TASK 8 Final PS&E Submittal**

Engineering Plans, Specifications and Estimates (PS&E) using the Caltrans Standard Specification method with Contract Special Provisions for construction of District facilities to be accepted into District maintenance.

**Deliverables**

- Two complete sets of 100% plans (D-sized) for approval
- Two sets of approved design calculations
- One set of approved design calculations in portable document format (PDF)
- One complete set of approved plans in portable document format (PDF) with one sheet per file with CONSULTANT seal and signed.
- Complete Plans in AutoCAD Civil 3D electronic format without CONSULTANT seal or insignia authorization – property and responsibility of COUNTY.

**SERVICES TO BE PROVIDED BY COUNTY**

COUNTY will make appropriate staff available for meetings and site visits.

COUNTY will review all reports and plans for approval: either as the approving agency or prior to submittal to an approving agency.

Bid and Construction phase support services will be negotiated following the design phase as a separate contract, or as an amendment to this agreement.

[END OF SCOPE OF WORK PART NO. 1]

## **Scope of Services Part No. 2- Construction Support Services, Technical Assistance, Testing, Shop Drawing Review, Inspections and Construction Documentation.**

In general, this scope of work consists of CONSULTANT providing COUNTY, as requested, with construction support services, contract administration support and observation, survey spot verification of COUNTY's Contractor's (CONTRACTOR) staking and layout, and materials testing for the Redwood Valley Water Infrastructure Retrofit Project.

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

- Construction is anticipated to start in November 2019 and end in April 2021. CONTRACTOR will be given 120 or 150 working days (one 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. However, if the project extends to two seasons a winter suspension should be added to bid schedule.
- 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.
- Major construction operations are anticipated to include:

Construction of new segments of water conduit, valves, hydrants, air release and service lines, connections of existing service laterals to new main(s).

Abandonment of existing facilities.

Restoration of trench disturbed surfaces, gravel and pavement sections

Construction access, staging, and erosion and sediment control plan(s)

Water Mains/Lines, testing (Hydrostatic and Leakage Testing)

### **TASK 9 Surveying\_Topographic and Right of Way Mapping**

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

- Survey Control
- Improvement layouts
- Other locations as required
- Perform construction staking – (Future item – only if contractor's staking is not acceptable)

Pursuant to boundary resolution and Right-of-Way description done in Part No. 1 – CONSULTANT shall finalize monumentation and Record of Survey after construction is complete if required by law.

## **TASK 10 Construction Engineering**

### **Task 10.1 Construction Field Inspection and Management**

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

Tasks may include:

- Review and recommend authorization or revise/resubmit of shop drawings, demolition plans, contractor work plans, material submittals, or other submittals as requested by COUNTY. Includes Construction safety plan (shoring, confined space, Cal OSHA).
- Perform “special inspection” observation of CONTRACTOR’s work with appropriately trained and qualified field staff. Includes Hydrostatic Testing of the Water Lines, Leakage Testing.
- 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 10.2 Labor Compliance**

CONSULTANT can assist COUNTY with Labor Compliance tasks, such as:

- Monitoring and auditing certified payrolls of the CONTRACTOR’s and sub-CONTRACTOR’s personnel for prevailing wages;
- Review field labor compliance and Equal Employment Opportunity (EEO) interviews (interviews to be performed by COUNTY field staff); and
- Monitoring CONTRACTOR apprenticeship programs to assure compliance with all State and Federal laws.

## **TASK 11 Materials Validation**

### **Task 11.1 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:

- Compaction Testing, including, above ground and beneath pipelines
- 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

COUNTY staff, with CONSULTANT assistance as requested, will coordinate timely testing and determination of correct testing methods and procedures for pipeline and roadway work. COUNTY, with CONSULTANT assistance as requested, will accept or reject materials based on test results.

### **Task 11.2 Materials Source Inspection**

COUNTY staff, with CONSULTANT assistance as requested, will coordinate source inspection for specialty items. Includes certifications and tracking of materials delivered.

#### **Deliverables**

- Copies of all test results
- Source Inspection Quality Management Plan (SIQMP)

### **TASK 12 Project Construction Closeout**

CONSULTANT can assist COUNTY, as requested, with Post Construction related tasks, such as:

- 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.
- Compute the final quantities and prepare the final estimate.
- 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 13 - Bid Period Consultation**

CONSULTANT will provide bidding period assistance to COUNTY. This will include consultation and interpretation of the contract documents and assisting COUNTY in preparing addenda to the PS&E, responding to requests for information (RFI's) and attending pre-bid or construction meetings and bid openings as needed.

