

**AGREEMENT FOR CONSULTANT SERVICES
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
POINTS WEST SURVEYING COMPANY
FOR FISCAL YEARS 2021-2022 THROUGH 2026-2027**

This Agreement for Consultant Services ("Agreement") entered into this 5 day of April, 2022, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Points West Surveying Company, a California corporation, hereinafter referred to as "CONSULTANT," is made upon the following considerations:

WHEREAS, COUNTY, by and through its Department of Public Works – Engineering Division, desires to retain a qualified professional to assist COUNTY in performing on-call land surveying services that are further described in Attachment A – Scope of Work, which is attached hereto and incorporated herein by reference as if set forth in full; and

WHEREAS, such work involves the performance of professional and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for this temporary period; and

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

WHEREAS, CONSULTANT represents that it is adequately trained, skilled, experienced and qualified to perform the duties and services set forth in this Agreement; and

NOW THEREFORE, the parties hereto mutually agree as follows:

ARTICLE I – INTRODUCTION

- A. CONSULTANT's Project Manager will be Michael Pulley, Land Surveyor. COUNTY's Contract Administrator will be Tony Seghetti, Deputy Director of Public Works, or a designee thereof.
- B. The work to be performed under this Agreement is described in Article II – Statement of Work and the approved Cost Proposal dated February 16, 2022, which is attached hereto as Attachment B – Cost Proposal & Schedule of Work and incorporated herein by reference as if set forth in full. If there is any conflict between the approved Cost Proposal and the terms and conditions of this Agreement, this Agreement shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend and hold harmless COUNTY, and its agents, officers, officials, employees and volunteers, from and against any and all claims, demands, damages, losses, liabilities and costs and expenses, including, without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, injury to, or death of, any person, damage to, or loss of, property or economic loss arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to CONSULTANT's performance hereunder, except such loss or damage which was caused by the sole negligence, or willful misconduct of COUNTY, as determined by a court of competent jurisdiction. The provisions of this article shall survive termination or suspension of this Agreement.

- D. In the performance of this Agreement, CONSULTANT shall act in an independent capacity. It is understood and agreed that CONSULTANT, and its agents, officers, officials, employees and subconsultants, is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY.
- E. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT pursuant to the terms and conditions of this Agreement, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligations hereunder, is only subject to the control or direction of COUNTY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third parties employed by CONSULTANT shall be entirely and exclusively under the direction, supervision and control of CONSULTANT. CONSULTANT hereby agrees to indemnify and hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- G. Except as expressly authorized herein, CONSULTANT's obligations hereunder are not assignable or transferable, and CONSULTANT shall not subcontract any work, without COUNTY's prior written approval. However, claims for money due to CONSULTANT under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to COUNTY.
- H. CONSULTANT shall be fully responsible to COUNTY for the negligent acts and omissions of its agents and subconsultants, and of persons either directly or indirectly employed thereby, in the same manner as persons directly employed by CONSULTANT.
- J. No alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- K. The consideration to be paid to CONSULTANT as provided herein, shall be compensation for all of CONSULTANT's expenses incurred in the performance hereof, including, without limitation, travel and per diem expenses, unless otherwise expressly so provided.

ARTICLE II – STATEMENT OF WORK

The work to be performed under this Agreement is described in Attachment A – Scope of Work and Attachment B – Cost Proposal & Schedule of Work.

ARTICLE III – CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for COUNTY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with COUNTY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the projects.

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ARTICLE IV – PERFORMANCE PERIOD

- A. This Agreement shall go into effect on April 5, 2022, contingent upon approval by COUNTY, and CONSULTANT shall commence work after receiving notification to proceed from COUNTY's Contract Administrator. This Agreement shall end on April 4, 2027, unless extended by a valid written amendment hereto or sooner terminated as set forth herein.
- B. CONSULTANT is advised that any recommendation for award of this Agreement is not binding on COUNTY until this Agreement is fully executed and approved by COUNTY.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this Agreement, the terms and conditions of this Agreement shall be extended by amendment prior to the expiration of this Agreement to cover the time needed to complete the Task Order in progress only. The maximum term of this Agreement shall not exceed five (5) years.

ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead expenses and fees. These rates are not adjustable for the performance period set forth in this Agreement. CONSULTANT will be reimbursed within thirty (30) calendar days after COUNTY's receipt of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for actual incurred direct costs, other than salary costs, that are identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through the issuance of Task Orders that have been approved by COUNTY's Contract Administrator.
- D. After a project to be performed under this Agreement is identified by COUNTY, COUNTY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a COUNTY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead costs and fees, if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both COUNTY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal. CONSULTANT shall be responsible for any future adjustments to prevailing wage rates, including, without limitation, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT will also be responsible for paying the appropriate rate, including, without limitation, escalations that take place during the terms of the Agreement.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT shall be responsible for transportation and subsistence costs in excess of applicable state rates.

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- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an amendment to this Agreement for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not perform any work or services until this Agreement has been approved by COUNTY, and notification to proceed has been issued by COUNTY's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this Agreement.
- J. A Task Order is of no force or effect until returned to COUNTY and signed by an authorized representative of COUNTY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by COUNTY.
- K. CONSULTANT will be reimbursed within thirty (30) calendar days after COUNTY's receipt of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number, project title and Task Order number. Credits due COUNTY that include any equipment purchased under the provisions of Article XI – Equipment Purchase of this Agreement, must be reimbursed by CONSULTANT prior to the expiration or termination of this Agreement. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:
- COUNTY: Humboldt County Department of Public Works – Engineering Division
Attention: Tony Seghetti, Contract Administrator
1106 Second Street
Eureka, California 95501
- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement.
- M. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by an amendment thereto.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- P. The total amount payable by COUNTY for all Task Orders resulting from this Agreement shall not exceed Nine Hundred Ninety-Nine Thousand Dollars (\$999,000.00). It is understood and agreed that there is no guarantee, either expressed or implied, that this dollar amount will be authorized under this Agreement.

ARTICLE VI – TERMINATION

- A. This Agreement may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30) calendar days' written notice of its intent to terminate in accordance with the noticing requirements set

forth in Article XXXII – Notification of this Agreement. Upon termination, COUNTY shall be entitled to all work, including, without limitation, any and all 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 of the temporary suspension in accordance with the noticing requirements set forth in Article XXXII – Notification of this Agreement. 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 anything to the contrary, CONSULTANT shall not be relieved of liability for damages sustained by COUNTY by virtue of any breach of this Agreement by CONSULTANT, and COUNTY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due COUNTY 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, without limitation, any and all 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. CONSULTANT agrees that the applicable contract cost principles and procedures set forth in Part 31 of Title 48 of the Code of Federal Regulations (“CFR”) shall be used to determine the allowability of individual terms of cost.
- B. CONSULTANT also agrees to comply with the applicable administrative requirements, cost principles and audit procedures for federal awards set forth in 2 CFR Part 200.
- C. Any and all costs for which payment has been made that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 shall be subject to repayment by CONSULTANT.

ARTICLE VIII – RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with California Government Code Section 8546.7, COUNTY, CONSULTANT and any subconsultants hereunder shall maintain any and all books, documents, papers, accounting records, Indirect Cost Rate (“ICR”) work papers, and other evidence pertaining to each party’s performance hereunder, including, without limitation, the costs of administering this Agreement. All parties, including, without limitation, CONSULTANT’s independent Certified Public Accountant (“CPA”), shall make such work papers and materials available at their respective offices at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment hereunder. Records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. COUNTY, the California Department of Transportation (“Caltrans”), the Federal Highway Administration (“FHWA”) and any other duly authorized representative of the federal government having jurisdiction under federal laws or regulations, including, without limitation, the basis of federal funding in whole or in part, shall have access to any such books, records and documents for audit, examination and review, 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 the Humboldt County Auditor-Controller.

- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may submit a written request for review of unresolved issues to the Humboldt County Auditor-Controller.
- 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 and conditions of this Agreement.
- D. This Agreement, and any subcontracts related hereto, including, without limitation, cost proposals and 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, CONSULTANT shall be responsible for ensuring that any and all duly authorized local, state and federal 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's 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 the terms and conditions of this Agreement, and will be cause for termination of this 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 Investigation ("IOAI"). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by CONSULTANT and approved by COUNTY's 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 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 terms and conditions of this Agreement, and will be cause for termination of this Agreement and disallowance of prior reimbursed costs.
1. During IOAI's review of the ICR audit work papers created by 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 CONSULTANT at an accepted ICR until a Federal Acquisition Regulation compliant ICR [e.g. 48 CFR Part 31; Generally Accepted Auditing Standards; Cost Accounting Standards, if applicable; in accordance with the procedures and guidelines of the American Association of State Highways and Transportation Officials 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 subsection E(1) of this article, 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 CONSULTANT's and/or the independent CPA's revisions.
3. If CONSULTANT fails to comply with the requirements set forth herein, 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 as set forth in subsection E(1) of this article for all rendered services. In this event, the accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.
4. CONSULTANT may submit a final invoice to COUNTY only when all of the following items have occurred: IOAI accepts or adjusts the original or revised independent CPA audited ICR; all work under this Agreement has been completed to the satisfaction of COUNTY; and IOAI has issued its final ICR review letter. 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 CONSULTANT, either as a prime or subcontractor, with the same fiscal period ICR.
5. COUNTY and CONSULTANT hereby agree to fix the ICR for the period of time set forth in Article IV – Period of Performance of this Agreement. If the term of this Agreement is extended by a duly executed amendment hereto, COUNTY and CONSULTANT may adjust the ICR to the current IOAI approved ICR.

ARTICLE X – SUBCONTRACTING

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between COUNTY and any of CONSULTANT's subconsultants hereunder, and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and omissions of its 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 CONSULTANT. CONSULTANT's obligation to pay its subconsultants is an independent obligation from COUNTY's obligation to make payments to CONSULTANT.
- B. 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 COUNTY's Contract Administrator, except that which is expressly identified in CONSULTANT's approved Cost Proposal.
- C. Any subcontract entered into as a result of this Agreement, shall contain all of the applicable provisions set forth in this Agreement.
- D. CONSULTANT shall pay its subconsultants within Fifteen (15) calendar days from receipt of each payment made to CONSULTANT by COUNTY.
- E. Any substitution of subconsultants must be approved in writing by COUNTY's Contract Administrator in advance of assigning work to a substitute subcontractor.
- F. CONSULTANT shall pay to any subconsultant hereunder, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts owed to CONSULTANT on account of the services performed by the subconsultants, to the extent of each

subconsultant's interest therein. In the event that there is a good faith dispute over any portion of the amount due on a progress payment from CONSULTANT to a subconsultant, CONSULTANT may withhold no more than one hundred fifty percent (150%) of the disputed amount. Any violation of this provision shall constitute a cause for disciplinary action and shall subject CONSULTANT to a penalty, payable to the subconsultant, of two percent (2%) 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 its attorney's fees and costs. The sanctions authorized under this provision shall be separate from, and in addition to, all other remedies, either civil, administrative or criminal. This provision applies to both DBE and non-DBE subconsultants.

- G. No retainage will be held by COUNTY from progress payments due to CONSULTANT. Retainage by CONSULTANT, or any subconsultants hereunder, is prohibited and no retainage will be held by CONSULTANT, or any subconsultant hereunder, from progress due to its subconsultants. Any delay or postponement of payment may take place only for good cause and with COUNTY's prior written approval. Any violation of this provision shall subject CONSULTANT, or any subconsultants hereunder, to the penalties, sanctions and other remedies specified in Section 3321 of the California Civil Code. This provision shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT, or any subconsultants hereunder, in the event of a dispute involving late payment or nonpayment by CONSULTANT and/or deficient subconsultant performance or noncompliance. This provision shall apply to both DBE and non-DBE subconsultants.

ARTICLE XI – EQUIPMENT PURCHASE

- 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 (\$5,000.00) 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 (\$5,000.00), with prior authorization by COUNTY's Contract Administrator, three (3) competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased with funds provided under the terms and conditions 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 (2) years and an acquisition cost of Five Thousand Dollars (\$5,000.00) 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 this Agreement, or if this 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. 2 CFR Part 200 requires a credit to federal funds when participating equipment with a fair market value greater than Five Thousand Dollars (\$5,000.00) is credited to the project.

ARTICLE XII – STATE PREVAILING WAGE RATES

- A. Neither CONSULTANT nor its subconsultants may be awarded an agreement containing public work elements unless registered with the California Department of Industrial Relations (“DIR”) pursuant to California Labor Code Section 1725.5. Registration with DIR must be maintained throughout the entire term of this Agreement, including any subsequent extensions thereof.
- B. 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 pursuant to the terms and conditions of this Agreement are on file with Caltrans’ District Labor Compliance Officer and available online at the following address: http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/DistrictRegion_Map_Construction_7-8-15.pdf. These wage rates are hereby incorporated into this Agreement by reference as if set forth in full, pursuant to California Labor Code Section 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 subconsultants 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 DIR’s website at <http://www.dir.ca.gov>.
- D. By executing this Agreement, CONSULTANT, for itself, and its subconsultants, assignees and successors in interest, agrees to comply with the following requirements pertaining to preparation, retention, certification, reproduction and disclosure of payroll records:
1. CONSULTANT and its subconsultants shall keep accurate certified payroll records and supporting documents, as mandated by California Labor Code Section 1776 and as defined in Section 16000 of Title 8 of the California Code of Regulations (“CCR”), 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 CONSULTANT or its subconsultants 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 California Labor Code Sections 1771, 1811 and 1815 for any work performed by its employees on the public works project.
 2. The payroll records enumerated under subsection D(1) of this article shall be certified as correct by 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 CONSULTANT. 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 upon request.
 - b. A certified copy of all payroll records enumerated in subsection D(1) of this article 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 DIR. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated.

- c. CONSULTANT shall not give the public access to certified payroll records. CONSULTANT shall forward any requests for certified payrolls to COUNTY's Contract Administrator by both email and regular mail on the business day following receipt of the request.
 3. CONSULTANT shall submit a certified copy of the records enumerated in subsection D(1) of this article to the requesting entity within ten (10) calendar days after receipt of a written request.
 4. Any records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be redacted 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 CONSULTANT or its subconsultants performing the work shall not be redacted or obliterated.
 5. CONSULTANT shall inform COUNTY of the location of the records enumerated under subsection D(1) of this article, including, without limitation, the street address, city and county, and shall, within five (5) business days, provide a notice of a change of location and address.
 6. CONSULTANT and its subconsultants shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in subsection D(1) of this article. In the event of CONSULTANT's failure to comply within the ten (10) day period, CONSULTANT shall, as a penalty to COUNTY, forfeit One Hundred Dollars (\$100.00) 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 subsection due to the failure of a subcontractor to comply with the requirements set forth herein.
- E. When prevailing wage rates apply, CONSULTANT shall be responsible for verifying compliance with certified payroll requirements. Payment will not be made until the invoice is approved by COUNTY.
- F. By executing this Agreement, CONSULTANT, for itself, and its subconsultants, assignees and successors in interest, agrees to comply with the following requirements pertaining to the imposition and payment of any and all penalties resulting from CONSULTANT's noncompliance with any applicable local, state and federal prevailing wage laws, regulations and standards:
1. CONSULTANT and its subconsultants shall comply with California Labor Code Sections 1774 and 1775. Pursuant to California Labor Code Section 1775, CONSULTANT and its subconsultants shall forfeit to COUNTY a penalty of not more than Two Hundred Dollars (\$200.00) 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 this Agreement by CONSULTANT or by its subconsultants in violation of the requirements of any applicable local, state or federal laws, regulations or standards, including, without limitation, California Labor Code Sections 1770, *et seq.*
 2. The amount of the forfeiture described in subsection F(1) of this article shall be determined by the California Labor Commissioner and shall be based on consideration of mistake, inadvertence or neglect of CONSULTANT or its subconsultants in failing to pay the correct rate of prevailing wages, or the previous record of CONSULTANT or its subconsultants in meeting their respective prevailing wage obligations, or the willful failure by CONSULTANT or its subconsultants 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 CONSULTANT or its subconsultants had knowledge of the obligations under the California Labor Code. CONSULTANT shall be responsible for paying the appropriate rate, including, without limitation, any escalations that take place during the term of this Agreement and any extensions thereof.

