



MENDOCINO COUNTY DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSAL
CONTRACT 190026
DAVIS CREEK BRIDGE (M.P. 2.01) AT EAST HILL ROAD (CR 301)
MITIGATION MONITORING
DOT PROJECT NO. B1001VEG; FEDERAL-AID PROJECT NO. BRLO-5910(112)

I. INTRODUCTION

Mendocino County Department of Transportation requires the services of a professional firm to provide vegetation mitigation monitoring and maintenance, including an annual report and performance of any corrective actions required on the vegetation and erosion maintenance at the Davis Creek Bridge at East Hill Road for a minimum of five years. This mitigation monitoring is for a federally funded Highway Bridge Program project.

We hereby request that your firm provide to the County a technical proposal for performing the work program outlined in Section X herein.

The County has established a Disadvantaged Business Enterprise (DBE) goal of 0% for this Agreement. Refer to the attached Exhibit 10-I "Notice to Proposers DBE Information" for requirements.

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.

II. DEFINITIONS

COUNTY – The County of Mendocino.

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

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

III. PROPOSAL SUBMISSION

A. Consultants must submit 3 copies of their proposal. The proposal must be formatted in accordance with the instructions of this Request for Proposal. Promotional materials may be attached, but are not necessary and will not be considered as meeting any of the requirements of this Request for Proposal. Proposals must be enclosed in a sealed envelope or package, clearly marked "DAVIS CREEK BRIDGE AT EAST HILL ROAD MITIGATION MONITORING" and delivered to:

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

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

Submittal Deadline: June 14, 2019 by 2:00 P.M. PST

- 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".
- C. Proposers are expected to examine all provisions, specifications and instructions included in this Request for Proposal. 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 and any other actions related to responding to this Request for Proposal 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 and correspondence relating to or in reference to this Request for Proposal, 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.
- 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 technical inquiries may be directed to Chris Collins, Environmental Compliance Specialist, at collinsch@mendocinocounty.org.

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 name and signature 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 the 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.

Scheduled Activity	Proposed Date
Final Date Written Questions Accepted	May 31, 2019
Request for Proposal Submission Deadline	June 14, 2019
Final Selection and Notification	June 21, 2019
Begin Cost Negotiations Date	June 21, 2019
Contract Execution	August 6, 2019
Begin Work	August 7, 2019

VII. SELECTION PROCESS

- A. The County reserves the sole right to judge the contents of each Consultant's 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 Request for Proposal.
 - 2. The evaluation will include a review of all documents and information relating to the Consultant's services, organizational structure, capabilities, qualifications, and 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 proposals 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.
4. Additional parameters as 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 proposals in response to this invitation, and that no proposer shall be discriminated against on the grounds of age, race, color, sex, religion, creed, national origin, marital status, political affiliation or disability.
- B. 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 will be in effect for the duration of the contract period. A sample contract is attached to this Request for Proposal as Attachment G. 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. 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.
- F. 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

Please see the included scope of work in Attachment D.

XI. FORMAT OF TECHNICAL PROPOSAL

Proposals submitted in response to this Request for Proposal should include:

- 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 Request for Proposal. Be specific and address all elements including timing of implementation.
- B. A description of previous relevant projects, with a reference and contact information for each.
- C. Limit proposal to 20 sheets of letter-sized paper (single or double sided). The intent is that the bound proposals will be limited to 20 sheets maximum of information to be reviewed by each selection committee member. Sheets that do not convey information, such as covers and dividers are not included in the count.
- D. A description of the experience and qualifications of key persons, including those who may perform services under this 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 (Gantt chart) indicating implementation schedule and training schedule (if applicable).
- F. 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 Proposal. 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). All cost proposals must conform to Caltrans Exhibit 10-H.

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, Consultant's Detailed Cost proposal, and successful negotiations, County will prepare and submit a contract to the successful Consultant for signature. (See Sample Contract 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.

E. Payment

This contract will be paid at Actual Cost plus Fixed Fee.

XV. REJECTION OF PROPOSALS

The Request for Proposal does not commit the County to award of 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 Request for Proposal in part or in its entirety, if it is in the best interest of the County to do so. The County may require the proposer selected to participate in negotiations, and to submit such proposal as may result from negotiations.

Any proposal submitted during this Request for Proposal 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 Request for Proposal 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 Request for Proposal 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:

- A. 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; opinion etc., unless volunteered by a responsible official of that agency.

- B. 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.
- C. 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.
- D. 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:

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

XVIII. LIST OF ATTACHMENTS

Attachment A – Proposal Evaluation Form

Attachment B – Certificate of Non-collusion

Attachment C – Proposal Summary Fact Sheet and Statement of Responsibility

Attachment D – Scope of Work

Attachment E – Caltrans Local Assistance Procedures Manual (LAPM) Forms

LAPM Exhibit 10-I – Notice to Proposers DBE Information

LAPM Exhibit 10-O1 – Local Agency Proposer DBE Commitment

LAPM Exhibit 10-O2 – Local Agency Contract DBE Commitment

LAPM Exhibit 15-H – DBE Information - Good Faith Effort

LAPM Exhibit 10-K – Consultant Annual Certification of Indirect Costs and Financial Management System

Attachment F – State Water Board Water Quality Certification (401) Permit*

Attachment G – Sample Contract

** Riparian Wetland Mitigation and Monitoring Plan available upon request*

ATTACHMENT A

County of Mendocino
Department of Transportation
DAVIS CREEK BRIDGE AT EAST HILL ROAD
MITIGATION MONITORING

Proposal Evaluation Form

Consultant Name: _____

	Value	Score*	Notes
A. Demonstrated understanding of the work to be done	25 points		
B. Experience with similar kinds of work	20 points		
C. Capacity/Ability of agency to complete work	15 points		
D. Capability of developing innovative or advanced techniques	10 points		
E. Familiarity with state and federal procedures	10 points		
F. Demonstrated technical ability	10 points		
G. Financial responsibility	5 points		
H. Local presence	5 points		
I. Performance history w/ organization	-5 to 0 pts		

Evaluation Total (Maximum 100)	
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Evaluated By: _____

Project Manager: _____

Signature: _____

Initial: _____

Date: _____

Date: _____

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.