CONSULTANT will prepare a Resident Engineer's file that includes the following:

- Quantity and quantity check calculations;
- Estimate summary forms;
- Design decisions, design exceptions and designers' notes to the Resident Engineer.

CONSULTANT will prepare construction cross sections to be included in the Resident Engineer's pending file.

**Deliverables**

1. Addenda as required
2. Response to RFI's as required
3. Resident Engineer's File
4. Construction Cross sections

**Task 14 – Assist with the Preparation of Contract Change Orders (CCO's)**

CONSULTANT and CONSULTANT's sub consultants, where appropriate, will prepare drawings and review change orders requested by COUNTY.

**Deliverables**

1. CCO drawings and review as required.

**Task 15 – Review and Respond to Requests for Information (RFI's)**

CONSULTANT will respond to contractor's inquiries through COUNTY requests.

**Deliverables**

1. Response to RFI's as required.

**Task 16– Pre-construction Meeting**

CONSULTANT will attend one (1) pre-construction meeting, assumed to be held at COUNTY's office at 340 Lake Mendocino Drive, Ukiah, CA 95482.

**Task 17 – Full Time inspections**

CONSULTANT will provide a field inspector to inspect the Contractor's construction work as requested by COUNTY; it is anticipated that for all 150 working days inspections will be needed. These inspections may include but are not limited to the following:

- Trench backfill compaction;
- Utility grades.

CONSULTANT's field inspectors shall monitor the Contractor's performance from the perspective of quality, cost, and schedule. After completion of each inspection, an inspection report and diary of Contractor's construction activities will be completed and transmitted to COUNTY for review and filing.

CONSULTANT will document special situations by photograph or video.

CONSULTANT will document any defective work and will provide recommendations for repair of defective work to COUNTY. The inspection report shall include, at a minimum, the following information:

- The number, classification, and hourly summary of activity of each of the Contractor's employees working;
- Material deliveries;
- Number, type, and hourly summary of Contractor's equipment on site, both working and not used;
- Weather conditions;
- Discussions with the Contractor;
- Problems and issues addressed;
- Changes;
- Any other information necessary to create a satisfactory record of the day's activities at the project site in accordance with standard inspection practice.

CONSULTANT will attend up to three (3) site visits as requested by COUNTY for general review of Contractor's work or for discussions to be held with COUNTY and/or Contractor onsite. These meetings would be in addition to the requested field inspection site visits.

#### **Task 18 – Implementation of Permit Requirements from Task#4, Monitoring and other Submittals**

CONSULTANT will Assist COUNTY with permit requirements to be reviewed and approved may include, but are not limited to:

- Hiring of tribal study monitor(s);
- Temporary Mitigation Plans (if required);
- MS4 storm water compliance

##### **Deliverables**

1. Reports, Memos & Documentation

#### **Task 19 – Final Grades Checks**

CONSULTANT will provide information for constructing slope critical features: pipeline trenches and grade elevations to the Contractor for constructing to the lines and grades shown on the contract plans.

##### **Deliverables**

1. Grade checks – as-build grades

#### **Task 20 – Prepare As-Built Drawings**

CONSULTANT will take the Resident Engineer's notes on the contract plans and change orders in combination with their full time inspection and prepare As-Built in digital and hard copy format for the project to be submitted to COUNTY.

##### **Deliverables**

1. As-Built Drawings (one electronic copy and two complete sets, size D for filing with the COUNTY AND DISTRICT)

### **SERVICES TO BE PROVIDED BY COUNTY**



COUNTY will provide the following services:

- Contract advertisement and bid administration,
- The majority of construction inspection will be performed by CONSULTANT. Where disputes arise in question of CONSULTANT's plans or specifications and independent review is requested by CONTRACTOR or CONSULTANT then the COUNTY will perform independent inspections and periodic check inspections.
- Construction management (Resident Engineer) and all contract change orders shall have final approval at the discretion of the COUNTY.

[END OF SCOPE OF WORK PART NO. 2]

## Schedule

**Part No. 1-** Plans, Specifications and Estimates (PS&E), Utility Coordination with full agreements to Inspect, Accept and Serve – Property Boundary – Easement Description:

- 65% PS&E: 5 months after written notice to proceed (May 29<sup>th</sup>, 2019).
- 90% PS&E: 3 month after receiving COUNTY's & RVWD's comments on 65% PS&E which must be provided 1 month after delivery for a total of 8 months after written notice to proceed (August 14<sup>th</sup>, 2019).
- Legal description of RVWD Easements/Right-of-Entry(s): 3 months after written notice to proceed (November 19<sup>th</sup>, 2019).
- **IF LEGALLY NECESSARY:** Draft "Record of Survey" showing monumentation plan and boundary resolution for property including RVWD Easements/Right-of-Entry(s) 5 months after written notice to proceed (May 29<sup>th</sup>, 2019). This will be accepted as "constructive notice to County Surveyor" for purposes of Land Surveyors Act time limits. Final Record of Survey may be completed within 3 months after construction notice of completion.
- Full, "Ready to Bid" PS&E – complete 8 months after written notice to proceed (December 22<sup>nd</sup>, 2018).