3. In addition to the penalty described in subsection F(1) of this article, and pursuant to California Labor Code Section 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 CONSULTANT or its subconsultants.
 4. If workers employed by CONSULTANT's subconsultants on a public works project are not paid the general prevailing per diem wages by the subconsultants, CONSULTANT shall not be liable for the penalties described in subsections F(1) and F(3) of this article, unless CONSULTANT had knowledge of the subconsultants' failure to pay the specified prevailing rate of wages to those workers or CONSULTANT fails to comply with all of the following requirements:
 - a. The subcontracts executed between CONSULTANT and the subconsultants for the performance of work on public works projects shall include a copy of the requirements in California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815.
 - b. CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the subconsultants to their employees by periodic review of the subconsultants' certified payroll records.
 - c. Upon becoming aware of the subconsultants' failure to pay the specified prevailing rate of wages to the subconsultants' employees, CONSULTANT shall diligently take corrective action to halt or rectify the failure, including, without limitation, retaining sufficient funds due the subconsultants for work performed on the public works project.
 - d. Prior to making final payment to the subconsultants for work performed on the public works project, CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultants that they have paid the specified general prevailing rate of per diem wages to their employees on the public works project and any amounts due pursuant to California Labor Code Section 1813.
 5. Pursuant to California Labor Code Section 1775, COUNTY shall notify CONSULTANT within fifteen (15) calendar days after the receipt of a complaint that any of its subconsultants have failed to pay their employees the general prevailing rate of per diem wages.
 6. If COUNTY determines that any of CONSULTANT's subconsultants have not paid their employees the general prevailing rate of per diem wages, and if COUNTY did not retain sufficient money to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, CONSULTANT shall withhold an amount of money due the subconsultants sufficient to pay those employees the general prevailing rate of per diem wages, if requested by COUNTY.
- G. CONSULTANT shall forfeit, as a penalty to COUNTY, Twenty-Five Dollars (\$25.00) for each worker employed in the execution of this Agreement by 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 (1) calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of the California Labor Code, including, without limitation, Sections 1810 to 1815 thereof, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one (1) 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 California Labor Code Section 1815.

- H. By executing this Agreement, CONSULTANT, for itself, and its subconsultants, assignees and successors in interest, agrees to comply with the following requirements pertaining to the employment of apprentices:
1. CONSULTANT, and any of its subconsultants working under a subcontract exceeding Thirty Thousand Dollars (\$30,000.00), shall comply with all applicable requirements regarding the employment of apprentices set forth in California Labor Code Sections 1777.5, 1777.6 and 1777.7.
 2. CONSULTANT and its subconsultants shall comply with any and all California Labor Code requirements regarding the employment of apprentices, including, without limitation, mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and its subconsultants are advised to review 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. CONSULTANT shall be responsible for its subconsultants' compliance with these requirements. Penalties are specified in California Labor Code Section 1777.7.

ARTICLE XIII – CONFLICT OF INTEREST

- A. During the term of this Agreement, and any extensions thereof, 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. 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 hereunder. 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 any applicable local, state or federal laws, regulations or standards.
- C. 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. CONSULTANT hereby certifies that neither CONSULTANT nor any of its subconsultants, or any firm affiliated with CONSULTANT or its subconsultants, 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 that a conflict of interest does not exist. For purposes of this Agreement, 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

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 sole discretion, to terminate this Agreement without liability, to pay only for the value of the work actually performed or to deduct from the amount owed under this Agreement, 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. CONSULTANT certifies, to the best of its knowledge and belief, that:
1. No local, state or federal appropriated funds have been paid or will be paid, by or on behalf of 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 California State Legislature or United States Congress, an officer or employee of the California State Legislature or Congress or any employee of a member of the California State 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, 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 Agreement was made and entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352 of Title 31 of the United States Code ("USC"). Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.
- C. CONSULTANT also agrees by executing this Agreement that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed One Hundred Thousand Dollars (\$100,000.00), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI – NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein shall constitute a certification, under penalty of perjury under the laws of the State of California, that CONSULTANT has, unless exempt, complied with any and applicable nondiscrimination requirements set forth in California Government Code Section 12990 and 2 CCR Section 8103.
- B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not deny any 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 its subconsultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and its subconsultants shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Sections 12990, *et seq.*) and the applicable regulations promulgated thereunder (2 CCR Sections 11000, *et seq.*), the provisions of California Government Code Sections 11135 through 11139.5 and the regulations or standards adopted by COUNTY to implement

this article. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in 2 CCR Sections 8100 through 8504, are hereby 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 COUNTY and any other duly authorized local, state and federal agencies, including, without limitation, the California Department of Fair Employment and Housing, upon reasonable notice at any time during normal business hours, but in no case less than twenty-four (24) hours' notice, to its facilities, books, records, accounts and all other sources of information as COUNTY or any other duly authorized local, state or federal agency shall require to ascertain compliance with this article.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this article to any and all labor organizations with which they have a collective bargaining or other agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this article in all subcontracts to perform work under this Agreement.
- G. CONSULTANT, with regard to the work performed pursuant to the terms and conditions of this Agreement, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 USC Sections 2000d, *et seq.*) which provides that 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 or disability, be excluded from participation in, denied the benefits of or be subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. CONSULTANT shall comply with any and all applicable local, state and federal laws, regulations and standards pertaining to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 CFR Part 21 – Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Section 21.5, including, without limitation, employment practices and the selection and retention of subconsultants.
- I. Neither party hereto, nor any subconsultants hereunder, shall 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 Part 26 on the basis of race, color, sex or national origin. In administering the DBE Program Plan, neither party hereto, nor any subconsultants hereunder, shall, 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. CONSULTANT's signature affixed herein shall constitute a certification, under penalty of perjury under the laws of the State of California, that CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years;

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

ARTICLE XVIII – DISADVANTAGED BUSINESS ENTERPRISES PARTICIPATION

- A. This Agreement is subject to the requirements of 49 CFR Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” CONSULTANT shall assist COUNTY in a good faith effort to achieve California’s statewide overall Disadvantaged Business Enterprises (“DBE”) participation goal.
1. Each party hereto, and any subconsultants hereunder, shall take any necessary and reasonable steps to ensure that DBEs have opportunities to participate in this Agreement, as required by 49 CFR Part 26. To ensure equal participation of DBEs, as provided in 49 CFR Section 26.5, COUNTY shall set a goal for DBE participation for this Agreement. CONSULTANT shall make work available to DBEs and select work consistent with available DBE subconsultants and suppliers.
 2. CONSULTANT shall meet the goal for DBE participation for this Agreement or demonstrate that adequate good faith efforts to meet this goal were made. 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 codes or work code applicable to the type of work the firm will perform on the contract. CONSULTANT shall document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified is available online at the following address: <https://dot.ca.gov/programs/civil-rights/dbe-search>.
 3. All DBE participation will count toward Caltrans’ federally mandated statewide overall DBE goal. Credit for materials or supplies which CONSULTANT purchases from DBEs counts towards the goal in the following manner:
 - a. One hundred percent (100%) counts if the materials or supplies are obtained from a DBE manufacturer.
 - b. Sixty percent (60%) counts if the materials or supplies are purchased from a DBE regular dealer.
 - c. Only fees, commissions and charges for assistance in the procurement and delivery of materials or supplies count, if such materials or supplies are obtained from a DBE that is neither a manufacturer nor regular dealer. For purposes of this Agreement shall have the same meaning as set forth in 49 CFR Section 26.55.
- B. The goal for DBE participation for this Agreement is **Four Percent (4%)**. Participation by DBE consultants or subconsultants shall be in accordance with Attachment C – Consultant Proposal DBE

Commitment (Exhibit 10-01), or Attachment D – Consultant Contract DBE Commitment (Exhibit 10-02), which are attached hereto and incorporated herein by reference as if set forth in full. If a DBE subcontractor is unable to perform, CONSULTANT must make a good faith effort to replace such subcontractor with another DBE subcontractor, if the DBE participation goal set forth herein is not otherwise met.

