

**COUNTY OF MENDOCINO
STANDARD SERVICES AGREEMENT
CAMP 1 TEN MILE ROAD BRIDGE REPLACEMENT OVER
SOUTH FORK TEN MILE RIVER, COUNTY ROAD 427, MILE POST 1.88**

This Agreement is by and between the COUNTY OF MENDOCINO, hereinafter referred to as the "COUNTY", and MGE Engineering, Inc., 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 Professional Bridge Design Services; and,

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

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

- Exhibit A Definition of Services
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements
- Exhibit D Mendocino County ePayables Information
- Exhibit E Disadvantaged Business Enterprise (DBE) Information and Forms
- Exhibit F Required Federal Contract Provisions

Certain terms and provisions are required to be a part of this agreement since County is utilizing federal funding to pay for the services of CONSUTANT 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 December 31, 2035.

The compensation payable to CONSULTANT hereunder shall not exceed One Million, Eight Hundred Thirty-two Thousand Dollars (\$1,832,000.00) for the term of this Agreement.

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

By: 
HOWARD N. DASHIELL, Director
TRANSPORTATION

Date: May 27, 2025

Budgeted: Yes No

Budget Unit: 3041

Line Item: 2184

Org/Object Code:

Grant: Yes No

Grant No.: FHWA E-76, BRLO-5910(138)

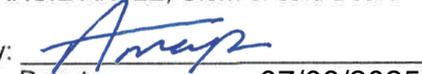
COUNTY OF MENDOCINO

By: 
JOHN HASCHAK, Chair
BOARD OF SUPERVISORS

Date: 07/08/2025

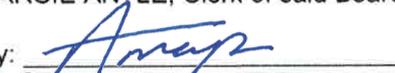
ATTEST:

DARCIE ANTLE, Clerk of said Board

By: 
Deputy 07/08/2025

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

DARCIE ANTLE, Clerk of said Board

By: 
Deputy 07/08/2025

INSURANCE REVIEW:

By: 
Risk Management

Date: 06/11/2025

CONSULTANT/COMPANY NAME

By: 
SIGNATURE

Date: 6/17/2025

NAME AND ADDRESS OF CONSULTANT:

MGE Engineering, Inc.

7415 Greenhaven Dr, Suite 100

Sacramento, CA 95831

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:

By: 
COUNTY COUNSEL

Date: 06/11/2025

EXECUTIVE OFFICE/FISCAL REVIEW:

By: 
Deputy CEO or Designee

Date: 06/11/2025

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

GENERAL TERMS AND CONDITIONS

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

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

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

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 CONSULTANTS 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 subCONSULTANTS.
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 subCONSULTANTS similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of subCONSULTANTS' 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-CONSULTANT, 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 subCONSULTANTS or third parties at the request of the CONSULTANT (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

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

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

9. CONFLICT OF INTEREST: The CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement.
10. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

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

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

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

Facsimile transmission: When sent by facsimile to the facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that, (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given facsimile shall be deemed received on

the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To COUNTY: COUNTY OF MENDOCINO
Department of Transportation
340 Lake Mendocino Dr
Ukiah, CA 95482
Attn: Rygg Larsen

To CONSULTANT: MGE Engineering, Inc.
7415 Greenhaven Dr, Suite 100
Sacramento, CA 95831
Attn: Robert Sennett

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

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

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

its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.

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

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

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

The CONSULTANT shall maintain full and adequate records in accordance with COUNTY requirements to show the actual costs incurred by the CONSULTANT in

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

17. DOCUMENTS AND MATERIALS: CONSULTANT shall maintain and make available to COUNTY for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 8 of this Agreement. CONSULTANT's obligations under the preceding sentence shall continue for four (4) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by COUNTY), and CONSULTANT shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following the COUNTY's last payment to CONSULTANT under this Agreement.
18. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
19. TERMINATION: The COUNTY has and reserves the right to suspend, terminate or abandon the execution of any work by the CONSULTANT without cause at any time upon giving to the CONSULTANT notice. Such notice shall be in writing and may be issued by any COUNTY officer authorized to execute or amend the contract, the County Chief Executive Officer, or any other person designated by the County Board of Supervisors. In the event that the COUNTY should abandon, terminate or suspend the CONSULTANT's work, the CONSULTANT shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to CONSULTANT for its Professional Engineering Services shall not exceed \$1,832,000.00 for services provided hereunder prior to the effective date of said suspension, termination or abandonment or lack of funding.

20. **NON-APPROPRIATION:** If COUNTY should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the products set forth in this Agreement, or other means of performing the same functions of such products, COUNTY may unilaterally terminate this Agreement only upon thirty (30) days written notice to CONSULTANT. Upon termination, COUNTY shall remit payment for all products and services delivered to COUNTY and all expenses incurred by CONSULTANT prior to CONSULTANT's receipt of the termination notice.
21. **CHOICE OF LAW:** This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
22. **VENUE:** All lawsuits relating to this contract must be filed in Mendocino County Superior Court, Mendocino County, California.
23. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
24. **ADVERTISING OR PUBLICITY:** CONSULTANT shall not use the name of COUNTY, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of COUNTY in each instance.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire Agreement between COUNTY and CONSULTANT relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other Agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. This Agreement may not be modified except by a written document signed by both parties. In the event of a conflict between the body of this Agreement and any of the Exhibits, the provisions in the body of this Agreement shall control.
26. **HEADINGS:** Herein are for convenience of reference only and shall in no way affect interpretation of this Agreement.
27. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual Agreement of the parties. No

supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

28. **ASSURANCE OF PERFORMANCE:** If at any time the COUNTY has good objective cause to believe CONSULTANT may not be adequately performing its obligations under this Agreement or that CONSULTANT may fail to complete the Services as required by this Agreement, COUNTY may request from CONSULTANT prompt written assurances of performance and a written plan acceptable to COUNTY, to correct the observed deficiencies in CONSULTANT's performance. CONSULTANT shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of COUNTY's request and shall thereafter diligently commence and fully perform such written plan. CONSULTANT acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
29. **SUBCONTRACTING/ASSIGNMENT:** CONSULTANT shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the COUNTY's prior written approval.
 - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any Agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Only the department head or his or her designee shall have the authority to approve subCONSULTANT(s).
 - c. CONSULTANT shall remain fully responsible for compliance by its subCONSULTANTS with all the terms of this Agreement, regardless of the terms of any Agreement between CONSULTANT and its subCONSULTANTS.
30. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 8), and Conflict of Interest (Paragraph 9), shall survive termination or expiration for two (2) years.
31. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
32. **INTELLECTUAL PROPERTY WARRANTY:** CONSULTANT warrants and represents that it has secured all rights and licenses necessary for any and all materials, services, processes, software, or hardware ("CONSULTANT

PRODUCTS”) to be provided by CONSULTANT in the performance of this Agreement, including but not limited to any copyright, trademark, patent, trade secret, or right of publicity rights. CONSULTANT hereby grants to COUNTY, or represents that it has secured from third parties, an irrevocable license (or sublicense) to reproduce, distribute, perform, display, prepare derivative works, make, use, sell, import, use in commerce, or otherwise utilize CONSULTANT PRODUCTS to the extent reasonably necessary to use the CONSULTANT PRODUCTS in the manner contemplated by this Agreement.

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

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

33. **ELECTRONIC COPIES:** The parties agree that an electronic copy, including facsimile copy, email, or scanned copy of the executed Agreement, shall be deemed, and shall have the same legal force and effect as, an original document.
34. **COOPERATION WITH COUNTY:** CONSULTANT shall cooperate with COUNTY and COUNTY staff in the performance of all work hereunder.
35. **PERFORMANCE STANDARD:** CONSULTANT shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in CONSULTANT's profession. COUNTY has relied upon the professional ability and training of CONSULTANT as a material inducement to enter into this Agreement. CONSULTANT hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable Federal, State, and local laws, it being understood that acceptance of CONSULTANT's work by COUNTY shall not operate as a waiver or release. If COUNTY determines that any of CONSULTANT's work is not in accordance with such level of competency and standard of care, COUNTY, in its sole discretion, shall have the right to do any or all of the following: (a) require CONSULTANT to meet with COUNTY to review the quality of the work and resolve matters of concern; (b) require CONSULTANT to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of paragraph 19 (Termination) or (d) pursue any and all other remedies at law or in equity.

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

[END OF GENERAL TERMS AND CONDITIONS]

EXHIBIT A

DEFINITION OF SERVICES

CONSULTANT shall provide the services detailed in their Project Proposal attached as follows:

D. Detailed Scope of Work

The Scope of Work (SOW) following describes services to be provided to bring the project from approval and environmental documentation through to final design, bid assistance, and construction design support. The SOW utilizes the main Task structure as outlined in Section XI, Scope of Work, of the County's RFP with appropriate subtasks included to fulfill project needs.