**Part No. 2 -** Construction support services, technical assistance, testing, shop drawing review, inspections and construction documentation:

- Because the exact extent of services will be much better known after Part No. 1 is complete we will anticipate a major addendum of contract be in place 60 days after completion of Part No. 1.
- This construction work is expected to take 18 months and occur between October 2019 and February 2021. Construction Contract is expected to be for 150 to 200 working days.

## Compensation

**Cost Basis** – All work performed by CONSULTANT is to be on a unit basis, as shown in Consultant Agreement Exhibit B, with a "not to exceed" amount being applied and progress billing against the not to exceed amount based on the Consultant Rate Schedule and hours tracked. The appropriate not to exceed amount shall be determined jointly by COUNTY and CONSULTANT based on negotiations.

**Cost Negotiation Changes in Scope** – COUNTY shall then review CONSULTANT’s information and proceed with brief discussions and negotiations to arrive at a fair and reasonable price and schedule for the work.

The COUNTY has attached a Cost Comparison Worksheet to assist in starting negotiations with the top ranked proposer. The COUNTY completes an independent cost estimate and requires that for the “FIRST ROUND” on negotiations the CONSULTANT also submit their cost in this format. The COUNTY understands that the expert CONSULTANT we select will propose a different format Scope of Work and later iterations of Scope Cost negotiations can be revised to a FINAL Scope and Cost in the FINAL CONTRACT. Sample Contract format attached. **DO NOT fill out cost worksheet and submit with your proposal.**

[END OF SCOPE OF SCHEDULE]

## **XI. FORMAT OF TECHNICAL PROPOSAL**

**Proposals submitted in response to this RFP should include the following elements:**

- A. Project understanding and a description of the process/approach to be used in providing the services described in Section X, Scope of Work, of this RFP. Be specific and address all elements including timing of implementation.
- B. A description of CONSULTANT experience in providing the requested services.
- C. A list of key personnel, including 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); licenses (where appropriate).
- D. A description of the experience/qualifications of all persons who may perform services under contract. Staff resumes that cover all experience and educational background may be used. All personal information provided will be maintained in confidence as allowed by law.
- E. Timeline indicating implementation schedule and training schedule (if applicable).
- F. Any exceptions to the terms and conditions as specified in “Attachment B” to this RFP. The terms and conditions not specifically identified will be considered acceptable to Consultant.
- G. Additional documents or other material, as appendices, in support of the proposal. The proposal, however, must reference any additional material or documentation.
- H. Upon specific request of the COUNTY, CONSULTANT 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.

Please note that this is a Request for Proposals. A detailed cost proposal is not being requested. Final project costs will be determined through negotiations with the selected firm. If project cost negotiations with the selected firm are unsuccessful, the COUNTY reserves the right to enter into negotiations with other firm(s).

**XII. RESERVED**

**XIII. RESERVED**

**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 Consultant if the selected Consultant has not signed the agreement within two weeks after the notification of intent of award.
- B. Execution of Contract

- 1. Upon the acceptance of a Consultant's Proposal, COUNTY will prepare and submit a contract to the successful Consultant for signature. (See sample contract, as Attachment D, which contains required contractual language.) In the event that the successful Consultant fails, neglects or refuses to execute the contract within a specified number of days 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 successful Consultant pursuant to this Proposal will be (a) all of the information presented in or with this Proposal and the Consultant's response thereto, and (b) all written communications between COUNTY and the successful Consultant whose Proposal is accepted.

C. No Assignment

Assignment by the successful Consultant 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.

**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 Proposals 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. The selected Consultant will be required to obtain a COUNTY business license if not already held.

## **XVI. GENERAL CONDITIONS**

While the intent of the COUNTY is to award the contract to the selected Consultant, 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 should be mentioned in the response to the Request for Proposals.