- C. CONSULTANT can meet the DBE participation goal set forth herein by documenting commitments to DBEs to meet the DBE participation goal set forth herein, or by documenting adequate good faith efforts to meet the DBE participation goal set forth herein. An adequate good faith effort means that CONSULTANT must show that it has taken any and all necessary and reasonable steps to achieve a DBE participation goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE participation goal. If CONSULTANT has not met the DBE participation goal set forth herein, CONSULTANT must complete and submit Attachment E – DBE Information, Good Faith Efforts (Exhibit 15-H), which is attached hereto and incorporated herein by reference as if set forth in full, to document the efforts made to meet the DBE participation goal set forth herein. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. Pursuant to 49 CFR Section 26.13(b), neither party hereto, nor any subconsultants hereunder, shall discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. CONSULTANT shall carry out the applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts. CONSULTANT's failure to carry out these requirements shall constitute a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate, including, without limitation: withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying CONSULTANT from future bidding as non-responsible.
- E. A DBE firm may be terminated only with prior written approval from COUNTY for the reasons specified in 49 CFR Section 26.53(f). Prior to requesting COUNTY's consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR Section 26.53(f). If a DBE subcontractor is unable to perform, CONSULTANT must make a good faith effort to replace such subcontractor with another DBE subcontractor, if the DBE participation goal set forth herein is not otherwise met.
1. 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 COUNTY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without COUNTY's authorization. Unless COUNTY's consent is provided, CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on Attachment D – Consultant Contract DBE Commitment (Exhibit 10-02). A request to use other forces or sources of materials shall be authorized by COUNTY, if CONSULTANT shows any of the following justifications:
- a. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
 - b. COUNTY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet COUNTY's bond requirements.
 - c. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.

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- d. Listed DBE fails or refuses to perform the work or furnish the listed materials, unless such failure or refusal to perform is a result of bad faith or discrimination.
 - e. Listed DBE's work is unsatisfactory and not in compliance with the contract.
 - f. Listed DBE is ineligible to work on the project because of suspension or debarment.
 - g. Listed DBE becomes bankrupt or insolvent.
 - h. Listed DBE voluntarily withdraws from the contract with written notice.
 - i. Listed DBE is ineligible to receive credit for the type of work required.
 - j. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the contract.
 - k. COUNTY determines that other documented good cause exists.
2. CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons in support thereof. The DBE shall be given five (5) days to respond to the notice and advise CONSULTANT and 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 all of the following:
 - a. One (1) or more of the reasons set forth in subsection E(1) of this article.
 - b. Notices from CONSULTANT to the DBE regarding the request.
 - c. Notices from the DBEs to CONSULTANT regarding the request.
 3. If a listed DBE is terminated or substituted, CONSULTANT shall 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. COUNTY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization. COUNTY shall request that CONSULTANT notify COUNTY's contract administrator, or designated representative, of any changes to its anticipated DBE participation before starting the affected work and maintain appropriate records regarding DBE utilization, including, without limitation: the name and business address of each 1st-tier subconsultant; the name and business address of each DBE subconsultant, DBE vendor and DBE trucking company, regardless of tier; and the date of payment and total amount paid to each business as set forth in Attachment F – DBE Running Tally of Payments (Exhibit 9-F), which is attached hereto and incorporated herein by reference as if set forth in full. If CONSULTANT is a DBE, CONSULTANT shall include the date of work performed by its own forces and the corresponding value of the work.
1. 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 COUNTY.

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2. Upon completion of the work, CONSULTANT shall complete Attachment G – DBE Certification Status Change (Exhibit 17-O), which is attached hereto and incorporated herein by reference as if set forth in full, and submit the completed form to COUNTY within thirty (30) days after contract acceptance.
 3. Upon completion of the work, CONSULTANT shall complete Attachment H – Final Report – Utilization of DBE First-Tier Subconsultants (Exhibit 17-F), which is attached hereto and incorporated herein by reference as if set forth in full, and submit the completed form to COUNTY within ninety (90) days after contract acceptance. COUNTY shall withhold Ten Thousand Dollars (\$10,000.00) until the completed form is submitted by CONSULTANT. COUNTY shall release the funds with held to CONSULTANT upon submission of the completed form.
 4. COUNTY's DBE participation reports to Caltrans shall display any and all DBE participation commitments and attainments.
- G. A DBE is only eligible to be counted toward the DBE participation goal set forth herein if it performs a commercially useful function ("CUF"). CUF must be evaluated on an agreement-by-agreement basis. 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 and ordering, installing and paying for materials, if applicable. To determine whether a DBE is performing a CUF, the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the agreement is commensurate with the work it is actually performing and other relevant factors must be evaluated.
- 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 an extra participant, similar transactions, particularly those in which DBEs do not participate, must be examined.
- 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 to each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the dollar value of such work.
- K. If a DBE subcontractor is decertified during the life of this Agreement, the decertified subcontractor shall notify CONSULTANT in writing with the date of decertification. If any of CONSULTANT's subconsultants become certified DBEs during the term of this Agreement, such subconsultants 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. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the tenth (10th) of the following month, CONSULTANT shall complete and email Attachment F – DBE Running Tally of Payments (Exhibit 9-F) to business.support.unit@dot.ca.gov with a copy to COUNTY.

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

ARTICLE XIX – INSURANCE AND INDEMNIFICATION

- A. Prior to the execution of this Agreement, CONSULTANT shall furnish to COUNTY satisfactory proof that CONSULTANT has taken out for the entire term of this Agreement, as further described below, the following insurance, in a form satisfactory to COUNTY, and with an insurance carrier satisfactory to COUNTY, authorized to do business in the State of California with a current A.M. Bests rating of no less than A; VII or its equivalent, which will protect those described below from claims which arise out of, or in connection with, the acts or omissions of CONSULTANT for which CONSULTANT may be legally liable, whether performed by CONSULTANT, or by those employed directly or indirectly thereby, or by anyone for whose acts CONSULTANT may be liable:
1. Commercial General Liability Insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of construction management operations, blanket contractual liability, broad form endorsement, a construction management endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence for any one (1) incident, subject to a deductible of not more than Fifty Thousand Dollars (\$50,000.00) payable by CONSULTANT. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
 2. Business Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) for each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than Ten Thousand Dollars (\$10,000.00) payable by CONSULTANT.
 3. Workers’ Compensation Insurance, as required by the California Labor Code, with statutory limits and Employers’ Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY and its agents, officers, officials, employees and volunteers. In the event CONSULTANT is self-insured, a Certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations – Administration of Self-Insurance, shall be filed with the Clerk of the Humboldt County Board of Supervisors.
 4. Professional Liability Insurance – Error and Omission Coverage, including coverage in an amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Four Million Dollars (\$4,000,000.00) general aggregate), subject to a deductible not to exceed Fifty Thousand Dollars (\$50,000.00) payable by CONSULTANT. Said insurance shall be maintained for the statutory period during which CONSULTANT may be exposed to liability regarding the work performed pursuant to the terms and conditions of this Agreement. Such coverage shall be incorporated into CONSULTANT’s agreements with any other entities.
- B. CONSULTANT’s insurance policies shall, unless otherwise specified herein, be endorsed with the following provisions:
1. CONSULTANT’s Commercial General Liability policy and Automobile Liability policy shall name COUNTY, and its agents, officers, officials, employees and volunteers, as additional insureds, but only with respect to liability arising out of the activities of the named insured, and

there shall be a waiver of subrogation as to each named and additional insured. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
 - b. Is the primary insurance with regard to COUNTY.
 - c. Does not contain exclusions as to property damage caused by explosion or collapse of structures or underground damage, commonly referred to as "XCU Hazards."
 - d. Does not contain a pro-rated excess only and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) calendar days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONSULTANT shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
 3. The inclusion of more than one (1) insured shall not operate to impair the rights of one (1) insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one (1) insured shall not operate to increase the limits of the insurer's liability.
 4. Any failure to comply with the terms and conditions of this Agreement shall not affect the coverage provided to COUNTY or its agents, officers, officials, employees and volunteers.
 5. For claims related to this Agreement, CONSULTANT's insurance is the primary coverage to COUNTY, and any insurance or self-insured programs maintained thereby are excess to CONSULTANT's insurance and will not be used to contribute therewith.
 6. CONSULTANT shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, COUNTY. If CONSULTANT does not keep all required policies in full force and effect, COUNTY may, in addition to any other available remedies, take out the necessary insurance and deduct the cost of said insurance from the monies owed to CONSULTANT under this Agreement.
 7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CONSULTANT shall be required to purchase additional coverage to meet the above-referenced aggregate limits.
 8. Nothing contained herein shall be construed as limiting the extent to which CONSULTANT or its subconsultants may be held responsible for payment of damages resulting from their operations.
- C. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice requirements contained herein.