A. Adequacy of the described plan and approach to deliver requested services as described in this RFP. Completeness of response; compliance with RFP; implementation plan & schedule; etc..

B. Relevant experience; experience working with public agencies; etc...

C. Organization capacity; staff qualifications; availability of pertinent staff; status of professional certifications; Consultant meets the minimum requirements to provide the service; etc...

D. Creative; innovative; techniques; etc...

E. Experience working with Federal Aid; experience working with local governments; etc...

F. Quality product; competency; etc...

G. Ability to deal with payment schedule

H. Proximity to County or able to address response time

I. Past relationships with the County.

*Overall ranking based on Evaluator's final rankings, not raw scores.

ATTACHMENT B

County of Mendocino
Department of Transportation
**DAVIS CREEK BRIDGE AT EAST HILL ROAD
MITIGATION MONITORING**

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.

Printed Name of Authorised Representative

Signature

Date

ATTACHMENT C

County of Mendocino
Department of Transportation
DAVIS CREEK BRIDGE AT EAST HILL ROAD
MITIGATION MONITORING

Proposal Summary Fact Sheet and
Statement of Responsibility

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

Certifications:

10. Are you incorporated? YES ☐ NO ☐

If YES, date of incorporation: _____

State of incorporation: _____

11. Tax Identification Number: _____

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

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

13. Do you agree to comply with specifications, Request for Proposal instructions, draft contract requirements and other pertinent references contained in this Request for Proposal?
YES ☐ NO ☐
14. 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 ☐
15. 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 ☐
16. 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 ☐
17. 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 Authorised Representative

Signature

Date

ATTACHMENT D

County of Mendocino
Department of Transportation
DAVIS CREEK BRIDGE AT EAST HILL ROAD
MITIGATION MONITORING

SCOPE OF WORK

In general, this scope of work consists of CONSULTANT providing COUNTY with vegetation mitigation monitoring and maintenance services.

As a condition of the Water Quality Certification (401) Permit issued by the North Coast Regional Water Quality Control Board, COUNTY is required to monitor construction related plantings and maintain them as needed. This program is required to continue for a minimum of 5 years. Establishment success is defined within the permit, a copy of which is attached.

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

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

TASK 1 Project Management and Coordination

Project Management and Coordination will include the following subtasks:

Task 1.1 Project Initiation

Kick-off Meeting – Includes a meeting at the Mendocino County Department of Transportation office followed by a site visit. Attendees will include COUNTY project manager, CONSULTANT project manager and point of contact and, if available, staff from Caltrans District 1.

Task 1.2 Coordination

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

- COUNTY Project Manager: Chris Collins, Environmental Compliance Specialist, will be COUNTY primary point of contact.
- Consultant staff, *Name*, will be CONSULTANT primary point of contact.

1.2.2 Project Data and Forms – RESERVED

1.2.3 Project Title – In reference to the project in any forms or formal written materials, CONSULTANT shall use the project title of: Davis Creek Bridge Mitigation Monitoring.

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: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301) Mitigation Monitoring.

1.2.5 Project Short Description – In e-mails and on forms with restricted space, CONSULTANT shall use the short project description of: Davis Creek Bridge Mitigation Monitoring.

1.2.6 Project Coordination with County – CONSULTANT will coordinate with COUNTY

through phone conversations, emails, written memoranda, fax etc.

1.2.7 Project Work Plan/Existing Conditions – CONSULTANT will develop and implement a detailed work plan that includes existing conditions (Refer to Task No. 2), project goals and objectives, roles and responsibilities, a communication plan, project controls, scope and deliverables, schedule and budget.

1.2.8 Invoices – CONSULTANT will prepare periodic invoices providing a summary of CONSULTANT’S work, including covered dates of service, and copies of invoices from any subCONSULTANTS. Invoices shall 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)”.

CONSULTANT must have incurred all costs included on an invoice before seeking reimbursement from COUNTY. Prepayments are not allowed. The complete chain of charges through the sub-consultant levels must follow through to the invoice to COUNTY. Restaurant charges etc. shall be itemized. Invoices with just a total will be rejected. COUNTY uses the Caltrans *Consultant/Contractor Travel Policy* for reimbursements for travel expenses. If an expense report is used, values on the report must match the receipts. Items on a receipt not listed for reimbursement must be crossed out and initialed by CONSULTANT seeking the reimbursement and the new total noted.

CONSULTANT must pay subCONSULTANTS within 30 days of receipt of payment for each invoice.

Any re-submitted invoice shall be given a new invoice date. The same invoice number and date shall appear on each page of the invoice.

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

A sample invoice is given in Consultant Agreement Exhibit B, Payment Terms. This format is to be used for all invoices, including subCONSULTANT invoices.

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

TASK 2 Onsite Evaluation, Site Inspection, and Existing Conditions

CONSULTANT will conduct initial onsite evaluation of the project site to evaluate the site’s slope stability, map any existing sites of erosion, conduct a thorough vegetation analysis, and set up photo monitoring locations. CONSULTANT will develop a follow up report that documents existing conditions, categorically list the species found growing on the site, and offer any treatment recommendations for revegetation, non-native species eradication, erosion control, and/or site repairs.

The vegetation found onsite will be categorized in terms of whether they were thought to be seeded during hydro-seeding and/or planted as part of construction implementation, or naturally recruited to the site post construction. Species will be listed as invasive/native and/or naturalized. The vegetation analysis will also include survival rates and qualifying number/species of colonizing plants.

CONSULTANT will submit the report to COUNTY for review and engage in follow up communications to ensure plan approval and to develop a firm timeline for implementation.

TASK 3 Vegetation Post-Construction Monitoring and Maintenance

Task 3.1 Monitor and Repair Site Erosion - CONSULTANT will visually inspect the site once a

month during the winter months of December through April and after any storm event with precipitation in excess of four inches in twenty-four hours. Any damage sustained by the project will be reported to COUNTY Project Manager.