TASK 1 - Project Management and Coordination

This task applies to both project phases. Items are summarized below, while specific items are included as subtasks throughout the following work plan and included in the labor hour estimate and project schedules accordingly.

Communication and Coordination

MGE will work closely with and coordinate with staff and specialty consultants making up the County's Project Delivery Team (PDT) as required to facilitate and ensure successful project delivery. This will include written communication, via telephone or email. In addition, informal meetings will be held as required throughout the term of the contract.

Meetings

MGE will participate in PDT meetings as necessary to complete the design tasks and coordinate between technical disciplines. The PDT meetings will be organized by MGE to occur monthly during the project development and design process and held via teleconference or videoconference. MGE will prepare meeting agendas and minutes for all PDT meetings and will discuss schedule, the scope of work and project goals, schedule, task progress and issues to be addressed. Key team members, including subconsultants when appropriate, will be present at each team meeting. MGE will develop and maintain a project Issue/Action Item/Decision log which will be included with meeting minutes within one week following each monthly meeting. The number and frequency of meetings can be modified during the design process to allow for increased communication and coordination with the County, MGE team, and stakeholders, as necessary.

Project Schedule

MGE will prepare a detailed project schedule. The schedule will be updated quarterly.

Progress Reports

MGE will submit a monthly Progress Report to accompany invoices. The reports will include a narrative on work accomplished during the reporting period; status of services by task breakdown; percentage of work completed; work planned for the next reporting period; information/decisions required to maintain the Project schedule and complete deliverables; problems encountered that may affect the schedule, budget, and anticipated work items; and recommendations to resolve issues.

Quality Control

MGE will develop a project-specific Quality Control Plan (QCP) that assigns responsibility and calls out the procedures to be used to ensure that all deliverables (including drafts) are complete and accurate, including but not limited to, ensuring that design calculations are independently checked and that exhibits and plans are checked, corrected and back-checked. Transmittals for all deliverables will include the name(s) and contact information of the person(s) involved in ensuring quality deliverables.

MGE will ensure that draft submittals will include one e-mailed PDF and one Word DOCX files for County review and comment. MGE will ensure that Final reports will be printed and bound if required by approving agencies and will submit them to the COUNTY for distribution to the agencies. MGE will deliver one additional copy for County's files. All reports and plans will have original signatures. The number of reports required by the approving agency will be submitted by COUNTY.

Upon approval of any report, MGE will submit one copy to the COUNTY as a complete, uniformly bound, approved document and a duplicate PDF. Any report submitted to the approving agency for final approval will be complete, including the results of all communications with the approving agency.

Deliverables:

MGE will use the project title of: Camp 1 Ten Mile Road over the South Fork of Ten Mile River Bridge Replacement Project for reports, correspondence and deliverables.

- Meeting agendas
- Meeting materials (graphics, visual aids and other presentation items).
- Updated Issue/Action Item/Decision Log.
- Updated Project Schedule
- Meeting minutes within 1 week of meeting.

- Project schedule with updates as necessary, but at least each quarter
- Three month Look Ahead Schedule
- Project LAPM/LAPG Exhibits, as needed
- Monthly invoices and progress reports
- Project log of issues, action items and decisions
- Communication documents (emails, memos etc.)

TASK 2 - Topographic Surveys, Mapping and Preliminary Right-of-Way

Task 2.1 Topography and Boundary Survey

SHN will perform surveying and base mapping necessary for the project and supplement the existing 2017 LiDAR, as necessary. The survey shall include, but not be limited to, the following:

- Perform a Topographic and Right-of-Way Survey to provide design control and right-of-way mapping for the project to 400 feet beyond each end of the bridge
- Set horizontal and vertical control points for project mapping using California coordinates (NAD83 and NAVD88 datum)
- Perform control surveys to locate all existing survey monuments within the project area, as necessary
- Perform a detailed topographic survey of existing roadways, physical improvements, visible utilities and drainage features, and area of proposed alignment, as necessary to supplement existing topography
- Include existing site improvements and visible utilities including, but not limited to, trees with drip lines, trees greater than 6-inches DBH, ground shots, roadway cross sections, fences, road elevations, structures and other miscellaneous visible features
- Creek cross sections for SFTMR and Smith Creek, as necessary for hydrology/hydraulics (ten minimum)
- Scale shall be 1"=40'. Surface contours shall be at an interval of not more than 1 foot

SHN will perform a right of way survey to establish the County right of way or easements lines. Tasks include the following:

- Perform boundary research to locate the existing right of way data.
- Coordinate with the County Department of Transportation and Public Works surveyors, County Surveyor's Office, and County Historian or search for and obtain roadway dedications, deeds and easements.
- Perform boundary surveys to search for, locate and tie existing monumentation.
- Perform a resolution of the existing road right of way.
- Acquire up to three title reports for the affected properties, if needed.
- Plot existing easements depicted in title reports.
- Complete a Record of Survey in accordance with Section 8762, of the California Land Surveyor's Act depicting the existing right of way and the project centerline(s)
- The Record of Survey will show at least two permanent monuments that will survive the construction of the projects.

Task 2.2 Right of Way Acquisition Assistance

SHN will provide assistance for right of way acquisition, if needed. This task includes the following:

- Prepare an acquisition map (if needed).
- Prepare legal descriptions and plats for easement acquisition at the locations provided by the engineer.

Assumes at least up to three legal descriptions and plats for the project.

If requested, BRI will develop a preliminary right of way capital cost estimate that includes all relevant costs, from the cost of real estate to damages, furniture, fixture and equipment, business, and residential relocation (based on costs provided by others) loss of goodwill, and environmental liabilities to consultants' fees. These costs will be presented in a table format summarizing the total cost per parcel, including a high/low range estimate to be used in the final report.

Deliverables:

- Acquisition map; Record of Survey; legal descriptions, plats and closure calculations for ROW acquisition; topographic survey files
- One (1) Right of Way Cost Estimate/Data Sheet, as required.

TASK 3 - Environmental Studies and Documentation

ESA and Crawford will prepare environmental documents for this project. Crawford will prepare hazardous materials studies and ESA will prepare CEQA/NEPA technical studies and permits.

Task 3.1 - Preliminary Environmental Study (PES) Form:

ESA will prepare a Preliminary Environmental Study (PES) form for use by Caltrans in initiating NEPA review of the project. If a Field Review meeting is requested by the MCDOT or Caltrans during review of the PES form, MGE will lead coordination of the Field Review meeting, including scheduling and preparation of Field Review Forms. ESA will support environmental elements of the agenda, attendance roster and meeting minutes and provide hard copies of the draft PES form for use during the Field Review meeting.

Task 3.2 - Aquatic Resources Delineation Report:

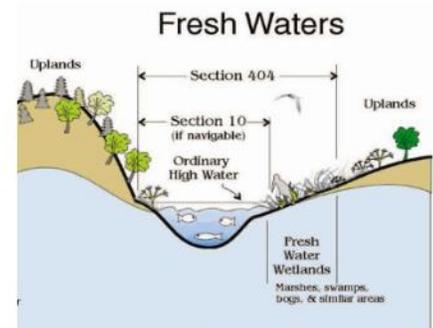
ESA will prepare an Aquatic Resources Delineation Report (ARDR) to describe and map the extent of the regulated aquatic resources in the project area. The extent of waters of the US, which may be potentially regulated by the US Army Corps of Engineers (USACE), will be determined in the field using the presence of an ordinary high-water mark and the methodology in the USACE 1987 wetland delineation manual and any applicable regional supplements. Waters of the State, including resources regulated by the Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW) will be determined by the presence of hydrophytic vegetation, the location of a definable bed and bank, and the presence of associated riparian, wildlife, or fish resources. The boundaries of these resources will be mapped on figures of an appropriate scale and provided to the design engineers in GIS shape files.

A stand-alone Aquatic Resources Delineation Report (ARDR) will be prepared describing extent of waters of the US/state and adjacent riparian areas in the project area. The report will include methods, results, and a graphic depicting the approximate size and location of any potentially regulated areas. The report will be consistent with the requirements of USACE, RWQCB, CDFW, and the California Coastal Commission (CCC) and County's Local Coastal Program (LCP). Copies of field data sheets will be included. The report will describe delineation methodology and potential jurisdictional status of each aquatic resource features identified in the project area. The report will provide the necessary documentation for developing and processing subsequent Section 401 permit and/or Waste Discharge permit, 404 Individual or Nationwide permit, and Section 1602 Streambed Alteration Agreement, as applicable.