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CONSULTANT: Points West Surveying Company
Attention: Michael Pulley, Project Manager
5201 Calson Park Drive, Suite 3
Arcata, California 95521

COUNTY: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

AND

Humboldt County Department of Public Works – Engineering Division
Attention: Tony Seghetti, Contract Administrator
1106 Second Street
Eureka, California 95501

- D. In connection with the performance of the design professional services required hereunder, CONSULTANT shall, to the fullest extent permitted by law, and in accordance with California Civil Code Section 2782.8, indemnify, defend and hold harmless COUNTY, and its agents, officers, officials, employees and volunteers, from any claim, liability, loss, injury or damage (referred to collectively as "Litigation") that arises out of, pertains to, relates to, or is connected with, performance of this Agreement due to the negligence, recklessness or willful misconduct of CONSULTANT and/or its agents, employees or subconsultants. CONSULTANT shall reimburse COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any Litigation in which CONSULTANT is obligated to indemnify and defend COUNTY under this Agreement.
- E. In connection with the performance of the non-design professional services required hereunder, if any, CONSULTANT shall hold harmless, defend and indemnify COUNTY and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense and costs of any kind or nature, including, without limitation, costs and fees of Litigation, arising out of, or in connection with, CONSULTANT's performance of, or failure to comply with, any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY. CONSULTANT shall reimburse COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any Litigation in which CONSULTANT is obligated to indemnify and defend COUNTY under this Agreement.

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 this 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 local, state and federal restrictions, limitations, conditions and legal obligations that may affect the provisions, terms, conditions 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 this Agreement pursuant to Article VI – Termination, or by mutual agreement to amend this 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 price or consideration to be paid hereunder, 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) calendar 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 hereunder that is not disposed of by agreement shall be decided by a committee consisting of COUNTY’s Contract Administrator and other COUNTY officials, 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 submit a written request for review by COUNTY’s governing board of unresolved claims or disputes, other than audit.
- 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 its subconsultants shall permit COUNTY, the State of California 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 any and all California Division of Occupational Safety and Health (“Cal-OSHA”) regulations applicable to CONSULTANT regarding necessary safety equipment or

procedures. CONSULTANT shall comply with safety instructions issued by the Humboldt County Risk Manager and other COUNTY representatives. CONSULTANT's personnel shall wear hard hats and safety vests at all times while working on the construction project site.

- B. Pursuant to Section 591 of the California Vehicle Code, 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 through 15 of the California 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 any and all applicable CAL-OSHA permits, as outlined in California Labor Code Sections 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 deep or deeper.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

ARTICLE XXVI – OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT pursuant to the terms and conditions of this Agreement shall become the property of COUNTY, and CONSULTANT shall have no property rights therein whatsoever. Immediately upon termination of this Agreement, COUNTY shall be entitled to, and CONSULTANT shall deliver to COUNTY, any and all 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 COUNTY which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered pursuant to the terms and conditions of this Agreement must be approved in writing by COUNTY.
- B. Additionally, it is agreed that the parties intend this Agreement to be an agreement for services and each considers the products and results of the services rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work and all rights therein, including, without limitation, copyrights, belongs to and shall be the sole and exclusive property of COUNTY without restriction or limitation upon its use or dissemination by COUNTY. Any reuse of such works made for hire outside the scope of work for which it was developed, or any alteration of them whatsoever, without CONSULTANT's review and approval shall be at COUNTY'S sole risk.
- 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 (a) detailed in a particular Task Order. Any reuse by COUNTY for another project or project location shall be at COUNTY's sole risk.
- D. Each party hereto agrees to comply with any and all applicable local, state and federal laws, regulations and standards pertaining to patent rights, including, without limitation, 48 CFR Subpart 27.3 – Patent Rights under Government Contracts.
- E. COUNTY may permit CONSULTANT to copyright reports or other byproducts of this Agreement. If copyrights are permitted; FHWA shall be granted a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use; and to authorize others to use, the work for government purposes.

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- F. Any subcontract in excess of Twenty-Five Thousand Dollars (\$25,000.00) entered into as a result of this Agreement shall contain all of the provisions of this article.

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, and additional information or assistance from CONSULTANT is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with COUNTY’s Contract Administrator and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT shall, upon reasonable notice from COUNTY, allow interviews of all personnel that COUNTY considers essential to assist in defending against construction contractor claims. Consultation or testimony will be reimbursed at the same rates, including, without limitation, travel costs, that are being paid for CONSULTANT’s services under this Agreement.
- C. Services of CONSULTANT in connection with COUNTY’s construction contractor claims will be performed pursuant to a written contract amendment which extends the expiration date of this Agreement, if necessary, in order to resolve such construction claims.
- D. Any subcontract in excess of Twenty-Five Thousand Dollars (\$25,000.00) entered into as a result of this Agreement shall contain all of the provisions of this article.

ARTICLE XXVIII – CONFIDENTIALITY OF DATA

- A. CONSULTANT hereby agrees to protect any and all confidential information obtained in the performance of this Agreement in accordance with any and all applicable local, state and federal laws, regulations and standards.
- B. All financial, statistical, personal, technical or other 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.
- C. Permission to disclose information on one (1) occasion, or disclosure at a public hearing held by COUNTY relating to this Agreement, shall not authorize CONSULTANT to further disclose such information or disseminate the same on any other occasion.
- D. CONSULTANT shall not comment publicly to the press or any other media outlet regarding this 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.
- E. 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.
- F. 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 the terms and conditions of this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of COUNTY or except by court order. If CONSULTANT, or any of its agents, officers, employees or subconsultants, does voluntarily provide

information in violation of this Agreement, COUNTY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing such information, including, without limitation, COUNTY's attorney's fees, expert witness fees and disbursements.

- G. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

ARTICLE XXIX – NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with California Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within two (2) years prior to the execution this Agreement because of CONSULTANT's failure to comply with an order of a federal court that requires 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 COUNTY's evaluation report will be sent to CONSULTANT for comments. COUNTY's evaluation report along with CONSULTANT's comments shall be retained in accordance with the record retention provisions set forth herein.

ARTICLE XXXI PROMPT PAYMENT FROM COUNTY TO CONSULTANT

COUNTY shall make any progress payments required hereunder within thirty (30) days after receipt of an undisputed and properly submitted payment request from CONSULTANT. If COUNTY fails to pay promptly, COUNTY shall pay interest to CONSULTANT, which accrues at the rate of ten percent (10%) per annum on the principal amount of a money judgment remaining unsatisfied. COUNTY shall review each payment request as soon as practicable after the receipt thereof for the purpose of determining whether the payment request is suitable for payment. Any payment request that COUNTY determines is not suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after the receipt thereof. A request returned pursuant to this article shall be accompanied by a document setting forth in writing the reasons why the payment request is not suitable for payment.

ARTICLE XXXII – TITLE VI ASSURANCES

- A. 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, and Appendices B, C and D if applicable as shown below, of the Title VI Assurances. 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 the 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: for the subsequent transfer of real property acquired or improved under the applicable activity, project or program; and 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.
- B. Appendix A: During the performance of this Agreement, CONSULTANT, for itself, and its assignees and successors in interest, agrees as follows:

1. 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.
 2. 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.
 3. 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.
 4. 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.
 5. 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:
 - a. Withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - b. Cancellation, termination or suspension of the Agreement, in whole or in part.
 6. 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.
 7. Enforcement of Provisions: 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.
- C. Appendix B: 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:

1. 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.
 2. 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.)
- D. Appendix C: 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):
1. 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:
 - a. 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.
 2. 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.*

3. 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.)

E. Appendix D: 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):

1. 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.
2. 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 issued.*
3. 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.

F. Appendix E: During the performance of this Agreement, CONSULTANT, for itself, and its assignees, and successors in interest, agrees to comply with any and all pertinent non-discrimination statutes and authorities, including, but not limited to, all of the following:

1. 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.
2. 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).
3. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex.
4. 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.
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age).