Inspections will include the following:

- (1) photo documentation at designated photo monitoring locations;
- (2) vegetation analysis with species list and survival rates;
- (3) slope stability and erosion analysis; and
- (4) treatment/repair recommendations for adaptive management to achieve success criteria as the project evolves.

Monthly inspections will be documented in a monitoring report and submitted to COUNTY.

If site repairs, revegetation, and/or non-native species eradication is recommended based on the monthly inspections, CONSULTANT will prepare a treatment plan and submit to COUNTY for approval. Implementation of any recommended treatment plan will be scheduled as needed and follow-up reporting will be provided.

Deliverables

- Site Visit Reports

Task 3.2 Materials Testing - CONSULTANT will perform or cause to be performed, any required geotechnical testing for site repairs at the discretion of COUNTY Project Manager.

Task 3.3 Maintenance of Site Vegetation –

3.3.1 Monthly Site Visits – Monthly site visits during the non-winter (7) months will be required by CONSULTANT's Native Plant Specialist in order to evaluate native growth and invasive occurrence and eradication needs during the entire year.

Inspections will include the following:

- (1) photo documentation at designated photo monitoring locations;
- (2) vegetation analysis with species list and survival rates.

Monthly inspections will be documented in a monitoring report and submitted to COUNTY.

If site repairs, revegetation, and/or non-native species eradication is recommended based on the monthly inspections, CONSULTANT will prepare a treatment plan and submit to COUNTY for approval. Implementation of any recommended treatment plan will be scheduled as needed and follow-up reporting will be provided.

3.3.2 Treatment Recommendations – Treatment recommendations may include, but are not limited to:

- (1) a list of California native species suitable for planting;
- (2) planting methods (i.e. seeding with mulch and/or jute netting, planting rooted vegetative material, willow cuttings, etc.);
- (3) invasive species to be targeted for removal;
- (4) methods for removal;
- (5) erosion control treatments and/or site repairs;
- (6) equipment/labor needs;
- (7) schedule for implementation; and
- (8) estimate of construction costs.

3.3.3 Irrigation Plan – CONSULTANT will prepare an irrigation plan for vegetation establishment and submit to COUNTY for approval. The irrigation may include, but is not

limited to:

- (1) description of the irrigation methods;
- (2) where the irrigation water will come from;
- (3) the irrigation period; and
- (4) process to 'wean' plants off of irrigation by the end of the irrigation period.

Deliverables

- Site Visit Reports
- Irrigation Plan

Task 3.4 Annual Reporting - CONSULTANT will prepare an annual report for the Regional Water Board and submit it to COUNTY by December 1st, each year the permit remains active (minimum of 5 years). This report shall include: survival, success and failure rates of the initial plantings, subsequent re-vegetation and colonizing (volunteer) plants and photographs of the damaged and vegetated areas.

Deliverables

- Annual Reports

SERVICES TO BE PROVIDED BY COUNTY

- COUNTY will provide a responsible in-charge inspector.
- COUNTY will make appropriate staff available for meetings and site visits.
- COUNTY Project Manager will visit the site to assess accuracy of construction and associated reports.
- COUNTY will review all reports and changes for approval: either as the approving agency or prior to submittal to an approving agency.

[END OF SCOPE OF WORK]

ATTACHMENT E**EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION**

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

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: Mendocino County 2. Contract DBE Goal: 0%

3. Project Description: Davis Creek Bridge at East Hill Road Mitigation Monitoring

4. Project Location: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301)

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

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: <u>190026</u> 18. Federal-Aid Project Number: <u>BRLO-5910(112)</u> 19. Proposed Contract Execution Date: <u>08/06/2019</u> 20. Consultant's Ranking after Evaluation: <u>1st</u> Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
21. Local Agency Representative's Signature	22. Date	12. Preparer's Signature	13. Date
<u>Alicia Meier</u>	<u>(707) 234-2804</u>	14. Preparer's Name	15. Phone
23. Local Agency Representative's Name	24. Phone	16. Preparer's Title	
<u>Acting Deputy Director, Engineering</u>			
25. Local Agency Representative's Title			

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

ADA Notice:

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

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

LOCAL AGENCY SECTION

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

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: Mendocino County 2. Contract DBE Goal: 0%

3. Project Description: Davis Creek Bridge at East Hill Road Mitigation Monitoring

4. Project Location: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301)

5. Consultant's Name: _____ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: _____

8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section			
20. Local Agency Contract Number: <u>190026</u>	14. TOTAL CLAIMED DBE PARTICIPATION		\$
21. Federal-Aid Project Number: <u>BRLO-5910(112)</u>			%
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.
23. Local Agency Representative's Signature	24. Date	15. Preparer's Signature	
Alicia Meier	(707) 234-2804	16. Date	
25. Local Agency Representative's Name	26. Phone	17. Preparer's Name	
Acting Deputy Director Engineering		18. Phone	
27. Local Agency Representative's Title		19. Preparer'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.

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTSFederal-aid Project No(s). BRLO-5910(112) Bid Opening Date June 14, 2019

Mendocino County DoT has established a Disadvantaged Business Enterprise (DBE) goal of 0 % for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

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

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

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

<u>Publications</u>	<u>Dates of Advertisement</u>
_____	_____
_____	_____
_____	_____

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

<u>Names of DBEs Solicited</u>	<u>Date of Initial Solicitation</u>	<u>Follow Up Methods and Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

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

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

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

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

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

- F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results

- H. Any additional data to support a demonstration of good faith efforts:

**EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF
INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

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

Consultant's Full Legal Name: _____

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

Indirect Cost Rate:

Combined Rate _____ % **OR**

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

Facilities Capital Cost of Money _____ % (if applicable)

Fiscal period * _____

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

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

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

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

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

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost accounts;
- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

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

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

All A&E Contract Information:

- Total participation amount \$_____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is_____.
- Years of consultant's experience with 48 CFR Part 31 is_____.
- Audit history of the consultant's current and prior years (if applicable)

<input type="checkbox"/> Cognizant ICR Audit	<input type="checkbox"/> Local Gov't ICR Audit	<input type="checkbox"/> Caltrans ICR Audit
<input type="checkbox"/> CPA ICR Audit	<input type="checkbox"/> Federal Gov't ICR Audit	