Task 3.3 - Natural Environment Study (NES):

ESA will complete a background review and biological resources reconnaissance survey of the project area to assess, and document protected biological resources, including environmental sensitive habitat areas (ESHAs) present or those with potential to occur, evaluate potential impacts on biological resources that may result from project construction and operation, and identify applicable mitigation measures. The biological resources evaluation will also identify any expected regulatory permits that may be required for the project prior to construction, and if consultations pursuant to the federal Endangered Species Act (FESA) would be expected.

ESA will prepare a Natural Environment Study (NES) report in accordance with the current Caltrans NES template dated August 2022 to document the analysis and results for both CEQA and NEPA.



Task 3.4 - Biological Assessment and Section 7 Consultation Support:



ESA will prepare a Biological Assessment (BA) to address potential effects to federally listed species and support Caltrans in their consultation with federal resource agencies pursuant to Section 7 of the Federal Endangered Species Act. ESA assumes that the project may affect both fish species under the authority of the National Marine Fisheries Service (NMFS) as well as other federally listed species under the authority of the U.S. Fish and Wildlife Service (USFWS); therefore, ESA assumes that Section 7 consultation will need to be completed with both agencies. ESA assumes that a single BA can be prepared to support both consultations.

Task 3.5 - Cultural Resources - Historic Property Survey Report and Archaeological Survey Report:

ESA will prepare cultural resources documents, including an Area of Potential Effects (APE) map, Historic Property Survey Report (HPSR) and Archaeological Survey Report (ASR), to identify historic and cultural resources in the APE limit and support Caltrans compliance with Section 106 of the National Historic Preservation Act. The ASR will include appropriate background research, description of field work, appropriate maps and photos, and a record of Native American communication. The ASR will be an attachment to a Historic Property Survey Report (HPSR) that will include a finding of effect for the project.

Research and investigations will include background research at the California Historical Resources Information System (CHRIS) at the Northwest Information Center (NWIC) at Sonoma State University. The records search will identify previously recorded cultural resources within or near the APE and determine whether the APE has been previously surveyed up to current standards. In addition to the CHRIS search, the Native American Heritage Commission (NAHC) will be contacted to determine if the APE is known to be of particular concern to local Native Americans. ESA will send letters to culturally affiliated Native American Tribes to request information on the APE and vicinity as well as interest in the project.

ESA will conduct a preliminary archaeological sensitivity assessment of the potential for buried archaeological resources in the APE using relevant maps and documents (e.g., archaeological studies, geologic reports, Quaternary geologic maps, Mendocino County Soil Survey).

Field work will entail intensive pedestrian survey of the APE. ESA cultural resources staff will inspect all areas of exposed ground surface for the presence of cultural materials. Areas of dense vegetation will be inspected as closely as possible and any exposed cut banks will be carefully examined for the presence of buried cultural resources. If an archaeological resource is encountered, a preliminary assessment of site boundaries will be made through surface inspection. ESA will prepare a map depicting site boundaries in relation to the APE, and the site will be recorded on a standard archaeological site record (DPR 523 form). A subsurface survey (Extended Phase 1) is not anticipated at this time.

Task 3.6 - Visual Technical Memo:

To address minor changes to the visual environment that may result from the project, ESA will prepare a Visual Impact Assessment Memorandum (VIA Memo) to briefly describe project features, project effects and recommended avoidance and minimization measures. The Minor VIA will follow the requirements of the Caltrans Visual Impact Assessment Memorandum and will include photographs of visual resources in the project area, one simulation to illustrate approximate post-project conditions, an evaluation of the change in visual resources that would result from the project, and recommend avoidance and minimization measures, if needed.

Task 3.7 - Phase I Initial Site Assessment

Crawford will prepare an ISA to evaluate both project site and adjacent properties for evidence of recognized environmental conditions (RECs) and/or potential RECs that may significantly impact the constructability, feasibility, and/or cost of the project. Potential RECs identified in the RFP for this site may include (but may not be limited to) aerially deposited lead (ADL) or naturally occurring asbestos (NOA) in soils at concentrations that exceed hazardous waste limits. The ISA will be prepared in accordance with the procedures set forth in Caltrans' Standard Environmental Reference, Chapter 10, and ASTM E1527-21. The ISA will include:

- Physical Setting Review summarizing geologic conditions and the potential presence of NOA; hydrogeologic conditions including depth to groundwater and regional groundwater flow, if readily available) based on information from websites maintained by the State of California.
- Historical Land Use Review using an ERIS database that will provide historical aerial photographs, historical USGS topographic maps, city directories, and Sanborn fire insurance maps (where available) for the project site and vicinity. Crawford will develop a history of general property uses for the subject property and surrounding parcels back to the subject property's first development, or 1940, whichever is earlier.
- Records review: Crawford will contract with Environmental Risk Information Service (ERIS) to conduct a computerized search of reasonably ascertainable federal, state, local, and tribal environmental agency database records. These database records will be reviewed for information pertaining to the subject property, and properties within ASTM standard search radii applicable to each database. The databases searched will include, at a minimum, all databases specified in ASTM E1527-21.
- Site Reconnaissance: Crawford will perform a driving and walking reconnaissance of the project alignment and vicinity to observe current conditions. Conditions on adjacent parcels will be observed from the public right-of-way. The reconnaissance will include observations of geologic, hydrogeologic, and topographic conditions; uses and storage of visible hazardous materials and wastes within and adjacent to the project alignment; and general conditions with regard to the presence of underground and above ground storage tanks, drums, wells, electrical equipment, vegetation, odors, and sewage/waste disposal, as appropriate.
- Interviews: Where warranted by observations and data, Crawford will make reasonable attempts to interview current and past property owners, tenants, and key site managers where names and contact information is provided. Crawford may also contact Mendocino County Environmental Health Department personnel to inquire about department knowledge pertaining to the project alignment or other properties in the site vicinity, as warranted by the findings and reconnaissance.
- Report of Findings: A report documenting our assessment will be prepared for the project. The report will include, but not necessarily be limited to, the following:

- Description of the subject property and vicinity;
- Summary of the physical setting, local geologic conditions, and hydrogeologic conditions;
- Summary of the historical record review and historical site usage;
- Findings from the records review;
- Site reconnaissance observations;
- Interview results;
- Photographs of significant items of environmental concern observed during the site reconnaissance (if any);
- Findings, Opinions, and Conclusions on potential impacts: including a summary of RECs, and a discussion of significant data gaps and data failures; and
- Recommendations: As warranted by the findings for additional investigation and/or sampling for potentially hazardous materials.

Phase II environmental sampling will comprise collection and analysis of soil samples adjacent to the existing bridge abutments, and inspection of the existing bridge structure for asbestos, asbestos-containing materials, and lead-based paint. Results from these sampling efforts will be included in the ISA report.

- **Soil Sampling:** Crawford will collect soil samples at four locations near the bridge abutments to evaluate for the presence of ADL that might be present at concentrations exceeding hazardous waste limits. We anticipate collecting three soil samples at each location (0-6", 12"-18", and 24"-30" inches below ground surface) for a total of 12 soil samples to be analyzed at an ELAP-accredited laboratory for total lead. Samples with total lead concentrations that exceed threshold limits will be further analyzed for soluble lead (WET and TCLP methods). For budgeting purposes, we assume about 30% of the soil samples (4 samples) will be analyzed for soluble lead, and one sample will be analyzed for pH. There is the potential for ultramafic rocks within the Coast Ranges to contain NOA. One soil sample from each location will be analyzed at an ELAP-accredited laboratory for asbestos using EPA Method 600/R-93/116.
- **Thermoplastic traffic striping:** Imagery from Google Earth does not show thermoplastic traffic striping on the bridge or approach road surfaces. Sampling of thermoplastic traffic striping is not included in this proposal.
- **Bridge Inspection:** Crawford will contract with National Analytical Laboratories, Inc. to have the bridge inspected for asbestos and asbestos-containing materials by a Certified Asbestos Consultant, and for lead-based paint by a Certified Lead Inspector.
- **Reporting:** Results from the soil sampling and bridge inspection will be included in the ISA report.

Task 3.8 - CEQA/NEPA Documentation:

Upon completion and Caltrans approval of the environmental technical studies described above, ESA will coordinate with Caltrans in order to obtain final approval of NEPA. It is assumed that the project would qualify as Categorical Exempt (CE) from NEPA. To support Caltrans' CE finding, ESA will prepare an Environmental Commitments Record (ECR) and, if desired, prepare a Caltrans Categorical Exemption/Categorical Exclusion Form (CE/CE Form) for Caltrans' use in issuing the CE.