6. 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).
7. 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).
8. 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.
9. 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).
10. 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.
11. 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).
12. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination based on sex in education programs or activities (20 U.S.C. 1681 et seq).

ARTICLE XXXIII – NOTIFICATION

Any and all notices required hereunder, and communications regarding interpretation of, and changes to, the terms and conditions of this Agreement, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CONSULTANT: Points West Surveying Company
Attention: Michael Pulley, Project Manager
5201 Calson Park Drive, Suite 3
Arcata, California 95521

COUNTY: Humboldt County Department of Public Works – Engineering Division
Attention: Tony Seghetti, Contract Administrator
1106 Second Street
Eureka, California 95501

ARTICLE XXXVI – GOVERNING LAW, PRACTICE STANDARDS AND BINDING EFFECT

A. This Agreement shall be construed in accordance with the laws of the State of California. Any dispute relating hereto shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

- B. CONSULTANT agrees to comply with any and all local, state and federal laws, regulations and standards applicable to its performance hereunder, including, without limitation, the Americans with Disabilities Act. CONSULTANT further agrees to comply with any and all applicable local, state and federal accrediting, licensure and certification requirements.
- C. This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms, conditions or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.
- D. In the event any law, regulation or standard referred to herein is amended during the term of this Agreement, the parties agree to comply with the amended provision as of the effective date thereof.
- E. CONSULTANT warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONSULTANT's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.
- F. The terms of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of the parties.

ARTICLE XXXV – NO WAIVER OF DEFAULT

- A. The waiver by either party of any breach of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.
- B. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement which may then exist on the part of CONSULTANT. Neither shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand repayment of, and CONSULTANT shall promptly refund, any funds disbursed to CONSULTANT hereunder, which COUNTY determines were not expended in accordance with the terms of this Agreement.

ARTICLE XXXVI – ATTORNEY FEES ON BREACH

If either party shall commence any legal action, including, without limitation, an action for declaratory relief, against the other by reason of the alleged failure of the other to perform any of its obligations hereunder, the prevailing party in said action shall be entitled to recover court costs and reasonable attorneys' fees, including, but not limited to, the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

ARTICLE XXXVII – NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE

By executing this Agreement, CONSULTANT certifies that it is not a Nuclear Weapons Contractor, in that CONSULTANT is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONSULTANT agrees to notify COUNTY immediately if it becomes a

Nuclear Weapons Contractor, as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONSULTANT subsequently becomes a Nuclear Weapons Contractor.

ARTICLE XXXVIII – CONTRACT

The two (2) parties to this Agreement, who are the before named CONSULTANT and the before named COUNTY, hereby agree that this Agreement constitutes the entire agreement which is made and concluded in duplicate between the two (2) parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this Agreement as evidenced by the signatures below.

[Signatures on Following Page]

ARTICLE XXXIX – SIGNATURES

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND

(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

POINTS WEST SURVEYING COMPANY:

By: 

Date: 3/9/2022

Name: MICHAEL D PULLEY

Title: PRESIDENT

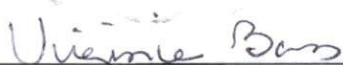
By: 

Date: 3/10/2022

Name: JESSE BUFFINGTON

Title: SECRETARY

COUNTY OF HUMBOLDT:

By: 
Virginia Bass
Humboldt County Board of Supervisors

Date: 4/5/22

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: _____
Risk Management

Date: _____

LIST OF ATTACHMENTS:

- Attachment A – Scope of Work
- Attachment B – Cost Proposal & Schedule of Work
- Attachment C – Consultant Proposal DBE Commitment (Exhibit 10-O1)
- Attachment D – Consultant Contract DBE Commitment (Exhibit 10-O2)
- Attachment E – DBE Information, Good Faith Efforts (Exhibit 15-H)
- Attachment F – DBE Running Tally of Payments (Exhibit 9-F)
- Attachment G – DBE Certification Status Change (Exhibit 17-O)
- Attachment H – Final Report – Utilization of DBE First-Tier Subconsultants (Exhibit 17-F)
- Attachment I – Consultant Certification of Contract Costs and Financial management System (Exhibit 10-K for Prime and Subconsultants)
- Attachment J – Disclosure of Lobbying Activities (Exhibit 10-Q)
- Attachment K – Liability Insurance



SCOPE OF SERVICES

County of Humboldt On-Call Contract DPW2021-002

Boundary Surveying Services

- Existing or proposed boundaries, right of way limits, easement location on project sites
- Monumentation of property boundaries, rights of way, easements
- Preparation of Records of Survey, Corner Records
- Preparation of legal descriptions and exhibit plats
- GPS control surveys

Topographic Surveying Services

- Project site surveying to include roadway geometrics, utilities, drainage facilities, existing ground contours, trees, buildings, fences, pavement delineation, signage, watercourses,
- Preparation of Autocad drawings, currently in Civil3D 2022 format, reflecting topographic and boundary information including 3d terrain modelling

Construction Staking Services

- Project specific staking of clearing limits, right of way limits, excavation limits and features, roadway grades, drainage structures, pile locations, retaining wall locations, etc.
- As-built surveys
- Preparation of staking diagrams, cut sheets, staking notes

Aerial Mapping Services (GeoWing)

- Project site mapping using aerial photogrammetry, aerial lidar, or aerial drone mapping

Traffic Control Services (McCullough)

- Project site specific traffic control, including lane closures, traffic-controlled road closures, temporary detours

Project Management Services

ATTACHMENT B – COST PROPOSAL & SCHEDULE OF WORK

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(NON- PREVAILING WAGE CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Points West Surveying Company Prime Consultant Subconsultant

Project No. _____ Contract No. DPW-2021-002 Participation Amount \$ 999,000 Date 2/16/2022

For Combined Rate	Fringe Benefit 38.70 % + General & Administrative 59.01 %	=97.71	Combined ICR%
		Fee =10	%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ⁴	% or \$ Increase	Hourly Range - or Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
Licensed Surveyor - Principal David Crivelli	\$179.97	\$221.34	\$262.72	01/01/2021	12/31/2021	\$82.75	2	
	\$183.58	\$225.78	\$267.99	01/01/2022	12/31/2022	\$84.41		
	\$187.25	\$230.30	\$273.35	01/01/2023	12/31/2023	\$86.10		
Licensed Surveyor - Principal Michael Pulley	\$162.41	\$199.75	\$237.09	01/01/2021	12/31/2021	\$74.68	2	
	\$165.66	\$203.74	\$241.83	01/01/2022	12/31/2022	\$76.17		
	\$168.96	\$207.81	\$246.65	01/01/2023	12/31/2023	\$77.69		
Licensed Surveyor - Staff Jesse Buffington	\$86.99	\$106.99	\$126.99	01/01/2021	12/31/2021	\$40.00	2	
	\$88.73	\$109.13	\$129.53	01/01/2022	12/31/2022	\$40.80		
	\$90.52	\$111.33	\$132.14	01/01/2023	12/31/2023	\$41.62		
Survey Technician II William Pool	\$71.77	\$88.27	\$104.77	01/01/2021	12/31/2021	\$33.00	2	
	\$73.20	\$90.03	\$106.86	01/01/2022	12/31/2022	\$33.66		
	\$74.66	\$91.83	\$108.99	01/01/2023	12/31/2023	\$34.33		
Survey Technician II Ryan Baxter	\$65.24	\$80.24	\$95.24	01/01/2021	12/31/2021	\$30.00	2	
	\$66.55	\$81.85	\$97.15	01/01/2022	12/31/2022	\$30.60		
	\$67.88	\$83.48	\$99.09	01/01/2023	12/31/2023	\$31.21		
Survey Technician Paul Krause	\$54.37	\$66.87	\$79.37	01/01/2021	12/31/2021	\$25.00	2	
	\$55.46	\$68.21	\$80.96	01/01/2022	12/31/2022	\$25.50		
	\$56.57	\$69.57	\$82.58	01/01/2023	12/31/2023	\$26.01		