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

Name**: _____ Title**: _____

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

Email**: _____ Phone Number**: _____

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

Note: *Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency's invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.*

Distribution: 1) Original - Local Agency Project File
 2) Copy - Consultant
 3) Copy - Caltrans Audits and Investigations

Attachment F

State Water Board Water Quality Certification (401) Permit

North Coast Regional Water Quality Control Board

November 2, 2017

In the Matter of

Water Quality Certification

for the

Davis Creek Bridge (No. 10C-0113) Replacement Project
WDID No. 1B161425WNME

APPLICANT:	Mendocino County Department of Transportation
RECEIVING WATER:	Davis Creek
HYDROLOGIC UNIT:	Eel River Hydrologic Unit No. 111.61
COUNTY:	Mendocino
Files:	Davis Creek Bridge (No. 10C-0113) Replacement Project, ECM PIN CW-829007

FINDINGS BY THE EXECUTIVE OFFICER:

1. On October 5, 2016, the Mendocino Department of Transportation (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Davis Creek Bridge (No. 10C-0113) Replacement Project (Project). The Project is located approximately two miles southeast of Willits where East Hill Road crosses Davis Creek, Willits, Mendocino County, at latitude 39.391380°N, and longitude 123.30952°W. The application was deemed complete on September 21, 2017.
2. **Public Notice:** The Regional Water Board provided 21-day public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on September 21, 2017, and posted information describing the Project on the Regional Water Board's website. No comments were received.
3. **Receiving Waters:** The Project will cause disturbances to Davis Creek within the Eel River Hydrologic Unit No. 111.61.

4. **Project Description:** The primary purpose of the Project is to replace the existing bridge that has been determined to be structurally deficient. The existing structure constructed in 1962 is 130 feet long and 18 feet wide and would be replaced by a single span, cast-in-place, pre-stressed, concrete box-girder bridge, 182 feet long by 40 feet wide. The new bridge will be constructed adjacent to the existing bridge to allow for traffic passage during construction. The proposed Project would include construction of new roadway approaches and abutments constructed from cast-in-place concrete founded on driven piles. A series of culverts (spanning approximately 140 linear feet) topped with cleaned spawning gravel are proposed to be installed in the active channel to allow creek flows and temporary work access during construction, all temporary access materials will be removed upon completion of the project restored to pre-project condition. The new bridge will be built on false-work supported in the temporary work access area. Scour protection for the new abutments would consist of 2-foot thick, 75 pound rock slope protection along approximately 80 linear feet of the banks of Davis Creek. After completion of the new bridge, the existing bridge would be dismantled using a crane and abutment footings would be excavated and channel banks restored. The project includes plans for containment and disposal of the lead paint matrix to avoiding discharge to surface waters.
5. **Construction Timing:** The Project is planned to begin in the spring of 2018, through October of 2018, with construction work planned to last approximately 145 days.
6. **Authorized Project Impacts:** Permanent impacts to waters of the state include approximately 74 linear feet of creek channel and 0.199 acres of riparian wetlands, vegetation and channel. Temporary impacts to waters of the state include approximately 140 linear feet of stream bed and bank and approximately 0.366 acres of Riparian wetlands, vegetation and channel.
7. **Mitigation for Project Impacts:** The proposed Project includes a plan to revegetate disturbed areas, including restoring temporary impact areas 0.366 acres and enhancing 0.238 acres Riparian areas to offset permanent impacts. The plan includes native species to be planted, bioengineered rock/willow inter-plantings where feasible, monitoring for 5 years, annual plant maintenance and success criteria. Additionally, the Applicant proposes to plant upland areas with native plants in accordance with the request of the Sherwood Valley Rancheria. The Project proposes to employ best management practices to prevent or reduce any discharges during and after construction including sediment and lead-based paint from the existing bridge structure to be demolished.
8. **Avoidance and Minimization of Impacts:** The Project description includes creating a diversion to isolate the construction area from flowing water and aquatic resources. The project also incorporates construction criteria and methods to avoid discharging lead-based paint as the existing bridge is removed. The applicant proposes to employ measures to prevent accidental spills of pollutants including concrete.
9. **Project Tracking:** It has been determined through regional, state, and national studies that tracking of mitigation and restoration projects must be improved to

better assess their performance. In addition, to effectively carry out the state's Wetlands Conservation Policy of no net loss to wetlands, the state needs to closely track both aquatic habitat losses and the success of mitigation and restoration projects. Therefore, this certification requires the Applicant to upload impact totals and mitigation measures to a web-based project tracking system called "EcoAtlas" using the "Project Tracker" form, which can be found here:

<http://ptrack.ecoatlas.org>. Instructions and how to request a user name and password are on the Project Tracker website. More information about EcoAtlas is available at: www.ecoatlas.org.

10. **Other Agency Actions:** The Applicant has applied for authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404, under Nationwide Permit No. 14. The Applicant has applied to the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement.

CEQA Compliance: On February 12, 2015, Mendocino County, as lead California Environmental Quality Act (CEQA) agency, has produced an Initial Study and Proposed Mitigated Negative Declaration and filed with the State Clearinghouse (SCH No. 2013112036), pursuant to CEQA guidelines.

11. **Total Maximum Daily Load:** The Eel River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
12. **Sediment TMDL Implementation Policy:** Pursuant to Regional Water Board Resolution R1-2004-0087, *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region* (Sediment TMDL Implementation Policy), the Executive Officer is directed to "rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste."
13. **Antidegradation Policy:** The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's *Water Quality Control Plan for the North Coast Region* (Basin Plan) implements, and incorporates by reference, both the state and federal antidegradation policies. This certification is consistent with applicable federal and state antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased

volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this Project.

14. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification. The Order may be accessed at this web address:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water:	Davis Creek, Eel River Hydrologic Unit No. 111.61	
Filled and/or Excavated Areas:	Permanent impacts to waters of the state:	74 linear feet creek channel 0.199 acres Riparian wetlands, vegetation and channel
	Temporary impacts to waters of the state:	140 linear feet creek channel 0.366 acres of Riparian wetlands, vegetation and channel
Latitude/Longitude:	39.391380°N / 123.30952°W	
Certification Expiration:	November 2, 2022	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Davis Creek Bridge (No. 10C-0113) Replacement Project (WDID No. 1B161425WNME) as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

All conditions of this certification apply to the Applicant (and their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the Project as related to this Water Quality Certification.