ESA will also utilize the environmental technical studies mentioned above to prepare a CEQA Initial Study to support a Mitigated Negative Declaration (IS/MND). The Initial Study will be prepared using the format preferred by the County and will include an Administrative Draft for review by the County, a Screencheck Draft prior to public circulation, a Draft for public review, and a Final including responses to comments received during the public circulation period and any agency-initiated changes. ESA will also prepare associated public notices, including Notice of Completion, Notice of Intent, and Notice of Determination; ESA will coordinate with the County to post notices with the County Clerk-Recorder's office and with the State Clearinghouse, and will publish the Notice of Intent one time in a local newspaper. ESA assumes that the County will post notices and a copy of the IS/MND on the County's website. It is assumed that direct mailings to nearby property owners would not be required.

Task 3.9 - Permitting:

ESA will prepare the necessary environmental permitting application packages for the project, as enumerated below. All application packages will include: the appropriate application forms, a Supplemental Information document with additional project information, required attachments and supporting maps and/or graphics. Several of the Environmental Studies identified above will be required as attachments for the application packages. Agency submittals are anticipated to occur through online portals or via email and will be completed by ESA. It is anticipated that the following permits/authorizations will be needed:

- Section 404 Nationwide Permit (U.S. Army Corps of Engineers [USACE])
- Section 401 Water Quality Certification (Regional Water Quality Control Board [RWQCB])
- Streambed Alteration Agreement (California Department of Fish and Wildlife [CDFW])

- Coastal Development Permit (California Coastal Commission [CCC])¹
- Letter of Non-Objection [California State Lands Commission [CSLC], Task 4]

ESA will request an interagency pre-application meeting to solicit early design input and confirm the permitting approach for project implementation/construction. In addition to the pre-application meeting this scope includes two one-hour coordination meetings with each agency to facilitate application processing.

Deliverables:

- Preliminary Environmental Study (PES) Form, including Field Review Meeting
- Aquatic Resources Delineation Report
- Natural Environment Study
- Biological Assessment
- Historic Property Survey Report and Archaeological Survey Report
- Phase I Initial Site Assessment
- Visual Impact Assessment Memorandum
- NEPA Categorical Exclusion (provided by Caltrans)
- CEQA Initial Study/Mitigated Negative Declaration and associated notices
- Regulatory permit application packages, including pre-application meetings (x4).

TASK 4 - Geotechnical Investigations

To support the completion of Geotechnical borings in the coastal zone, ESA will apply for a CCC Coastal Development Permit waiver and submit a California State Lands Commission (CSLC) jurisdictional inquiry. Geotechnical investigation is expected to be required within the CSLC's and CCC's jurisdiction (submerged lands) and within the County's Local Coastal Program jurisdiction (above submerged lands).² The team assumes the CSLC will issue a Letter of Non-Objection. The team assumes the CCC will process a single, consolidated coastal development permit waiver application, as provided under Coastal Act Section 30601.3.

- Coastal Development Permit Waiver Application (CCC [ESA])
- Jurisdictional Inquiry/Request for Letter of Non-Objection (CSLC)

Task 4.1 Preliminary Foundation Report

Crawford will prepare a Preliminary Foundation Report (PFR) for this project as part of Type Selection. The PFR will be based on existing subsurface data, Bridge Inspection Reports, published geologic mapping and seismicity data, aerial photographs, preliminary project data and a site visit.

The PFR will summarize anticipated earth materials and conditions based on reference data and site exposures; provide seismic input parameters (including ARS Curve consistent with current Caltrans practice); discuss preliminary foundation types (e.g., spread footings, driven piling and cast-in-drilled-hole piling); provide preliminary foundation recommendations for bridge foundations; discuss liquefaction potential; and discuss roadway approaches. The Preliminary Foundation Report will be submitted electronically as a Portable Document Format (PDF) file.

Task 4.2 Foundation Report

Following type-selection, Crawford will perform a site-specific foundation study to evaluate the subsurface conditions for foundation design of the selected alternative.

Task 4.2.1 Permits, USA, and Subsurface Exploration

For this task Crawford will:

- determine exploration locations, mark our exploration locations and notify USA North 811;
- obtain a Mendocino County Environmental Health Permit for our borings; and
- obtain a Mendocino County Encroachment Permit (permit fee and bond requirements waived).

Exploration will be on County Right-of-Way or private property with rights of entry provided by the County. Crawford will conduct a subsurface exploration program to help characterize the subsurface foundation conditions for the bridge structure. At each abutment, Crawford will drill, log and sample a 70-80 foot deep boring. The bridge borings will be

¹ The Project appears to intersect the CCC's retained jurisdiction (submerged lands) and the County's Local Coastal Program jurisdiction (above submerged lands). The team assumes the CCC will process a single, consolidated coastal development permit application, as provided under Coastal Act Section 30601.3.

² The team assumes the Letter of Non-Objection will cover the geotechnical investigation and bridge replacement activities.

supplemented by 1-2, 5-foot-deep borings to collect bulk samples of subgrade soils in evaluation of the approach roadways.

The drilling contractor will advance borings with a rubber-tired, truck and/or track mounted drill rig using 6 to 8-inch-diameter hollow, solid stem augers, and/or rotary wash methods. Standard Penetration Testing (SPT) and California Modified sampling will be performed within borings to obtain samples and blow count information. Provision is also made to advance the borings within bedrock using rock core equipment if/as needed. A Crawford engineer/geologist will direct the sampling and log the borings consistent with current Caltrans procedures/requirements. At a minimum, Crawford will sample at 5-foot intervals. Crawford will deliver the samples and rock cores to the laboratory for laboratory testing and reference. Surface and groundwater conditions will be noted where encountered. The borings will be backfilled per County permit requirements.

Task 4.3 Laboratory Testing

Crawford will complete the following laboratory tests on bulk and relatively undisturbed samples obtained from the exploratory borings (as appropriate):

- Moisture Content and Unit Weight for bearing capacity and lateral capacity;
- Unconfined Compression and/or Direct Shear testing, for bearing resistance and lateral capacity;
- Sieve Analysis and Plasticity Index for soil classification;
- Resistance Value for approach roadway (if/as needed);
- Resistivity, pH, Sulfate Content, and Chloride Content for soil corrosivity analysis; and
- R-value.

Task 4.4 Draft and Final Foundation Report

Crawford will perform engineering evaluation and analysis (using computer software where applicable) for the following: bearing resistance; lateral capacity; pile drivability analysis; downdrag; site seismicity including procedures consistent with current Caltrans Seismic Design Criteria to determine the site acceleration response spectrum (ARS); liquefaction potential; lateral earth pressure and coefficient of friction to resist sliding; flexible pavements (as needed); and soil corrosivity.

Crawford will prepare a Foundation Report (FR) consistent with current Caltrans guidelines/format for review and comment by the design team. The report will provide a site/project description, summarize site geology, subsurface exploration and field and laboratory soil tests, discuss scour considerations as applicable (based on Hydraulics Report prepared by others), and include a "Log of Test Borings" (LOTB) drawing. Earth materials and foundation conditions will be discussed including seismic criteria and the design ARS curve. The report will discuss structure foundation conditions/constraints, recommended type, loading of bridge foundation elements, and include construction considerations. The report will also include/address approach roadway site preparation and grading.

Crawford services include allowance for the Caltrans review process to respond to review comments if/as needed. We will contact Caltrans if necessary to rectify comments received on the preliminary and draft reports for concurrence and include comment responses in the final report.

Following receipt of all Draft FR review comments and concurrence with Caltrans, Crawford will prepare and submit a Final FR incorporating the comments as necessary. The FR will be submitted electronically as a PDF file.

Crawford will provide consultation on geotechnical topics and perform a geotechnical review of the preliminary plans (35% or 90%) and final (100%) plans/specifications and provide comments to the design team.

Deliverables:

- Preliminary Foundation Report
- Draft Foundation Report
- Final Foundation Report
- Log of Test Boring Sheets

TASK 5 - Hydrology and Hydraulics

Task 5.1 Project Management and Obtain and Review Project Documentation

Avila will provide project management including progress summaries as part of the monthly invoicing process. The Project Manager will conduct project oversight and review of work products prior to submittal for quality assurance. The Project Manager will attend 6, 1 hour project progress meetings.

Avila will review all available background information for the project including available inspection reports and as-built plans. After review, Avila will field review the bridge reach with the project team and assumes that the field review and kick off meeting will occur simultaneously none.

Task 5.2 Hydrology

Avila will determine the peak discharge and create hydrographs for the 50-, and 100-year discharges using a statistical analysis of a gage near the project site or a 2D HEC-RAS precipitation model of the project.