### Limitations

1. The Consultant should expect to have access only to the public records and public files of local government agencies in preparing the proposal or reports. The Consultant 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 the Consultant at any time during the period of the contract if the COUNTY finds that the Consultant's performance is not satisfactory.
3. Contract payments will be made on the basis of satisfactory performance by the Consultant as determined by the COUNTY. Final payment to the Consultant will only be made when the COUNTY finds that the work performed by the Consultant to be satisfactory and the final work product and documents submitted meet the tasks of the project and is accepted by the COUNTY.
4. The Consultant should expect to comply with recent requirements of SB 854. Certain portions of the work under this contract may be subject to Department of Industrial Relations (DIR) registration (FEE \$400.00 plus) and submittal of electronic certified payroll. Consultant is responsible to determine those portions of the work to be performed which are subject to prevailing wages and make the necessary reports both in writing to the COUNTY and electronic to the DIR.

## **XVII. INSURANCE REQUIREMENTS**

Consultant will be required to furnish to COUNTY certificates of insurance evidencing at the minimum the following:

1. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Worker's Compensation and Employer's Liability: Worker's compensation limits as required by the labor code of the State of California.
4. Professional Liability Insurance (Errors and Omissions) in the amount of \$500,000 (minimum).

## **XVIII. LIST OF ATTACHMENTS**

Table 1 – Cost Comparison Worksheet – **DO NOT Submit with Proposal**

Vicinity and Location Maps - See MCDOT web-page with RFP

Record Reports – See MCDOT web-page with RFP

Attachment A – Proposal Evaluation Form

Attachment B – Certificate of Non-collusion

Attachment C – Proposal Summary Fact Sheet and Statement of Responsibility

Attachment D – Sample Contract

LAPM Exhibit 10-I – Notice to Proposers DBE Information LAPM Exhibit 10-O1 – Consultant Proposal

DBE Commitment LAPM Exhibit 10-O2 – Consultant Contact DBE Commitment

Please do not submit the Cost Comparison Worksheet with your proposal; BUT, because TIME is of the Essence, have this ready within 24 hours of selection and start of negotiations of contract cost.

Part No. 1 - Preparation of "Bid Ready" PS&E, Utility Coordination with full agreements to Inspect, Accept and Serve – Property Boundary – Easement Description Surveying and Mapping, - Cost Comparison Worksheet –					
TASK	Description	Estimated Quantity	Unit Quantity	Unit Price	Total
1	Project Management and Coordination		Days		
2	Site Based Surveys		Days		
3	Geotechnical		Days		
4	Environmental and Permitting		Days		
5	Hydrology and Hydraulics		Days		
6	Draft 65% PS&E Submittal		Days		
7	90% PS&E Submittal		Days		
8	Final PS&E Submittal		Days		
				TOTAL:	

Part No. 2 - Construction Support Services, Technical Assistance, Testing, And Shop Drawing Review, Inspections and Construction Documentation. , Cost Comparison Worksheet					
Item No.	Description	Estimated Quantity	Unit Quantity	Unit Price	Total
1	Project Management and Coordination		Days		
9	Surveying Topographic and Right of Way Mapping		Days		
10	Construction Engineering		Days		
11	Materials Validation		Days		
12	Project Construction Closeout		Days		
13	Bid Period Consultation		Days		
14	Assist with the Preparation of Contract Change Orders (CCO's)		Days		
15	Review and Respond to Requests for Information (RFI's)		Days		
16	Pre-construction Meeting		Days		
17	Full Time inspections		Days		
18	Implementation of Permit Requirements from Task#4, Monitoring and other Submittals		Days		
19	Final Grades Checks		Days		
20	Prepare As-Built Drawings		Days		
				TOTAL:	

**ATTACHMENT A**  
  
**COUNTY OF MENDOCINO**  
**REQUEST FOR PROPOSALS TO PROVIDE: REDWOOD VALLEY WATER**  
**INFRASTRUCTURE RETROFIT PROJECT**

Proposal Evaluation Form

Consultant Name: \_\_\_\_\_

This proposal will be judged based on service capabilities and experience of the prospective Consultant and all persons who will be providing services under contract. The following are the critical areas of the Proposal that will be evaluated by the Selection Committee.

1. Adequacy of the described plan and approach to deliver requested services as described in this Request for Proposal.
2. Experience of Consultant in providing services and quality of work.
3. Status of Professional Certification including whether the Consultant meets the minimum requirements to provide service.