Terms and Conditions:

Project-Specific Conditions

1. Compensatory mitigation shall be implemented in accordance with the *Riparian Wetland Mitigation and Monitoring Plan* August 2017 (Revised), submitted by the Applicant on September 18, 2017, and any subsequent revisions approved by the

Executive Officer. Project mitigation includes a plan to revegetate disturbed areas, including using native willow plantings within the RSP and native riparian plantings at top of bank where described in the plan within the temporary impact areas and within 0.238 acres of additional Riparian area that will be enhanced to offset the permanent impacts. The Applicant proposes to monitor the revegetation to ensure 85% planting success criteria are met after 5 years.

2. Mitigation success shall be subject to the review and acceptance by Regional Water Board staff, and shall not be considered successful until a minimum of five years of monitoring has occurred. Plants shall not be considered successful until irrigation has been terminated and plants are self-sustaining for a minimum of two years.
3. The Applicant is not authorized to discharge wastewater (e.g., water that has contacted uncured concrete or cement, or related washout) to surface waters, ground waters, or land. If concrete washout is necessary at the site applicant will use washout containment to prevent any discharge. Wastewater may only be disposed of to a sanitary waste water collection system/facility (with authorization from the facility's owner or operator) or a properly-licensed disposal or reuse facility.

Concrete shall be excluded from surface water for a period of 30-days after it is poured/sprayed. During that time, if the concrete shall be kept moist, then the runoff from the concrete shall not be allowed to enter any water body. Commercial sealants or curing accelerators may be applied to the concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used, water shall be excluded from the site until the sealant is cured and until no detrimental impacts to water quality shall occur. Water that contacts cured concrete shall maintain neutral pH. If groundwater comes into contact with fresh concrete, it shall be prevented from flowing to surface water.

Project-Specific Conditions Requiring Reports

4. Mitigation and monitoring reports shall be submitted annually for five (5) years following mitigation implementation (Reports). Reports shall be submitted to the Regional Water Board by January 31, and detail the monitoring results from the prior calendar year. The reports shall be submitted to the following email address: NorthCoast@waterboards.ca.gov.

Reports shall include:

- Year 1 report will include as-built plans for all plantings;
- Maintenance activities performed;
- Monitoring methods;
- Monitoring data summarized;
- Time-series photographs;
- Annual performance and whether success criteria are met;
- Recommendations for adaptive measures.

5. **Project Tracking:** Within 30 days of issuance of this Order, the Applicant shall upload Project information to EcoAtlas using the "Project Tracker" form found at the following

website: <http://ptrack.ecoatlas.org/>. Required information includes a Project map that may either be uploaded to EcoAtlas or created within EcoAtlas by using the “draw polygon” tool. Required mitigation monitoring reports shall be uploaded to EcoAtlas by March 1 following the certification January 31 monitoring report due date. To upload monitoring reports into EcoAtlas, use the “Files and Links” tab found on your project’s EcoAtlas page.

Standard Conditions

6. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
7. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
8. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
9. A fee of \$2,006 was received for the Project on October 5, 2016, and an additional \$3,097 on 10/16/2017, to complete the application fee for all impacts. This certification will be subject to annual billing during the construction phase (“Annual Active Discharge Fee”) and during the monitoring phase of the Project (“Annual Post Discharge Monitoring Fee”), per the current fee schedule, which can be found on our website:
https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xlsm
These fees will be automatically invoiced to the Applicant.

The Applicant must notify the Regional Water Board of the end of the construction phase of the Project in order to request the Regional Water Board to terminate annual construction period billing and to receive a “Notice of Completion of Discharges Letter”. If the Project is subject to annual monitoring fees, the Applicant must also notify the Regional Water Board at the end of the monitoring period in order to request to terminate annual monitoring period billing and receive a “Notice of Project Complete Letter”. Completion reports may be necessary to be submitted by Applicant at the end of each of these phases. Regional Water Board staff may request site visits at the end of each phase of the Project to confirm status of Project and compliance with this certification.

10. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.

11. Only wildlife-friendly, 100-percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
12. BMPs shall be implemented as proposed in the application materials. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
13. The Applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.
14. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented including stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
16. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement action(s).
17. All Project activities shall be implemented as described in the submitted certification application package and the findings and conditions of this certification. Subsequent Project changes that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written concurrence. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement actions.

18. The Applicant shall provide a copy of this certification and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
19. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the state including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
20. The Applicant shall not use leaking vehicles or equipment within State waters or riparian areas. Vehicles and equipment used within State waters shall be checked for leaks at the beginning of each work day.
21. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
22. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
23. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this certification by letter and shall email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov.

The successor-in-interest shall email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this certification. The request must contain the following:

- i) Effective date of ownership change;
 - ii) Requesting entity's full legal name;
 - iii) The state of incorporation, if a corporation;
 - iv) The address and phone number of contact person; and
 - v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.
24. Except as may be modified by any preceding conditions, all certification actions are contingent on:
- i) The discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's Project description and CEQA documentation, as approved herein; and
 - ii) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.
25. The authorization of this certification for any dredge and fill activities expires on November 2, 2022. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Conditions 4, 5, 9, 10, 15, 16 and 23 have requirements for information and reports.

Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

If you have any questions or comments, please call Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

Matthias St. John
Executive Officer

Original to: Mr. John Cylwik, Mendocino County Department of Transportation,
340 Lake Mendocino Drive, Ukiah, CA 95482, cylwikj@mendocinocounty.org

cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov
Ms. Jennifer Siu, EPA Region 9, Siu.Jennifer@epa.gov
Ms. Holly Costa, U.S. Army Corps of Engineers, Holly.N.Costa@usace.army.mil
Mr. Daniel Harrington, CDFW, Daniel.Harrington@Wildlife.ca.gov
Ms. Connie MacGregor Carpenter, North State Resources, Inc.,
carpenter@nsrnet.com

ATTACHMENT G – SAMPLE CONTRACT

COUNTY OF MENDOCINO STANDARD SERVICES AGREEMENT DAVIS CREEK BRIDGE (M.P. 2.01) AT EAST HILL ROAD (CR 301) MITIGATION MONITORING

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 Vegetation Monitoring and Maintenance; 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	Exhibit 10-R – Required Federal Aid Contract Language

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 purpose 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:

DEPARTMENT HEAD _____ DATE _____

Budgeted: ☒ Yes ☐ No

Budget Unit: _____ 3041 _____

Line Item: _____ 2193 _____

Grant: ☒ Yes ☐ No

Grant No.: BRLO-5910(112) _____

COUNTY OF MENDOCINO

By: _____
CARRE BROWN, 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

INSURANCE REVIEW:

By: _____
Risk Management

Date: _____

CONSULTANT/COMPANY NAME

By: _____

Date: _____

NAME AND ADDRESS OF CONSULTANT:

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: _____

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 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.

All invoices, receipts, or other requests for payment under this contract must be submitted by CONSULTANT to COUNTY in a timely manner and consistent with the terms specified in Exhibit B. In no event shall COUNTY be obligated to pay any request for payment for which a written request for payment and all required documentation was first received more than six (6) months after this Agreement has terminated, or beyond such other time limit as may be set forth in Exhibit B.
- 7. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the CONSULTANT.

8. **OWNERSHIP OF DOCUMENTS:** CONSULTANT hereby assigns the COUNTY and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the COUNTY, the CONSULTANT, the CONSULTANT's 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
340 Lake Mendocino Drive
Ukiah, CA 95482
Attn: Howard Dashiell

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

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

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

11. USE OF COUNTY PROPERTY: CONSULTANT shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
12. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: CONSULTANT certifies that it will comply with all Federal, State, and local laws, rules and regulations pertaining to nondiscrimination in employment.
 - a. CONSULTANT shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, pregnancy, disability, sex, sexual orientation, gender identity, ancestry, national origin, age, religion, Veteran's status, political affiliation, or any other factor prohibited by law.

- b. CONSULTANT shall, if requested to so do by the COUNTY, certify that it has not, in the performance of this Agreement, engaged in any unlawful discrimination.
 - c. If requested to do so by the COUNTY, CONSULTANT shall provide the COUNTY with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.
 - d. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.
 - e. The CONSULTANT shall include the provisions set forth in this paragraph in each of its subcontracts.
13. **DRUG-FREE WORKPLACE:** CONSULTANT and CONSULTANT's employees shall comply with the COUNTY's policy of maintaining a drug-free workplace. Neither CONSULTANT nor CONSULTANT's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any COUNTY facility or work site. If CONSULTANT or any employee of CONSULTANT is convicted or pleads *nolo contendere* to a criminal drug statute violation occurring at a County facility or work site, the CONSULTANT, within five days thereafter, shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.
14. **ENERGY CONSERVATION:** CONSULTANT agrees to comply with the mandatory standards and policies relating to energy efficiency in the State of California Energy Conservation Plan, (Title 24, California Administrative Code).
15. **COMPLIANCE WITH LICENSING REQUIREMENTS:** CONSULTANT shall comply with all necessary licensing requirements and shall obtain appropriate licenses. To the extent required by law, CONSULTANT shall display licenses in a location that is reasonably conspicuous. Upon COUNTY's request, CONSULTANT shall file copies of same with the County Executive Office.

CONSULTANT represents and warrants to COUNTY that CONSULTANT and its employees, agents, and any 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 Vegetation Maintenance and Monitoring 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.

36. ATTORNEYS' FEES

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

[END OF GENERAL TERMS AND CONDITIONS]

CONSULTANT AGREEMENT - EXHIBIT A

DAVIS CREEK BRIDGE (M.P. 2.01) AT EAST HILL ROAD (CR 301) MITIGATION MONITORING

DEFINITION OF SERVICES

CONSULTANT shall provide the following services:

In general, this scope of work consists of CONSULTANT providing COUNTY with vegetation mitigation monitoring and maintenance services.

As a condition of the Water Quality Certification (401) Permit issued by the North Coast Regional Water Quality Control Board, COUNTY is required to monitor construction related plantings and maintain them as needed. This program is required to continue for a minimum of 5 years. Establishment success is defined within the permit, a copy of which is attached.

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

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

TASK 1 Project Management and Coordination

Project Management and Coordination will include the following subtasks:

Task 1.1 Project Initiation

Kick-off Meeting – Includes a meeting at the Mendocino County Department of Transportation offices followed by a site visit. Attendees will include COUNTY project manager, CONSULTANT project manager and point of contact and, if available, staff from Caltrans District 1.

Task 1.2 Coordination

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

- COUNTY Project Manager: Chris Collins, Environmental Compliance Specialist, will be COUNTY primary point of contact.
- Consultant staff, *Name*, will be CONSULTANT primary point of contact.

1.2.2 Project Data and Forms – RESERVED

1.2.3 Project Title – In reference to the project in any forms or formal written materials, CONSULTANT shall use the project title of: Davis Creek Bridge Mitigation Monitoring.

- 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: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301) Mitigation Monitoring.
- 1.2.5 Project Short Description** – In e-mails and on forms with restricted space, CONSULTANT shall use the short project description of: Davis Creek Bridge Mitigation Monitoring.
- 1.2.6 Project Coordination with County** – CONSULTANT will coordinate with COUNTY through phone conversations, emails, written memoranda, fax etc.
- 1.2.7 Project Work Plan/Existing Conditions** – CONSULTANT will develop and implement a detailed work plan that includes existing conditions (Refer to Task No. 2), project goals and objectives, roles and responsibilities, a communication plan, project controls, scope and deliverables, schedule and budget.
- 1.2.8 Invoices** – CONSULTANT will prepare monthly invoices in accordance with the PAYMENT TERMS of this agreement.