Task 5.3 Hydraulics

Avila will create a survey request of the channel and structure information needed to model the existing bridge and channel. Avila will create a 2D HEC-RAS model of the existing conditions based on existing topographic information (LiDAR), channel surveys, and detailed survey or as-built plans of the existing bridge, provided by others, using HEC-RAS 5.4 or newer. Avila will update the existing conditions 2D model for up to 3 proposed conditions alternatives based on project plans and grading provided by others. Avila will update the proposed conditions model for the final alternative.

Assumptions:

- Topographic information will be provided by others and will include details of the channel bottom through the project reach.
- Finish grade surfaces of the roadway approaches for all alignments will be provided by others in either AutoCAD dwg or xml format.
- Exhibits of the proposed bridge configuration options will be provided by others including profiles, deck thickness, abutment locations, and pier types and locations.
- Others will provide a General Plan for the final bridge configuration.

Task 5.4 Scour Analysis

Avila will review Maintenance Reports for the existing bridge and upstream and downstream bridges to assist in degradation analysis

1. Local Scour: Avila will complete local scour calculations including pier, contraction, abutment, and pressure flow scour will be estimated for the preferred bridge alternative modeled under Task 3d using the methods described in the Federal Highway Administration (FHWA) Publication HEC-18, Evaluating Scour at Bridges.
2. Bank Protection: Avila will complete calculations to determine the need for bank protection. If bank protection is required, parameters will be provided according to FHWA publication HEC-23, Bridge Scour and Stream Instability Countermeasures for rock riprap for the one chosen proposed bridge alternative.

Assumptions:

- Historical bridge cross sections are available in the bridge inspection reports for the bridge (and adjacent bridge) and are sufficient for the degradation analysis.
- Degradation estimates will be straight-line extrapolation using best available data.
- No numeric sediment transport models will be completed.
- Bank protection will be rock riprap and plans and specifications will be provided by others.
- Scour will be estimated following MTD 16-1. No Tsunami scour or check flood scour is included in the scope of work

Task 5.5 Location Hydraulic Study and Summary Floodplain Encroachment Report (LHS/SFER):

Avila will complete the hydrology and hydraulic analyses required to determine the Overtopping flood and Flood of Record at the bridge. Avila will complete a Location Hydraulic Study (Floodplain Encroachment Report) in accordance with 23 CFR 650.113. This document is generally included in the environmental document for the bridge.

Assumptions:

- No insurable structures will be adversely impacted by the structure replacement.
- Avila will complete and sign the forms for items 3, 4, 5, 7 and 9 of the Location Hydraulic Summary Form.
- It is assumed that the structure replacement will not cause a significant encroachment into the floodplain or a change in the water surface elevation; if a significant encroachment into the floodplain or change in water surface elevation is found, a separate task order will be necessary.
- Survey information for adjacent buildings is provided to determine the potential impact of the bridge replacement on the adjacent insurable structures, if applicable.

Task 5.6 Draft and Final Hydraulic Memo

- Draft Preliminary Hydraulic Memo: Avila will complete a draft Preliminary Hydraulic Memo documenting the hydrology and hydraulic results for the existing conditions and up to two proposed bridge alternatives.
- Respond to Comments and Finalize Preliminary Hydraulic Memo: Avila will incorporate comments and update the Draft Preliminary Memo to a Final Preliminary Hydraulic Memo.
- Draft Final Hydraulic Memo: Avila will complete a draft Final Hydraulic Memo documenting the hydrology, hydraulic, scour, and bank protection results for the existing conditions and preferred proposed bridge alternative.
- Respond to Comments and Finalize Final Hydraulic Memo: Avila will incorporate comments and update the Draft Final Memo to a Final, Final Hydraulic Memo.

Assumptions:

- The draft Preliminary Hydraulic Memo will be provided following the completion of the existing conditions modeling and proposed alternatives hydraulic modeling.
- The Final Preliminary Hydraulic Memo will be provided once the preferred alternative has been chosen and will include the scour calculations from Task 5.4 for the preferred proposed alternative.
- No Location Hydraulic Study/Summary Floodplain Encroachment Report
- No Central Valley Flood Protection Board (CVFPB) coordination or regulation
- No Federal Emergency Management Agency (FEMA) coordination
- No Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) or formal No-Rise certification is included in this scope of work.

Deliverables:

- Scour estimates and sketches showing plan, profile and layer thickness for RSP will be provided for incorporation into the project plans. Scour and RSP calculations will be incorporated into the Preliminary and Final Hydraulic Memo completed in Task 5.6.
- Location Hydraulic Study, Floodplain Encroachment forms will be provided as an appendix in the Final Hydraulic Report.
- Draft and Final Preliminary Hydraulic Memo will be provided via electronic mail.

Task 5.7 Low Flow Analysis (Optional)

Avila will perform a duration-frequency analysis for SFK Ten Mile River using the U.S. Army Corps of Engineers' HEC-SSP (Statistical Software Package), Version 2.2 or later and streamflow gage data from streamflow gages near the project site. The duration frequency analysis will be used to calculate monthly flow exceedance levels, by month, for the construction period. The monthly flow exceedance levels for the 0.1%, 1%, 2%, 5%, 10%, 15%, 25%, 50%, 80%, 90%, 95% and 99% flow levels will be provided, as well as the absolute minimum and maximum flows for each of the months.

Task 5.8 Falsework/Diversion Modeling (Optional)

Avila will model up to two alternative falsework configurations and diversion strategies, provided by others, for up to three chosen discharges.

Task 5.9 Technical Memorandum (Optional)

Avila will complete a Draft Technical Memo—describing the additional analysis and including the flow duration curves for each month. Responses to comments on the revised Draft Technical Memo will be prepared and a Final Technical Memo will be submitted.

Assumptions:

- Technical memos to be submitted electronically (no hard copies).
- Diversion strategies will rely on gravity flow and will not include pump systems.

Deliverables:

- Technical Memorandum documenting the analysis with tabular representation of the Duration Frequency during specified time periods. Water surface profiles for the three chosen discharges and two chosen configurations will be provided in the Technical Memorandum.

TASK 6 - Utility Coordination

MGE will prepare a Utility Conflict Map, Utility “A,” “B,” and “C” Letters, and Notice to Owners at the at 35%, 65% and 100% design level of Plan preparation. MGE will use a list of contacts provided by the County for preparation of the utility letters and will prepare and record responses to letters in accordance with Caltrans guidelines.

Utility “A” letters will be sent out at the 35% level design and will include a copy of the preliminary plan set. MGE will prepare a Utility Conflict Map, Utility “B” Letters, and Notice to Owners at the 65% level of Plan preparation. Utility “C” letters will be sent out at the 100% level design.

Deliverables:

- Utility Letters, Utility Response Tracking Spreadsheet, Correspondence and documentation provided by the Utilities

TASK 7 - Project Design

MGE will design the roadway, bridge structure, and all other related improvements, and prepare the plans, specifications, and estimates in accordance with Caltrans Standards and AASHTO Geometric Design guidelines including the Guideline for Geometric Design of Very Low-Volume Local Roads to achieve project objectives.

The purpose of this task is to select a preferred alternative and prepare the preliminary base plans for the project followed by final design for the project. MGE will submit preliminary base engineering design plans in accordance with County Policies, Procedures, Ordinance, Standards, and the Local Assistance Program. Under this task the MGE will provide the following:

- Prepare a Type Selection/Project Report recommending a preferred alignment and structure.
- A construction cost estimate will be prepared for each alternative.
- Prepare preliminary Base Plans (bridge and approach roadway).
- Base plans shall be sufficient to show transitions to existing improvements.
- Locate all existing interfacing roadway approaches and facilities, such as existing bridge structure, edge of pavement, drainage facilities, utilities, right-of-way (ROW), and show them on the base plans.

MGE will submit for approval, a sample plan sheet and legend, showing: the proposed drawing scale, symbols, line work, and lettering for all existing and proposed improvements prior to project plan preparation. Base plans will also include adjacent property lines and information such as assessor’s parcel numbers and the owner’s information.

Task 7.1 Type Selection Report

MGE will prepare a Type Section Report including preliminary bridge and roadway engineering for the project and to serve as the basis for the environmental review and final design. A draft Report will be prepared including an advanced planning study (APS) and roadway geometrics for each alternative, evaluation of alternatives, roadway layout and other project drawings, preliminary Engineer’s estimate, and recommend a preferred alternative. Completion of the Report will include, but not be limited to the following:

Task 7.1.1 Alternative Development

MGE will develop up to two alternatives including roadway geometrics and bridge configurations/types. Estimated construction costs for each alternative will be developed.