	Value*	Score	Notes
A. DBE incorporation	25 points		No set goal but any subs positive
B. Completeness of response	20 points		
C. Compliance with RFP	20 points		
D. Organization capacity to perform the work	20 points		
E. Staff capacity to perform the work	20 points		
F. Technical criteria	10 points		
G. Implementation plan and schedule	10 points		
H. Proximity to Mendocino County	30 points		
I. Relevant experience	20 points		
J. References	10 points		
K. Overall proposal	10 points		
L. Cost Proposal	0 points		Compare to agency estimate only

**Evaluation Total (Maximum 200)**

\*Higher scores are better

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

Project Manager: \_\_\_\_\_

Signature: \_\_\_\_\_

Initial: \_\_\_\_\_

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

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

**ATTACHMENT B**

**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)

\_\_\_\_\_, 2018

\_\_\_\_\_  
Date



**ATTACHMENT C**

**PROPOSAL SUMMARY FACT SHEET  
AND STATEMENT OF RESPONSIBILITY**

1. Applicant Firm Name: \_\_\_\_\_
2. Executive Director: \_\_\_\_\_
3. Contact Person: \_\_\_\_\_ 4. Title: \_\_\_\_\_
5. Address \_\_\_\_\_
6. Telephone Number: \_\_\_\_\_
7. Authorized Representative's Signature: \_\_\_\_\_
8. Name and Title: \_\_\_\_\_

**Certifications:**

1. Are you incorporated? YES ( ) NO ( )

If YES, date of incorporation: \_\_\_\_\_ State  
of incorporation: \_\_\_\_\_

2. Tax Identification Number: \_\_\_\_\_

Please list the official name of the firm as submitted to the IRS:

\_\_\_\_\_

3. Fictitious name or names, if any, under which you are doing business:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Do you agree to comply with specifications, RFP instructions, draft contract requirements and other pertinent references contained in this RFP?

YES ( ) NO ( )

5. Do you agree that the proposal will stand firm and will not be withdrawn for a period of 45 days after the proposal is opened?

YES ( ) NO ( )

6. 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 ( )

7. 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 ( )

8. Do you agree that the proposal amount includes all costs incident to the proposed contract?

YES ( ) NO ( )

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

---

PRINTED NAME  
OF AUTHORIZED  
REPRESENTATIVE

---

DATE

---

SIGNATURE

**ATTACHMENT D**

**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 contractors 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	Disadvantaged Business Enterprise Information and Forms
Exhibit F	Required Federal Contract Provisions

Certain terms and provisions are required to be a part of this Agreement since COUNTY is utilizing federal funding to pay for the services of CONSULTANT described in Exhibit "A". These terms and provisions are located in Exhibit "F" of this Agreement and, for the purposes of this Agreement only, shall control and supersede any provisions to the contrary located in the body of the Agreement.

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: \_\_\_\_\_

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

**NAME AND ADDRESS OF CONSULTANT:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COUNTY OF MENDOCINO**

By: \_\_\_\_\_  
DAN HAMBURG, Chair  
BOARD OF SUPERVISORS

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

**ATTEST:**

CARMEL J. ANGELO, 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.

CARMEL J. ANGELO, 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:**

KATHARINE L. ELLIOTT,  
County Counsel

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

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

**INSURANCE REVIEW:**

By: \_\_\_\_\_  
Risk Management

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

**EXECUTIVE OFFICE/FISCAL REVIEW:**

By: \_\_\_\_\_  
Deputy CEO

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 CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that CONSULTANT is an Independent Contractor. 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.

In carrying out the work contemplated herein, CONSULTANT shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as Independent Contractors and shall not be treated or considered in any way as officers, agents and/or employees of COUNTY.

CONSULTANT does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with all applicable federal, state and County laws, including but not limited to prevailing wage laws, ordinances, regulations, titles, departmental procedures and currently approved methods and practices in his/her field and that the sole interest of COUNTY is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the COUNTY determines that pursuant to state and federal law CONSULTANT is an employee for purposes of income tax withholding, COUNTY may upon two (2) week's written notice to CONSULTANT, withhold from payments to CONSULTANT hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the furthest extent permitted by law (including without limitation California Civil Code sections 2782 and 2782.8, if applicable), Consultant shall assume the defense of, indemnify, and hold harmless the COUNTY, its officers, agents, and employees, from and against any and all claims, demands, damages, costs, liabilities, and losses whatsoever alleged to be occurring or resulting in connection with the CONSULTANT'S performance or its obligations under this AGREEMENT, unless arising out of the sole negligence or willful misconduct of COUNTY. "CONSULTANT'S performance" includes CONSULTANT'S action or inaction and the action or inaction of CONSULTANT'S officers, employees, agents and subcontractors.
3. **INSURANCE AND BOND:** CONSULTANT shall at all times during the term of the Agreement with the COUNTY maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **WORKERS' COMPENSATION:** CONSULTANT shall provide Workers' Compensation insurance, as applicable, at CONSULTANT's own cost and expense and further, neither the CONSULTANT nor its carrier shall be entitled to recover from COUNTY any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

CONSULTANT affirms that s/he is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for the Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code and CONSULTANT further assures that s/he will comply with such provisions before commencing the performance of work under this Agreement. CONSULTANT shall furnish to COUNTY certificate(s) of insurance evidencing Worker's Compensation Insurance coverage to cover its employees, and CONSULTANT shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of CONSULTANT'S and subcontractors' employees.