TASK 2 Onsite Evaluation, Site Inspection, and Existing Conditions

CONSULTANT will conduct initial onsite evaluation of the project site to evaluate the site's slope stability, map any existing sites of erosion, conduct a thorough vegetation analysis, and set up photo monitoring locations. CONSULTANT will develop a follow up report that documents existing conditions, categorically list the species found growing on the site, and offer any treatment recommendations for revegetation, non-native species eradication, erosion control, and/or site repairs.

The vegetation found onsite will be categorized in terms of whether they were thought to be seeded during hydro-seeding and/or planted as part of construction implementation, or naturally recruited to the site post construction. Species will be listed as invasive/native and/or naturalized. The vegetation analysis will also include survival rates and qualifying number/species of colonizing plants.

CONSULTANT will submit the report to COUNTY for review and engage in follow up communications to ensure plan approval and to develop a firm timeline for implementation.

TASK 3 Vegetation Post-Construction Monitoring and Maintenance

- Task 3.1 Monitor and Repair Site Erosion** - CONSULTANT will visually inspect the site once a month during the winter months of December through April and after any storm event with precipitation in excess of four inches in twenty-four hours. Any damage sustained by the project will be reported to COUNTY Project Manager.

Inspections will include the following:

- (1) photo documentation at designated photo monitoring locations;
- (2) vegetation analysis with species list and survival rates;
- (3) slope stability and erosion analysis; and
- (4) treatment/repair recommendations for adaptive management to achieve success criteria as the project evolves.

Monthly inspections will be documented in a monitoring report and submitted to COUNTY.

If site repairs, revegetation, and/or non-native species eradication is recommended based on the monthly inspections, CONSULTANT will prepare a treatment plan and submit to COUNTY for approval. Implementation of any recommended treatment plan will be scheduled as needed and follow-up reporting will be provided.

Deliverables

- Monthly Site Visit Reports

Task 3.2 Materials Testing - CONSULTANT will perform or cause to be performed, any required geotechnical testing for site repairs at the discretion of COUNTY Project Manager.

Task 3.3 Maintenance of Site Vegetation –

3.3.1 Monthly Site Visits – Monthly site visits during the non-winter (7) months will be required by CONSULTANT’s Native Plant Specialist in order to evaluate native growth and invasive occurrence and eradication needs during the entire year.

Inspections will include the following:

- (1) photo documentation at designated photo monitoring locations;
- (2) vegetation analysis with species list and survival rates.

Monthly inspections will be documented in a monitoring report and submitted to COUNTY.

If site repairs, revegetation, and/or non-native species eradication is recommended based on the monthly inspections, CONSULTANT will prepare a treatment plan and submit to COUNTY for approval. Implementation of any recommended treatment plan will be scheduled as needed and follow-up reporting will be provided.

3.3.2 Treatment Recommendations – Treatment recommendations may include, but are not limited to:

- (1) a list of California native species suitable for planting;
- (2) planting methods (i.e. seeding with mulch and/or jute netting, planting rooted vegetative material, willow cuttings, etc.);
- (3) invasive species to be targeted for removal;
- (4) methods for removal;
- (5) erosion control treatments and/or site repairs;
- (6) equipment/labor needs;
- (7) schedule for implementation; and
- (8) estimate of construction costs.

3.3.3 Irrigation Plan – CONSULTANT will prepare an irrigation plan for vegetation establishment and submit to DOT for approval. The irrigation may include, but is not limited to:

- (1) description of the irrigation methods;
- (2) where the irrigation water will come from;
- (3) the irrigation period; and
- (4) process to ‘wean’ plants off of irrigation by the end of the irrigation period.

Deliverables

- Monthly Site Visit Reports
- Irrigation Plan

Task 3.4 Annual Reporting - CONSULTANT will prepare an annual report for the Regional Water Board and submit it to COUNTY by December 1st, each year the permit remains active (minimum of 5 years). This report shall include: survival, success and failure rates of the initial plantings, subsequent re-vegetation and colonizing (volunteer) plants and photographs of the damaged and vegetated areas.

Deliverables

- Annual Reports

SERVICES TO BE PROVIDED BY COUNTY

- COUNTY will provide a responsible in-charge inspector.
- COUNTY will make appropriate staff available for meetings and site visits.
- COUNTY Project Manager will visit the site to assess accuracy of construction and associated reports.
- COUNTY will review all reports and changes for approval: either as the approving agency or prior to submittal to an approving agency.

[END OF DEFINITION OF SERVICES]

CONSULTANT AGREEMENT - EXHIBIT B

PAYMENT TERMS

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

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

SAMPLE INVOICE

(Provide a header with CONSULTANT's name, address and telephone number)

INVOICE

County of Mendocino

Invoice No.: 123

Department of Transportation

Date: 17 December 2015

340 Lake Mendocino Dr

Consultant Contract No.: C2F23

Ukiah, CA 95482

Attn: Nicolas Janopoporopulous

MCDOT Project No.: BXXXX

MCDOT Contract No.: 123456

Davis Creek Bridge Replacement on East Hill Road

Services Period: 1Apr15-30Apr15

Services Performed:

Consultant Charges

Staff classification	Name	Hours	Unit Rate	Total
Project Manager	John Jones	1.00	\$25.65	\$25.65
Senior Engineer	etc.	1.87	\$15.65	\$29.27
Biologist				
Direct Cost Subtotal				\$54.92
Indirect Cost Rate				103.57%
Direct and Indirect Costs Subtotal				\$111.80
Fixed Fee				10.00%
				<u>\$11.18</u>
				\$122.98

Reimbursables

Mileage	\$0.64
Shipping	<u>\$17.51</u>
Reimbursables Subtotal	\$18.15

(Your firm name) Invoice Total \$141.13

Subconsultant Charges

Subconsultant 1, Invoice 1	\$1,250.00
Subconsultant 1, Invoice 2	\$500.00
Subconsultant 2	<u>\$250.00</u>
Subconsultant subtotal	\$2000.00
Total Due This Invoice	<u>\$2,141.13</u>

Billing Status

Contract Amount	Previously Invoiced	Amount of This Invoice	Invoiced to Date	Amount Remaining	Per Cent Invoiced
-----------------	---------------------	------------------------	------------------	------------------	-------------------