Task 7.1.2 Draft Type Selection Report

MGE will complete a draft Report to present design and construction considerations, and bridge alternatives with construction costs to facilitate selection of a preferred project for design and construction. MGE will submit the draft Report to the County for review and selection of a preferred alternative. The draft Report will be prepared in accordance with current Caltrans requirements for Type Selection Reports and include:

General description of the project	Roadway geometry and typical section
Traffic Control	Approach roadways
Right-of-Way (permanent & temporary easements)	Drainage
Utilities	Design Exceptions
Hydraulics requirements	Geotechnical requirements
Construction access	Aesthetic options
Bridge railings	Environmental (including fisheries) requirements
Bridge and alignment alternatives, associated costs, and advantages	Project recommendations
Appendices including: Bridge Advance Planning Studies, Alternative Cost Estimates, Photographs, draft Preliminary Foundation Report (by others), draft Hydraulic Report (by others), draft Location Hydraulic Study (by others), and summary of comments from the community and other stakeholders.	

Task 7.1.3 Review and Respond to County and Caltrans Review Comments

MGE will review and respond to all County and Caltrans review comments. MGE will coordinate with the County and Caltrans to resolve comments as necessary.

Task 7.1.4 Type Selection Meeting at County Office

MGE will participate in a meeting at the County's office to discuss and finalize any outstanding issues regarding selection of a preferred alternative.

Task 7.1.5 Final Type Selection Report

MGE will prepare a final Type Selection Report that includes the incorporation and/or resolution of all County comments on the draft Report. A draft general plan, layout plan, and profile for the preferred alternative will be incorporated into the final Report.

Task 7.2 35% Plans and Cost Estimate

Upon approval of the Preliminary Report for the project MGE will proceed with the preparation of the 35% Plans and Estimate. Completion of the 35% Plans and cost estimate will include the following:

Task 7.2.1 35% Bridge Design Plans

MGE will prepare a draft General Plan for the selected project alternative from the Type Selection Report. The design of the new structure will be in accordance with current Caltrans Bridge Design Specifications, Seismic Design Criteria, Bridge Design Aids, and Memos to Designers. The design will be based on the current AASHTO LRFD Bridge Design Specifications with Interims and Caltrans amendments as well as the 2023 Caltrans Standard Plans. The design will incorporate recommendations from the Design Hydraulics Study Report and the Preliminary Foundation Report.

Task 7.2.2 35% Approach Roadway Plans

MGE will prepare roadway plans in accordance with the County Standards, AASHTO "A Policy on Geometric Design of Highways and Streets", and Caltrans Highway Design Manual. Specific design tasks are anticipated to include development of roadway plan and profile, typical cross sections, and cut and fill limits. Utilities and right of way limits will also be included on the layout drawing.

Task 7.2.3 35% Construction Cost Estimate

MGE will prepare an estimate of quantities for the bridge and approach roadway to develop an updated preliminary construction cost estimate.

Task 7.2.4 QC Review & Submit Draft 35% Bridge and Approach Roadway Design

MGE will submit the draft 35% design including cost estimate to the County for review and comment.

Task 7.2.5 Review and Respond to County Review Comments

MGE will review and respond to all County review comments regarding the draft 35% design submittals. MGE will coordinate with the County to resolve comments as necessary.

Task 7.2.6 Finalize and Submit 35% Bridge and Approach Roadway Design

MGE will submit the final 35% design including cost estimate to the County.

Deliverables:

- Draft and Final Type Selection Report, and draft and final 35% design and cost estimate (2 copies each and electronic pdf files)

Task 7.3 65% PS&E (Plans, Draft Special Provisions, & Construction Cost Estimate)

Upon confirmation of the Bridge Structure Type Selection Report and Geometric Approval drawings by the County, and assurances that final design is appropriate to undertake, MGE will proceed with production of a draft set of 65% Plans, and will develop specifications and a cost estimate. Plans shall include, at a minimum, the following sheets:

<ul style="list-style-type: none"> • Title Sheet • Survey and Horizontal Control Plan • Road Layout and Profile Sheets • (Roadway)Typical Cross Sections • Construction Details • Water Pollution Control Plans • Erosion Control Plan • Traffic Handling/Construction Staging/Detour/Construction Signage Plans • Pavement Delineation and Signage Plan 	<ul style="list-style-type: none"> • Bridge General Plan • Bridge Deck Contours • Bridge Foundation Plan • Abutment Layout and Detail Sheets • Bridge Typical Section • Girder Layout • Deck Reinforcement • Miscellaneous Details • Log of Test Borings Sheets
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Task 7.3.1 Bridge Design

MGE will complete the design calculations for the new structure in accordance with current Caltrans Bridge Design Specifications, Seismic Design Criteria, Bridge Design Aids, and Memos to Designers. The design will be based on the current AASHTO LRFD Bridge Design Specifications with Interims and Caltrans amendments as well as the 2023 Caltrans Standard Plans. The design will incorporate recommendations from the Design Hydraulics Study Report and the Bridge Foundation Report. A full set of detailed bridge plans will be prepared, including, as necessary; General Plan, General Notes and Deck Contours, Foundation Plan, Abutment Layout, Abutment Details, Typical Section, Slab/Girder Layout & Reinforcement, Rock Slope Protection Details, Miscellaneous Details, and Log of Test Borings sheets.

Task 7.3.2 Approach Roadway and Civil Design

MGE will complete the approach roadway design, construction traffic control plans, and associated civil design and plans in accordance with the County Standards, AASHTO "A Policy on Geometric Design of Highways and Streets", Manual of Uniform Traffic Control Devices (MUTCD) and Caltrans Highway Design Manual. A full set of detailed approach roadway and civil plans will be prepared including, as necessary; Title Sheet, Typical Cross Sections, Layout, Plan and Profile, Construction Details, Traffic Control Plan and Detour, and Erosion Control Plan sheets.

Task 7.3.3 Determination of Right-of-Way Needs

MGE will develop drawings showing needed right-of-way takes and easements, both temporary and permanent. The drawings will incorporate any changes resulting from the 65% PS&E. Included on the drawings will be ties to survey control established for the project. Also shown on the drawings will be temporary construction permit areas necessary to facilitate construction of the project, and staging areas.

Task 7.3.4 Contract Item List and Draft Specifications

MGE will develop a contract item list and prepare draft specifications required for construction of the project using the most current version of the Caltrans Standard Specifications and Standard Special Provisions (SSP's).

Task 7.3.5 Construction Quantities and Cost Estimate

MGE will calculate construction quantities in accordance with standard Caltrans practice and specifications, and prepare a construction cost estimate for the project. The construction cost estimate will be prepared using local unit costs furnished by the County and/or using the latest Caltrans Cost Data.

Task 7.3.6 Quality Control/Constructability Review

MGE will perform a quality control and constructability review of the draft 65% PS&E. Deficiencies noted during the review will be transmitted to the responsible engineers for resolution and correction.

Task 7.3.7 Utility Conflict Map, Utility "B" Letters, and Notice to Owners

MGE will prepare a Utility Conflict Map, Utility "B" letters, and Notice to Owners in accordance with Caltrans requirements.

Task 7.3.8 65% PS&E Submittal

MGE will submit the 65% plans, draft specifications, construction cost estimate, and right-of-way/easement exhibits to the County for review and comment.

Deliverables:

- 65% Plan Set Drawings; 2 sets of 11"x17" half-scale format; electronic PDF format
- Project Special Provisions
- Estimate of Probable Construction Cost, with breakdown of quantities and unit costs
- Utility Conflict Map, Utility "B" letters, and Notice to Owners

Task 7.4 90% Plans, Specifications, and Estimate (PS&E)

After the County has reviewed and provided written comments on the 65% Plan Set and estimate, MGE will continue the design, addressing the comments. The unchecked bridge plans will be provided to another registered civil engineer at Wood Rodgers, not otherwise involved in the project, to prepare an independent check of all aspects of the bridge design. The designer and checker will confer and agree on any discrepancies in the analysis and detailing.

Task 7.4.1 Review and Respond to County Review Comments

MGE will review and respond to all County review comments on the 65% submittal. All comments will be resolved through discussions with the County prior to preparing the 90% PS&E submittal package.

Task 7.4.2 Bridge Design

MGE will prepare 100% complete bridge design details and calculations considering the County's review comments.

Task 7.4.3 Approach Roadway and Civil Design

MGE will prepare the 90% complete approach roadway design, detour design and associated civil designs considering the County's review comments.

Task 7.4.4 Independent Design Check (IDC)

As part of the preparation of the 90% bridge design, an experienced bridge design engineer from Wood Rodgers will complete an IDC of the bridge design and plans in accordance with Caltrans standard practice. Wood Rodgers will prepare separate calculations and quantities and review the entire PS&E package as part of this task.

Task 7.4.5 90% Special Provisions

MGE will finalize the contract item list and prepare the draft edited special provisions for the project using the most current Caltrans Standard Specifications and Standard Special Provisions (SSP's). This task also includes editing and combining the standard County boiler plate provisions (provided by the County) with the edited SSP's to produce a complete draft Notice to Bidders & Special Provisions document for County review.