5. **CONFORMITY WITH LAW AND SAFETY:**
  - a. In performing services under this Agreement, CONSULTANT shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. CONSULTANT shall indemnify and hold COUNTY harmless from any and all liability, fines, penalties and consequences from any of CONSULTANT's failures to comply with such laws, ordinances, codes and regulations.

- b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with CONSULTANT's performance of this Agreement, CONSULTANT shall immediately notify Mendocino County Risk Manager's Office by telephone. CONSULTANT shall promptly submit to COUNTY a written report, in such form as may be required by COUNTY of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of CONSULTANT's sub-contractor, if any; (3) name and address of CONSULTANT's liability insurance carrier; and (4) a detailed description of the accident and whether any of COUNTY's equipment, tools, material, or staff were involved.
  - c. CONSULTANT further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the COUNTY the opportunity to review and inspect such evidence, including the scene of the accident.
6. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to CONSULTANT as provided in Exhibit "B" hereto as funding permits.
- If COUNTY over pays CONSULTANT for any reason, CONSULTANT agrees to return the amount of such overpayment to COUNTY, or at COUNTY's option, permit COUNTY to offset the amount of such overpayment against future payments owed to CONSULTANT under this Agreement or any other agreement.
- In the event CONSULTANT claims or receives payment from COUNTY for a service, reimbursement for which is later disallowed by COUNTY, State of California or the United States Government, the CONSULTANT shall promptly refund the disallowance amount to COUNTY upon request, or at its option COUNTY may offset the amount disallowed from any payment due or that becomes due to CONSULTANT under this Agreement or any other agreement.
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 Proposal, 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 subcontractors 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

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 and display the same in a location that is reasonably conspicuous, as well as file copies of same with the County Executive Office.

Before the COUNTY will issue a notice to proceed with the Services, CONSULTANT and any subcontractors must acquire, at their expense, a business license from County in accordance with MCC 6.0. Such licenses must be kept valid throughout the Agreement term.

CONSULTANT represents and warrants to COUNTY that CONSULTANT and its employees, agents, and any subcontractors 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 subcontractor(s).
  - c. CONSULTANT shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between CONSULTANT and its subcontractors.
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.

[END OF GENERAL TERMS AND CONDITIONS]

**EXHIBIT A**

**DEFINITION OF SERVICES**

CONSULTANT shall provide the following services:

[END OF DEFINITION OF SERVICES]



**EXHIBIT B**  
**PAYMENT TERMS**

[END OF PAYMENT TERMS]

## **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 furnish to COUNTY certificates of insurance with Automobile Liability/General Liability Endorsements evidencing at a minimum the following:

- 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.

[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.org](mailto:yatesm@mendocinocounty.org) or 707-234-6869.

Additional information regarding the Bank of America Program is also available at:

[http://corp.bankofamerica.com/business/ci/landing/epayables-vendors?cm\\_mmc=sb-general--vanity--sg01vn000r\\_epayablesvendors--na](http://corp.bankofamerica.com/business/ci/landing/epayables-vendors?cm_mmc=sb-general--vanity--sg01vn000r_epayablesvendors--na)

[END OF MENDOCINO COUNTY EPAYABLES INFORMATION]

**EXHIBIT E****DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND FORMS****EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION**

The Agency has established a DBE goal for this Contract of 0.0 %

**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 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 the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. 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 Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
  - 1. Click on the link 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.

**ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is 0.0 %. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. 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. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT 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, Part 26 in the award and administration of US DOT-assisted agreements. Failure by 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 LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract 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 contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, 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.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract 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.
- I. 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 prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier

Subconsultants” CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT’s authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants” is submitted to the Contract Administrator.

- K. If a DBE subconsultant is decertified during the life of the contract, 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 Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY’s Contract Administrator within 30 days.



**EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT**

1. Local Agency: County of Mendocino 2. Contract DBE Goal: 0.0%

3. Project Description: Redwood Valley Water District (RVWD) Infrastructure Retrofit Project

4. Project Location: Various connections from private roads to West & Tomki Roads – Madrone Lane CR 234A minor projects on Fisher Lake CR 237 I, CR 237H, Mountain View Lane, CR 2237G, Mohawk Trail & CR 2237F, Inez Way

5. Consultant's Name: Xxxxxx XXXXXXXX 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %	
<b>Local Agency to Complete this Section</b>		<b>11. TOTAL CLAIMED DBE PARTICIPATION</b>	<b>%</b>	
17. Local Agency Contract Number: <u>180073</u> 18. Federal-Aid Project Number: <u>HGMP-DR-4344</u> 19. Proposed Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.				
20. Local Agency Representative's Signature Howard N. Dashiell 21. Date <u>(707) 463-4363</u> 22. Local Agency Representative's Name Director of Transportation 23. Phone 24. Local Agency Representative's Title		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 _____ 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 Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 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. 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.
- 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 24. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

**EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT**

1. Local Agency: County of Mendocino 2. Contract DBE Goal: 0.0%

3. Project Description: Redwood Valley Water District (RVWD) Infrastructure Retrofit Project

4. Project Location: Various connections from private roads to West & Tomki Roads – Madrone Lane CR 234A minor projects on Fisher Lake CR 237 I, CR 237H, Mountain View Lane, CR 2237G, Mohawk Trail & CR 2237F, Inez Way

5. Consultant's Name: Xxxxx xxxxxxx 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: \$xxx,xxx

8. Total Dollar Amount for **ALL** Subconsultants: \$31,399 9. Total Number of **ALL** Subconsultants: 1

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		<b>14. TOTAL CLAIMED DBE PARTICIPATION</b>	\$
20. Local Agency Contract Number: <u>180073</u>			%
21. Federal-Aid Project Number: <u>HMGP-DR-4344</u>		<b>IMPORTANT:</b> Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		15. Preparer's Signature _____ 16. Date _____ 17. Preparer's Name _____ 18. Phone _____ 19. Preparer's Title _____	
23. Local Agency Representative's Signature _____	24. Date _____		
Howard N. Dashiell	(707) 463-4363		
25. Local Agency Representative's Name _____	26. Phone _____		
Director of Transportation			
27. Local Agency Representative's Title _____			

DISTRIBUTION: 1. Original – Local Agency  
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

**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 CONTRACT 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 Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. 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.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. 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.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). 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).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

### LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. 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.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

## Final Report-Utilization of Disadvantaged Business Enterprises (DBE) and First-Tier Subcontractors

**EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS**

1. Local Agency Contract Number 180073		2. Federal-Aid Project Number HGMP-DR-4344		3. Local Agency Mendocino County		4. Contract Completion Date	
5. Contractor/Consultant XXXXXX XXXXXX			6. Business Address 11060 White Rock Road, Suite 200; Rancho Cordova, CA; 95670			7. Final Contract Amount	
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment
				Non-DBE	DBE		
15. ORIGINAL DBE COMMITMENT AMOUNT      \$ _____				16. TOTAL			

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

17. Contractor/Consultant Representative's Signature	18. Contractor/Consultant Representative's Name	19. Phone	20. Date
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>			
21. Local Agency Representative's Signature	22. Local Agency Representative's Name	23. Phone	24. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONSULTANTS**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/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.
- 10. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.

**EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE**

1. Local Agency Contract Number 180027		2. Federal-Aid Project Number BRLRT-5910(041)		3. Local Agency Mendocino County		4. Contract Completion Date	
5. Contractor/Consultant Mark Thomas & Company			6. Business Address 701 University Ave, Suite 200, Sacramento, CA 95824			7. Final Contract Amount	
8. Contract Item Number	9. DBE Contact Information	10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments		

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

14. Contractor/Consultant Representative's Signature		15. Contractor/Consultant Representative's Name		16. Phone		17. Date	
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>							
18. Local Agency Representative's Signature		19. Local Agency Representative's Name		20. Phone		21. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**INSTRUCTIONS –DISADVANTAGED BUSINESS ENTERPRISES (DBE)  
CERTIFICATION STATUS CHANGE**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
- 10. DBE Certification Number** - Enter the DBE's Certification Identification Number.
- 11. Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
- 12. Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBEO) or the date of the Certification Certificate mailed out by OBEO.
- 13. Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
- 14. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 15. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 16. Phone** - Enter the area code and telephone number of the person signing the form.
- 17. Date** - Enter the date the form is signed by the contractor's preparer.
- 18. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 19. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 20. Phone** - Enter the area code and telephone number of the person signing the form.
- 21. Date** - Enter the date the form is signed by the Local Agency Representative.



**EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES**

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<b>1. Type of Federal Action:</b>  <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b>  <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b>  <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change  <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity</b>  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known  Congressional District, if known	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>	
<b>10. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)	<b>11. Individuals Performing Services</b> (including address if different from No. 10) (last name, first name, MI)	
(attach Continuation Sheet(s) if necessary)		
<b>12. Amount of Payment (check all that apply)</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>14. Type of Payment (check all that apply)</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
<b>13. Form of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
<b>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12:</b>  (attach Continuation Sheet(s) if necessary)		
<b>16. Continuation Sheet(s) attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		
<b>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>		
Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		
<b>Federal Use Only:</b>		
Authorized for Local Reproduction Standard Form - LLL		

Standard Form LLL Rev. 04-28-06

**INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity 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 a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

## EXHIBIT F

### REQUIRED FEDERAL CONTRACT PROVISIONS

#### EXHIBIT 10-R A &E SAMPLE CONTRACT LANGUAGE

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##### A&E SAMPLE CONTRACT LANGUAGE

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#### ARTICLE IV PERFORMANCE PERIOD (Verbatim)

- A. This contract shall go into effect on **Xxxx XX, 201X**, contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY'S Contract Administrator. The contract shall end on **December 31, 202x**, unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on COUNTY until the contract is fully executed and approved by COUNTY.

#### ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)

- A. The method of payment for this contract 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 contract 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 contract is required, the contract time or actual costs reimbursable by COUNTY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

- B. In addition to the allowable incurred costs, COUNTY will pay CONSULTANT a fixed fee of \$XXX,XXX.XX. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. 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.
- E. 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 the Statement of Work, COUNTY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by COUNTY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 contract 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 of this contract. The final invoice should be submitted within 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: Howard N. Dashiell  
340 Lake Mendocino Drive  
Ukiah, CA 95482

- H. The total amount payable by COUNTY including the fixed fee shall not exceed xxx hundred xxxxxx thousand xxx hundred xxxx dollars (\$XXX,XXX.XX).
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by COUNTY's Contract Administrator.
- 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 (Verbatim)**

- A. COUNTY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. COUNTY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If COUNTY terminates this contract with CONSULTANT, COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to COUNTY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

#### **ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)**

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. 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 CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to COUNTY.

#### **ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, COUNTY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

#### **ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by COUNTY'S Chief Financial Officer.
- B. Not later than 30 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 contract.

#### **ARTICLE X SUBCONTRACTING (Verbatim)**

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between COUNTY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and omissions of its subconsultant(s) 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 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from COUNTY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by COUNTY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by COUNTY.
- D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by COUNTY's Contract Administrator prior to the start of work by the subconsultant(s).

#### **ARTICLE XI EQUIPMENT PURCHASE (Verbatim)**

- A. Prior authorization in writing, by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$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 Cost Proposal and exceeding \$5,000 prior authorization by COUNTY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "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 \$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 contract, or if the contract 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 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

#### **ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)**

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

#### **ARTICLE XIII CONFLICT OF INTEREST (Verbatim)**

- A. CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this contract, or any ensuing COUNTY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing COUNTY construction project, which will follow.
- B. 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 contract.
- C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

#### **ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)**

CONSULTANT warrants that this contract 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 the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract 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 (Verbatim)**

Note Used. Contract less than \$150,000.

## **ARTICLE XVI STATEMENT OF COMPLIANCE (Verbatim)**

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. 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.
- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California 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.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

## **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION (Verbatim)**

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and 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. Any exceptions to this certification must be disclosed to COUNTY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

## **ARTICLE XVIII FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this contract 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 contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to COUNTY for the purpose of this contract. In addition, this contract 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 contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. COUNTY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

#### **ARTICLE XIX CHANGE IN TERMS**

- A. This contract 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 contract without prior written approval by COUNTY's Contract Administrator.

#### **ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

*See Consultant Agreement Exhibit E*

#### **ARTICLE XXI CONTINGENT FEE**

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract 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 contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

#### **ARTICLE XXII CLAIMS FILED BY COUNTY's CONSTRUCTION CONSULTANT**

- 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 contract.
- 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 contract in order to resolve the construction claims.

#### **ARTICLE XXIII 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 contract, 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 contract, 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 contract or COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the performance of this contract, 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 contract without prior review of the contents thereof by COUNTY, and receipt of COUNTY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than COUNTY.

#### **ARTICLE XXIV NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 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 contract record.

#### **ARTICLE XXXI RETENTION OF FUNDS**

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.