Survey Technician Loren Blodgett	\$71.77	\$88.27	\$104.77	01/01/2021	12/31/2021	\$33.00	2
	\$73.20	\$90.03	\$106.86	01/01/2022	12/31/2022	\$33.66	
	\$74.66	\$91.83	\$108.99	01/01/2023	12/31/2023	\$34.33	
Survey Technician I Austin McChesney	\$50.02	\$61.52	\$73.02	01/01/2021	12/31/2021	\$23.00	2
	\$51.02	\$62.75	\$74.48	01/01/2022	12/31/2022	\$23.46	
	\$52.04	\$64.01	\$75.97	01/01/2023	12/31/2023	\$23.93	

NOTES:

1. All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates should be based on the consultant's annual accounting period, established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant Points West Surveying Company

Prime Consultant Subconsultant

Project No. _____ Contract No. DPW-2021-002 Date 2/16/2022

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	100	Mile	\$0.56	\$56.00
GPS Units	2	Unit	\$100.00	\$200.00
Boat	1	Day	\$150.00	\$150.00
Single Beam Sounder	1	Day	\$200.00	\$200.00
Aerial Target	5	Unit	\$15.00	\$75.00
Aerial Survey – GeoWing Mapping, Inc. (DBE)	2	Unit	\$22,750.00	\$45,000.00
Traffic Control – McCullough Construction, Inc.(DBE)	2	Unit	\$7,500.00	\$15,000.00
Subconsultant:				\$

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.
7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

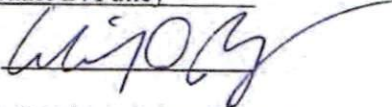
Certification of Direct Costs:

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:

- 7. Generally Accepted Accounting Principles (GAAP)
- 8. Terms and conditions of the contract
- 9. Title 23 United States Code Section 112 - Letting of Contracts
- 10. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
- 11. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
- 12. 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.

Prime Consultant or Subconsultant Certifying:

Name: Michael D. Pulley Title *: Vice-President, Principal + CFO
 Signature :  Date of Certification (mm/dd/yyyy): 2/16/2022
 Email: pulley@pointswestsurveying.com Phone Number: 707.840.9510
 Address: 5201 Carlson Park Drive Suite 3 Arcata CA 95521

* 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:

Land Surveying Services, including topographic, boundary, hydrographic, and construction surveying, construction staking, right of way determination, preparation of legal descriptions and maps, coordination with prime and subcontractors

ATTACHMENT C – CONSULTANT PROPOSAL DBE COMMITMENT (EXHIBIT 10-O1)

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: County of Humboldt 2. Contract DBE Goal: 5%
 3. Project Description: 2021 On-Call Surveying Contract
 4. Project Location: Various locations throughout Humboldt County
 5. Consultant's Name: Points West Surveying Company 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %		
McCullough Construction Co. Traffic Control	27969	Chelsea Rios 707-825-1015	1.5%		
Geowing Mapping, Inc. Aerial Survey Subconsultant	42926	Rebecca Morton 510-350-7744	4.5%		
Local Agency to Complete this Section					
17. Local Agency Contract Number: <u>DPW2021-022</u> 18. Federal-Aid Project Number: <u>On-Call</u> 19. Proposed Contract Execution Date: <u>April 5, 2022</u>	11. TOTAL CLAIMED DBE PARTICIPATION		6 %		
<p>Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.</p> <p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u><i>Jeffrey A. Ball</i></u> <u>3-10-2022</u> 20. Local Agency Representative's Signature 21. Date</p> <p><u>Jeffrey A. Ball</u> <u>(707)445-7377</u> 22. Local Agency Representative's Name 23. Phone</p> <p><u>Associate Civil Engineer</u> 24. Local Agency Representative's Title</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u><i>Michael D. Pulley</i></u> <u>3/9/2022</u> 12. Preparer's Signature 13. Date</p> <p><u>Michael D. Pulley</u> <u>707-840-9510</u> 14. Preparer's Name 15. Phone</p> <p><u>President</u> 16. Preparer's Title</p> </td> </tr> </table>				<p><u><i>Jeffrey A. Ball</i></u> <u>3-10-2022</u> 20. Local Agency Representative's Signature 21. Date</p> <p><u>Jeffrey A. Ball</u> <u>(707)445-7377</u> 22. Local Agency Representative's Name 23. Phone</p> <p><u>Associate Civil Engineer</u> 24. Local Agency Representative's Title</p>	<p><u><i>Michael D. Pulley</i></u> <u>3/9/2022</u> 12. Preparer's Signature 13. Date</p> <p><u>Michael D. Pulley</u> <u>707-840-9510</u> 14. Preparer's Name 15. Phone</p> <p><u>President</u> 16. Preparer's Title</p>
<p><u><i>Jeffrey A. Ball</i></u> <u>3-10-2022</u> 20. Local Agency Representative's Signature 21. Date</p> <p><u>Jeffrey A. Ball</u> <u>(707)445-7377</u> 22. Local Agency Representative's Name 23. Phone</p> <p><u>Associate Civil Engineer</u> 24. Local Agency Representative's Title</p>	<p><u><i>Michael D. Pulley</i></u> <u>3/9/2022</u> 12. Preparer's Signature 13. Date</p> <p><u>Michael D. Pulley</u> <u>707-840-9510</u> 14. Preparer's Name 15. Phone</p> <p><u>President</u> 16. Preparer's Title</p>				

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

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

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

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

LOCAL AGENCY SECTION:

17. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
18. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.

19. **Proposed Contract Execution Date** - Enter the proposed contract execution date.
20. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
22. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
23. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
24. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

ATTACHMENT D – CONSULTANT CONTRACT DBE COMMITMENT (EXHIBIT 10-O2)

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: County of Humboldt 2. Contract DBE Goal: 5%
 3. Project Description: 2021 On-Call Surveying Contract
 4. Project Location: Various locations throughout Humboldt County
 5. Consultant's Name: Points West Surveying Company 6. Prime Certified DBE: 7. Total Contract Award Amount: \$999,000
 8. Total Dollar Amount for **ALL** Subconsultants: \$60,000 9. Total Number of **ALL** Subconsultants: 6%

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
McCullough Construction Company Traffic Control	27969	Chelsea Rios 707-825-1015	\$15,000
Geowing Mapping, Inc. Aerial Survey Subconsultant	42926	Rebecca Morton 510-350-7744	\$45,000
Local Agency to Complete this Section 20. Local Agency Contract Number: <u>DPW2021-002</u> 21. Federal-Aid Project Number: <u>On-Call</u> 22. Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 23. Local Agency Representative's Name: <u>Jeffrey A. Ball</u> 24. Date: <u>3-10-2022</u> 25. Local Agency Representative's Name: <u>Associate Civil Engineer</u> 26. Phone: <u>(707) 445-7377</u> 27. Local Agency Representative's Title: _____			14. TOTAL CLAIMED DBE PARTICIPATION \$ 60,000 6 %
IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 15. Preparer's Signature: <u>[Signature]</u> 16. Date: <u>3/9/2022</u> 17. Preparer's Name: <u>Michael D. Pulley</u> 18. Phone: <u>707-840-9510</u> 19. Preparer's Title: <u>President</u>			

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

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

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT**CONSULTANT SECTION:**

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

LOCAL AGENCY SECTION:

20. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed.
23. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
24. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
25. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
26. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
27. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

ATTACHMENT E – DBE INFORMATION, GOOD FAITH EFFORTS (EXHIBIT 15-H)

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

Cost Proposal Due Date _____ PE/CE

Federal-aid Project No(s). _____ Bid Opening Date _____ CON

The _____ established a Disadvantaged Business Enterprise (DBE) goal of 0.00% for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

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

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

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

Publications	Dates of Advertisement

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

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

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

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

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

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

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

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

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

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

Name of Agency/Organization	Method/Date of Contact	Results

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

ATTACHMENT F – DBE RUNNING TALLY OF PAYMENTS (EXHIBIT 9-F)

EXHIBIT 9-F: DISADVANTAGED BUSINESS ENTERPRISE (DBE) RUNNING TALLY OF PAYMENTS

Save this form using the following naming convention, [yyyymm]-[Prime's DUNS Number]-[ss].xlsx. [ss] is two digit sequential numbering, applicable when consultant or contractor has more than one 9-F form to complete per pay period. For example, a valid saved file could read: 202001-123456789-01.xlsx. Prime contractors/consultants are required to submit this form no later than the 10th of the following month, after submitting an invoice for reimbursement that includes a payment to a DBE. If no payments have been made, do not submit the form. Email this form to Business.Support.Unit@dot.ca.gov with a copy to their local administering agencies. Do not submit this form with the invoice, it will not be processed.