Task 7.4.6 Check Quantities and Update Cost Estimate

MGE will prepare a check set of quantity calculations in accordance with standard Caltrans practice. Any quantity discrepancies will be resolved prior to finalizing the quantities for use in the preparation of the 90% construction cost estimate for the project.

Task 7.4.7 Working Day Schedule

MGE will prepare a working day schedule.

Task 7.4.8 Quality Control/Constructability Review

MGE will perform a quality control and constructability "plans-in-hand" field review of the 90% plans, specifications, and construction cost estimate. The "plans-in-hand" field review may require that the design centerline be established, including stationing, by the team's surveyor. Results of this review will be transmitted to the responsible engineers for resolution and corrections prior to submittal to the County of the 90% PS&E.

Task 7.4.9 90% PS&E Submittal

MGE will compile the 90% PS&E submittal package including complete plans, specifications, and construction cost estimate for the project for County for review and comment. The 90% design will include a revised/updated Engineer's Estimate of Probable Construction Cost, a conceptual construction schedule with an estimate of working days, and edited Technical Specifications utilizing the most current version of the Caltrans Standard Specifications and Standard Special Provisions as its basis. The County shall provide its "boilerplate" for use in the Consultant's Specifications.

Deliverables:

- Final Drawings (1 set on full D-size sheets; 2 sets on half-scale, 11"x17" sheets, 1 electronic set in PDF format)
- Final Estimate of Probable Construction Cost (digital copies in both MS Excel .xls and Adobe PDF formats)
- Final Technical Specifications (digital copies in MS Word .docx and Adobe PDF formats, and one bound printed hard copy)
- Conceptual Construction Schedule and Estimate of Working Days (digital copies in MS Project and Adobe PDF formats)

Task 7.5 Final Plans, Specifications, and Estimates:

Based on review and commentary from the County, the 90% PS&E will be edited to the Final Plans, Specifications, and Estimate. A meeting will be scheduled between County Engineering staff and the Consultant's team, to review the final PS&E documents, and discuss the inclusion or resolution of all comments and details into the finished PS&E. After the meeting, MGE will compile and produce the final PS&E documents. Bridge design calculations, independent check calculations, and quantity calculations will be provided.

Deliverables:

- Final Drawings (one set on full-size, D-size paper sheets; two sets on half-scale, 11"x17" sheets, one electronic set in PDF format)
- Final Estimate of Probable Construction Cost (digital copies in both MS Excel .xls and Adobe PDF formats)
- Final Technical Specifications (digital copies in MS Word .docx and Adobe PDF formats, and one bound printed hard copy)
- Conceptual Construction Schedule and Estimate of Working Days (digital copies in MS Project and Adobe PDF formats)
- Calculations, independent check calculations, and quantity calculations
- DVD archive of final version of all electronic files of the above PS&E documents

TASK 8 - Right of Way Engineering

MGE will prepare a Right-of-Way Requirements Map at the 90% level of Plan preparation, to define all property acquisition, dedications, or easements required by the Project. MGE will review right-of-way records and establish necessary right-of-way along the entire alignment. MGE will consult with the County about any Right of Way requirements for the Project and will delineate the necessary right-of-way using exhibits legal descriptions.

SHN will prepare appropriate right-of-way and/or easement legal descriptions and exhibits, as needed.

Deliverables:

- Procure Preliminary Title Report(s) for affected property(ies)
- Identify existing and proposed rights-of-way, land dedications, and/or easements
- Prepare a final right-of-way map and legal description(s) for acquisition of all permanent and/or temporary rights
- Prepare a temporary construction easement map, based on the project's identified needs for any temporary construction easements required by the proposed work, including staging areas
- Prepare legal descriptions and plat map exhibits as needed for temporary construction easements for the project
- Set monuments, and prepare and file a Record of Survey for any new right-of-way, or for any other triggers as specified in the Professional Land Surveyors Act

If requested by the County, BRI's tasks will include the preparation of federally compliant USPAP narrative appraisal reports for the portions of each parcel to be acquired, good faith negotiations and the acquisition of the necessary rights, followed by escrow coordination and closing. If required, BRI will coordinate with Caltrans District 1 to supply all required documentation for the final Right of Way Certification Document 13-B at certification level 1 or 2. All services will be performed in accordance with the County of Mendocino and Caltrans regulations, policies, and procedures, FHWA requirements and current AASHTO standards.

Deliverables:

- Electronic Appraisal Reports that meet all State and Federal Standards.
- Acquisition of rights from impacted parcels.
- Final files on each negotiation, acquisition, and project settlement.
- Facilitate Title and Escrow support for impacted parcels.

TASK 9 - Construction Design Support

MGE will be available to assist the County to support and defend the project design and contract documents during the construction contract advertising, bidding, and construction phases. Work anticipated to be provided during the course of this Task includes the following:

Bidding Assistance and Construction Support

- Attend the County's Pre-Bid Meeting
- Respond in writing to written Requests for Information (RFI's)
- Assist the County in creating any Addenda to Contract Documents as necessary
- Attend the County's Pre-Construction Meeting
- Respond in writing to any Contractor RFI's
- Review Contractor submittals for conformance to project PS&E requirements
- Evaluate any Contractor Change Order Requests, as necessary
- Field inspection by Consultant's (or sub-consultant's) Geotechnical Engineer during excavation work, to confirm foundation conditions encountered by construction work
- Compile and prepare final post-construction Project As-Built drawing set, based on marked-up plans provided by the County's Resident Engineer

Deliverables:

- As-Built Drawing Set (1 hard copy set of 24"x36" paper format, 1 hard copy set of 11"x17" paper format, 1 electronic set in Adobe PDF format)
- As-Built drawing set, in Adobe PDF format

[END OF DEFINITION OF SERVICES]

EXHIBIT B

PAYMENT TERMS

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

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

SAMPLE INVOICE

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

INVOICE

County of Mendocino
 Department of Transportation
 340 Lake Mendocino Dr
 Ukiah, CA 95482
 Attn: DOT Bridge Project Manager
 MCDOT Project No.: A1101
 Ackerman Creek Bridge Replacement CM
 Services Period: 1Nov22-30Nov22
 Services Performed:

Invoice No.: 123
 Date: 17 December 2015
 Consultant Contract No.: C2F23
 MCDOT Contract No.: 240007

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% <u>\$56.88</u>
Direct and Indirect Costs Subtotal				\$111.80
Fixed Fee				10.00% <u>\$11.18</u>
				<u>\$122.98</u>

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
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Signed: _____
 (Name)

[END OF PAYMENT TERMS]

Phase I Cost Proposal

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$326,308.00	3489		\$93.52	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$93.52	+	3.5%	=	\$96.80	Year 2 Avg Hourly Rate
Year 2	\$96.80	+	3.5%	=	\$100.19	Year 3 Avg Hourly Rate
Year 3	\$100.19	+	3.5%	=	\$103.69	Year 4 Avg Hourly Rate
Year 4	\$103.69	+	3.5%	=	\$107.32	Year 5 Avg Hourly Rate
Year 5	\$107.32	+	3.5%	=	\$111.08	Year 6 Avg Hourly Rate
Year 6	\$111.08	+	3.5%	=	\$114.97	Year 7 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	15.00%	*	3489.0	=	523.4	Estimated Hours Year 1
Year 2	35.00%	*	3489.0	=	1221.2	Estimated Hours Year 2
Year 3	25.00%	*	3489.0	=	872.3	Estimated Hours Year 3
Year 4	25.00%	*	3489.0	=	872.3	Estimated Hours Year 4
Year 5	0.00%	*	3489.0	=	0.0	Estimated Hours Year 5
Year 6	0.00%	*	3489.0	=	0.0	Estimated Hours Year 6
Total	100%		Total	=	3489.0	

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

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$93.52	*	523.4	=	\$48,946.20	Estimated Hours Year 1
Year 2	\$96.80	*	1221.2	=	\$118,205.07	Estimated Hours Year 2
Year 3	\$100.19	*	872.3	=	\$87,387.32	Estimated Hours Year 3
Year 4	\$103.69	*	872.3	=	\$90,445.88	Estimated Hours Year 4
Year 5	\$107.32	*	0.0	=	\$0.00	Estimated Hours Year 5
Year 6	\$111.08	*	0.0	=	\$0.00	Estimated Hours Year 6
	Total Direct Labor Cost with Escalation			=	\$344,984.47	
	Direct Labor Subtotal before Escalation			=	\$326,308.00	
	Estimated total of Direct Labor Salary Increase			=	\$18,676.47	Transfer to Page 1

NOTES:

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

Phase I Cost Proposal
Exhibit 10-H1 Cost Proposal Page 3 of 3

Certification of Direct Costs:

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

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

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: H. Fred Huang, PE Title *: President
Signature :  Date of Certification (mm/dd/yyyy): 7-Jan-25
Email: fhuang@mgeeng.com Phone Number: 916-421-1000
Address: 7415 Greenhaven Drive, Suite 100, Sacramento, CA 95831

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

List services the consultant is providing under the proposed contract:

Services to be provided include bridge design, roadway design, environmental and permitting services, engineering surveying, hydraulic/hydrology studies, cultural studies, and geotechnical engineering.