Signed: _____
(Name)

[END OF PAYMENT TERMS]

CONSULTANT AGREEMENT - EXHIBIT C

INSURANCE REQUIREMENTS

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

CONSULTANT shall obtain and maintain insurance coverage as follows:

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

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

[END OF INSURANCE REQUIREMENTS]

CONSULTANT AGREEMENT - 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 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

[END OF MENDOCINO COUNTY EPAYABLES INFORMATION]

CONSULTANT AGREEMENT - EXHIBIT E – DBE INFORMATION**EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION**

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

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: Mendocino County 2. Contract DBE Goal: 0%
3. Project Description: Davis Creek Bridge at East Hill Road Mitigation Monitoring
4. Project Location: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301)
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: <u>190026</u> 18. Federal-Aid Project Number: <u>BRLO-5910(112)</u> 19. Proposed Contract Execution Date: <u>08/06/2019</u> 20. Consultant's Ranking after Evaluation: <u>1st</u> Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
21. Local Agency Representative's Signature	22. Date	12. Preparer's Signature	13. Date
<u>Alicia Meier</u>	<u>(707) 234-2804</u>		
23. Local Agency Representative's Name	24. Phone	14. Preparer's Name	15. Phone
<u>Acting Deputy Director, Engineering</u>			
25. Local Agency Representative's Title		16. Preparer's Title	

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT**CONSULTANT SECTION**

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

LOCAL AGENCY SECTION

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

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: Mendocino County 2. Contract DBE Goal: 0%
3. Project Description: Davis Creek Bridge at East Hill Road Mitigation Monitoring
4. Project Location: Davis Creek Bridge (M.P. 2.01) at East Hill Road (CR 301)
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: _____
8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION	\$
20. Local Agency Contract Number: <u>190026</u>			%
21. Federal-Aid Project Number: <u>BRLO-5910(112)</u>		IMPORTANT: 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 _____ 18. Phone _____ 19. Preparer's Title _____	
23. Local Agency Representative's _____ Alicia Meier	24. Date _____ (707) 234-2804		
25. Local Agency Representative's _____ Acting Deputy Director Engineering	26. Phone _____		
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 190026		2. Federal-Aid Project Number BRLO-5910(112)		3. Local Agency Mendocino County		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			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
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED			
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.

[illegible]

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
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED			
18. Local Agency Representative's Signature	19. Local Agency Representative's Name	20. Phone	21. Date

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**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 (OBE) or the date of the Certification Certificate mailed out by OBE.
- 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

1. Type of Federal Action: <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	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known:	9. Award Amount, if known:	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI)	
(attach Continuation Sheet(s) if necessary)		
12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <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 _____	
13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
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: (attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>		
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.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		
Authorized for Local Reproduction Standard Form - LLL		

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

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

CONSULTANT AGREEMENT - EXHIBIT F
REQUIRED FEDERAL-AID CONTRACT PROVISIONS

CALTRANS LAPM EXHIBIT 10-R: A & E BOILERPLATE AGREEMENT LANGUAGE

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ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on (DATE), contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY'S Contract Administrator. The AGREEMENT shall end on (DATE), unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on COUNTY until the AGREEMENT is fully executed and approved by COUNTY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

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

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

Mendocino County Department of Transportation
Attn: Chris Collins
340 Lake Mendocino Drive
Ukiah, CA 95482

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

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of COUNTY.
- B. COUNTY may temporarily suspend this AGREEMENT, at no additional cost to COUNTY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If COUNTY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to COUNTY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT, except as provided in Section **Error! Reference source not found.**0. Upon termination, COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of COUNTY.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORD/AUDITS

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

ARTICLE IX AUDIT REVIEW PROCEDURES

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

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

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by Caltrans Audits and Investigation (A&I). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During Caltrans A&I's review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans A&I will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, COUNTY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COUNTY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COUNTY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

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

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by COUNTY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit COUNTY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COUNTY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY.
 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region_Map_Construction_7-8-15.pdf). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at COUNTY construction sites, at COUNTY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve COUNTY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.
- D. Payroll Records
1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each

journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COUNTY representative's at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
- a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONSULTANT is not subject to a

penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the COUNTY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the

Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, COUNTY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If COUNTY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if COUNTY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by COUNTY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the COUNTY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

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

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this AGREEMENT or any ensuing COUNTY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing COUNTY construction project which will follow.

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

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any COUNTY employee. For breach or violation of this warranty, COUNTY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

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

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
 - 1. No State, Federal, or COUNTY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required

certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the COUNTY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or COUNTY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of

nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded agreement will assist the COUNTY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-01: Consultant Proposal DBE Commitment](#), or in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE

subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: *DBE Information – Good Faith Efforts* to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. DBEs and other small businesses, as defined in 49 CFR Part 26 are encouraged to participate in the performance of AGREEMENTs financed in whole or in part with federal funds. The COUNTY, CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the COUNTY deems appropriate, which may include, but is not limited to:
- (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible
- E. A DBE firm may be terminated only with prior written approval from COUNTY and only for the reasons specified in 49 CFR §26.53(f). Prior to requesting COUNTY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR §26.53(f). 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.
- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the COUNTY's Contract Administrator.
- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. 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 AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the AGREEMENT, a summary of these records shall be prepared and submitted on the form entitled, Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise (DBE) First-Tier Subconsultants, 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.
- L. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to COUNTY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or COUNTY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. COUNTY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

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

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXVII CLAIMS FILED BY COUNTY's CONSTRUCTION CONTRACTOR

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

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to COUNTY's operations, which are designated confidential by COUNTY and made available to CONSULTANT

in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

- B. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by COUNTY, and receipt of COUNTY'S written permission.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI RETENTION OF FUNDS

- B. No retainage will be withheld by COUNTY from progress payments due the CONSULTANT. Retainage by the CONSULTANT or subconsultants is prohibited, and no retainage will be held by the CONSULTANT from progress due subconsultants. Any violation of this provision shall subject the violating CONSULTANT or subconsultants to the penalties, sanctions, and other remedies specified in Business and Professions Code §7108.5. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.