Phase I Cost Proposal

raw	Fringe	G&A	Total	w/ Profit	Hours Sheet	Diff
\$58,050.00	\$27,469.26	\$63,785.34	\$149,304.60	\$167,221.15	\$ 167,221.15	\$0.00
\$41,200.00	\$19,495.84	\$45,270.56	\$105,966.40	\$118,682.37	\$ 118,682.37	\$0.00
\$24,090.00	\$11,399.39	\$26,470.09	\$61,959.48	\$69,394.62	\$ 69,394.62	\$0.00
\$7,600.00	\$3,596.32	\$8,350.88	\$19,547.20	\$21,892.86	\$ 21,892.86	\$0.00
\$53,640.00	\$25,382.45	\$58,939.63	\$137,962.08	\$154,517.53	\$ 154,517.53	\$0.00
\$4,200.00	\$1,987.44	\$4,614.96	\$10,802.40	\$12,098.69	\$ 12,098.69	\$0.00
\$64,000.00	\$30,284.80	\$70,323.20	\$164,608.00	\$184,360.96	\$ 184,360.96	\$0.00
\$2,548.00	\$1,205.71	\$2,799.74	\$6,553.46	\$7,339.87	\$ 7,339.87	\$0.00
\$58,896.00	\$27,869.59	\$64,714.92	\$151,480.51	\$169,658.17	\$ 169,658.17	\$0.00
\$12,084.00	\$5,718.15	\$13,277.90	\$31,080.05	\$34,809.65	\$ 34,809.65	\$0.00

				Escalation	
\$18,676.47	\$8,837.71	\$20,521.71	\$48,035.89	\$53,800.19	

10H Sheet	Hours Sheet	DIFF
\$993,776.07	\$993,776.07	\$0.00

DBE Percentage 54.38%

EXHIBIT C

INSURANCE REQUIREMENTS

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

CONSULTANT shall obtain and maintain insurance coverage as follows:

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

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

[END OF INSURANCE REQUIREMENTS]

EXHIBIT D

MENDOCINO COUNTY EPAYABLES INFORMATION

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

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

For information regarding the payment process, please email
Auditorap@mendocinocounty.gov

[END OF MENDOCINO COUNTY EPAYABLES INFORMATION]

EXHIBIT E

COUNTY OF MENDOCINO
AGREEMENT FOR ENGINEERING CONSULTANT SERVICES
CAMP 1 TEN MILE BRIDGE REPLACEMENT OVER SF TEN MILE RIVER
DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND FORMS

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

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

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 19%

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

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

4. DBE PARTICIPATION GENERAL INFORMATION

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

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

5. RESOURCES

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

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

[END OF DBE INFORMATION]

EXHIBIT F

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

TABLE OF CONTENTS

[ARTICLE IV PERFORMANCE PERIOD](#) 44

[ARTICLE V ALLOWABLE COSTS AND PAYMENTS](#) 44

[ARTICLE VI TERMINATION](#) 45

[ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS](#) 45

[ARTICLE VIII RETENTION OF RECORD/AUDITS](#) 46

[ARTICLE IX AUDIT REVIEW PROCEDURES](#) 46

[ARTICLE X SUBCONTRACTING](#) 47

[ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES](#) 48

[ARTICLE XII STATE PREVAILING WAGE RATES](#) 49

[ARTICLE XIII CONFLICT OF INTEREST](#) 52

[ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION](#) 53

[ARTICLE XV PROHIBITION OF EXPENDING COUNTY, STATE, OR FEDERAL FUNDS FOR LOBBYING](#) 53

[ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE](#) 53

[ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION](#) 54

[ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES \(DBE\) PARTICIPATION](#) 55

[ARTICLE XIX INSURANCE](#) 60

[ARTICLE XX FUNDING REQUIREMENTS](#) 60

[ARTICLE XXI CHANGE IN TERMS](#) 60

[ARTICLE XXII CONTINGENT FEE](#) 61

[ARTICLE XXIII DISPUTES](#) 61

[ARTICLE XXIV INSPECTION OF WORK](#) 61

[ARTICLE XXV SAFETY](#) 61

[ARTICLE XXVI OWNERSHIP OF DATA](#) 62

[ARTICLE XXVII CLAIMS FILED BY COUNTY’S CONSTRUCTION CONTRACTOR](#) 62

[ARTICLE XXVIII CONFIDENTIALITY OF DATA](#) 63

[ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION](#) 63

[ARTICLE XXX EVALUATION OF CONSULTANT](#) 63

[ARTICLE XXXI PROMPT PAYMENT](#) 63

<u>ARTICLE XXXII TITLE VI ASSURANCES</u>	63
<u>APPENDIX A</u>	64
<u>APPENDIX B</u>	65
<u>APPENDIX C</u>	66
<u>APPENDIX D</u>	67
<u>APPENDIX E</u>	67

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on from the date this Agreement becomes fully executed by all parties, contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY'S Contract Administrator. The AGREEMENT shall end on December 31, 2035, 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 \$106,476.01. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, COUNTY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by COUNTY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as

applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due COUNTY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:

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

- I. The total amount payable by COUNTY including the fixed fee shall not exceed \$1,832,000.00.
- J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

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

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORD/AUDITS

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

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by COUNTY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by COUNTY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, COUNTY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by COUNTY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, COUNTY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the

AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, COUNTY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI. Accepted rates will be as follows:
 - a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COUNTY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COUNTY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the COUNTY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the COUNTY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the COUNTY's obligation to make payments to the CONSULTANT.

- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the COUNTY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the COUNTY.
- E. Any substitution of Subconsultants must be approved in writing by the COUNTY Contract Administrator in advance of assigning work to a substitute Subconsultant.
- F. Prompt Progress Payment

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

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

- G. Prompt Payment of Withheld Funds to Subconsultants

No retainage will be held by the COUNTY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the COUNTY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

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

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT

shall provide an evaluation of the necessity or desirability of incurring such costs.

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

ARTICLE XII STATE PREVAILING WAGE RATES

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

verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COUNTY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
- a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and

§1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the COUNTY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

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

due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by COUNTY.

G. Hours of Labor

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

H. Employment of Apprentices

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

ARTICLE XIII CONFLICT OF INTEREST

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

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

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

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

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

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

age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

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

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

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

- federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

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

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

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

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

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

- B. The goal for DBE participation for this AGREEMENT is 19%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10- O2: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

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

D. Contract Assurance

Under 49 CFR
26.13(b):

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

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

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

E. Termination and Replacement of DBE Subconsultants

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

Termination of DBE Subconsultants

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

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

8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The COUNTY determines other documented good cause.

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

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

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

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

F. Commitment and Utilization

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

The COUNTY shall request CONSULTANT to:

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

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

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the COUNTY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the COUNTY within 30 days of contract acceptance.

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

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

G. Commercially Useful Function

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

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

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

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

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

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

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

The COUNTY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional COUNTY evaluations. The COUNTY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The COUNTY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the COUNTY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the COUNTY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

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

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

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

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

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

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.
- L. For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT

must now submit Exhibit 9-P to the COUNTY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

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

ARTICLE XIX INSURANCE

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

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to COUNTY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or COUNTY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. COUNTY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.

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

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

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

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

ARTICLE XXIV INSPECTION OF WORK

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

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, COUNTY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT

shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

- C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal- aid contracts).
- E. COUNTY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR

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

- C. Services of CONSULTANT's personnel in connection with COUNTY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

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

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI PROMPT PAYMENT

A. PROMPT PAYMENT FROM COUNTY TO CONSULTANT

The COUNTY shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If

the COUNTY fails to pay promptly, the COUNTY shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the COUNTY shall act in accordance with both of the following:

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

B. PROMPT PAYMENT CERTIFICATION

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

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

ARTICLE XXXII TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

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

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

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

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

APPENDIX A

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

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference

and made a part of this agreement.

- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

APPENDIX B CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in

accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations,

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

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the

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

APPENDIX C

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

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color,

or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

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

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

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

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

[END OF REQUIRED FEDERAL LANGUAGE]