(1) Reporting Period (mm-yyyy)		(2) Federal Aid Project Number			(3) Caltrans District		(4) Local Agency		
(5) Contract Number		(6) Total Contract Award Amount (\$)			(7) DBE Goal Percentage (%)		(8) DBE Committed Percentage (%)		
(9) Prime Contractor/Consultant DUNS Number		(10) Business Name			(11) Amount Prime Invoiced This Period (\$)		(12) Amount Paid to Prime To Date (\$)		(13) Prime Certified DBE?
(14) DBE Subcontractor/Subconsultant Name	(15) DBE Cert. Number	(16) Contract Type	(17) Date of Payment	(18) Amount of This Payment	(19) Amount Paid To Date	(20) Amount Committed To This DBE	(21) Comments		
Totals				\$0	\$0	\$0			

List all DBEs regardless of tier, whether or not the firms were originally listed in Exhibit 10-O2 or 15-G as a DBE commitment. If the actual DBE utilization was different than that approved at the time of award, provide comments in box (21). All payments reported, including payments to contractor/consultant, are for the date listed. Select the most appropriate contract type (Agent, Consultant, Joint Venture, Manufacturer, Prime, Regular Dealer, Subcontractor, Truck/Haul, Service Provider) for the DBE from dropdown list.

By executing this 9-F, Contractor/Consultant represents and warrants, under penalty of perjury, that:
Contractor/Consultant contracted with the Disadvantaged Business Enterprise companies (DBEs) as set forth in their awarded bid on Contract number _____
Contractor/Consultant paid the full amounts listed on their 9-F to the DBEs set forth in Contractor's awarded bid, without reduction or offset.

(22) Prime Contractor/Consultant Manager's Name (Print)		(23) Business Phone Number		(24) Date

COPY DISTRIBUTION: Original - Prime Contractor/Consultant, Copy - E-mail: Business.Support.Unit@dot.ca.gov; Copy: Local Administering Agency

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

Exhibit 9-F Instructions

I. Purpose:

Title 49 of the Code of Federal Regulations (CFR), Part 26.37(c) requires recipients of federal-aid funding to "provide a running tally of actual attainments, including a means of comparing these attainments to commitments." This requirement does not apply to projects that do not have any federal funding.

II. Policy:

- A. To comply with 49 CFR 26.37(c), the prime contractors/consultants must complete the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments and email it to business.support.unit@dot.ca.gov and their local administering agencies after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month. Submission of this Exhibit is required until all DBE subcontracting or material supply activity on the entire project is completed.
- B. Save this form using the following naming convention, [yyyymm]-[Prime's DUNS Number]-[ss].xlsx. [ss] is two digit sequential numbering, applicable when consultant or contractor has more than one 9-F form to complete per pay period. For example, a valid saved file could read: 202001-123456789-01.xlsx

III. Instructions:

- (1) **Reporting Period (mm-yyyy):** Indicate the month and year of payments being reported.
- (2) **Federal Aid Project Number:** Enter the 7 digit federal-aid project number of the lead project on the contract. E.g. 5002(123) is a valid Federal-Aid Project Number.
- (3) **Caltrans District:** Enter the appropriate Caltrans District number as 1 through 12.
- (4) **Local Agency:** List the local agency's name.
- (5) **Contract Number:** List the local agency assigned contract agreement number.
- (6) **Total Contract Award Amount (\$):** Enter the total current contract award amount of the project.
- (7) **DBE Goal Percentage (%):** Enter the contract DBE goal percentage as it appears on the project advertisement.
- (8) **DBE Committed Percentage (%):** Enter percentage of the Prime contract committed to DBE firms.
- (9) **Prime Contractor/Consultant DUNS Number:** Enter the unique nine-digit Data Universal Numbering System (DUNS) that Contractors/Consultants should have in order to participate in Federally-funded contracts.
- (10) **Business Name:** List the name for the prime contractor/consultant as identified in Procedure 9 above.
- (11) **Amount Prime's Invoice This Period (\$):** Enter the total invoice amount that prime submitted for reimbursement this period.
- (12) **Amount Paid to Prime To Date (\$):** Enter the total payment that is paid to the Prime to date.
- (13) **Prime certified DBE:** Enter "Yes" if Prime Contractor/Consultant is certified DBE and "No" otherwise.
DBE Prime contractor needs to fill in from procedure (14) to (21) for payments to DBE Subcontractors and DBE Prime's self-performing.

Note: For Procedures (14) through (21) below, insert rows as needed to list all DBEs included on Exhibits 10-O2 or 15-G, and any other DBEs that were utilized regardless of tier.

- (14) **DBE Firm name:** List the DBE's firm name.
- (15) **DBE Cert. Number:** List the DBE's certification number as listed in the California Unified Certification Program (CUCP) database.
- (16) **Contract Type:** Select the most appropriate Subcontractor's contract type (Agent, Consultant, Joint Venture, Manufacturer, Prime, Regular Dealer, Subcontractor, Truck/Haul, Service Provider from dropdown list.)
- (17) **Date of Payment:** List current check date when a check is issued to the DBE for work performed by the DBE.
- (18) **Amount of This Payment:** List the total amount paid to the DBE this period.
- (19) **Amount Paid to Date:** List the total amount paid to this DBE to date. This should be a total of past payments plus payment for the current work just invoiced to the Local Agency.
- (20) **Amount Committed to This DBE Firm:** Copy the information from the agency signed Exhibit 10-O2 or 15-G. If the listed DBE was not originally committed to, type "0."
- (21) **Comments:** Add appropriate notes if a DBE subcontract was terminated, a DBE subcontract was added, if change orders impacted the DBE's payments (include good faith efforts the prime contractor/consultant implemented), if task orders weren't issued, etc.
- (22) **Prime Contractor/Consultant Manager's Name:** Enter the manager's name of the prime contractor/consultant of the project.
- (23) **Business Phone Number:** Enter the manager's business phone number of the prime contractor/consultant.
- (24) **Date:** Provide the date this form was prepared.
- (25) **Copy Distribution:** The prime contractor/consultant will need to maintain a copy with the contract file (electronic and/or paper). The prime contractor/consultant will need to e-mail this form as provided in the Section II. Policy, paragraphs A as stated above. Local agency will need to keep a copy with the contract file.

ATTACHMENT G – DBE CERTIFICATION STATUS CHANGE (EXHIBIT 17-O)

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

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. DBE Contact Information	10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments		

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

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

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

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

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

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

**ATTACHMENT H – FINAL REPORT – UTILIZATION OF DBE FIRST-TIER SUBCONSULTANTS
(EXHIBIT 17-F)**

EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES for On-call Contracts

1. Local Agency Contract Number		2. Local Agency			3. Contract Completion Date	
4. Consultant		5. Business Address		6. Original Contract Amount	7. Final Contract Amount	
8. Task Order Number	9. Federal Project Number	10. Task Order Description	11. Contract Payments		12. Date Work Completed	13. Date of Final Payment
			Non-DBE	DBE		
14. ORIGINAL DBE COMMITMENT AMOUNT \$ _____			15. TOTAL for Task Orders \$ 0.00		0.00	0.00

List actual amount paid to all DBEs and non -DBEs for all task orders. If actual DBE utilization percentage (or item of work) was less than that approved at the time of award, provide comments in Explanation Box.

16. Explanation Box:			
I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
17. Consultant Representative's Signature	18. Consultant Representative's Name	19. Phone	20. Date
I CERTIFY THAT THE CONTRACTING RECORDS OF THE DBE(S) HAS BEEN MONITORED			
21. Local Agency Representative's Signature	22. Local Agency Representative's Name	23. Phone	24. Date

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

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

INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) FOR ON-CALL CONTRACTS AND FIRST-TIER SUBCONSULTANTS

1. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
2. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
3. **Contract Completion Date** - Enter the date the contract was completed.
4. **Consultant** - Enter the consultant's firm name.
5. **Business Address** - Enter the consultant's business address.
6. **Original Contract Amount**. Enter the original on-call contract amount.
7. **Final Contract Amount** - Enter the total final amount for the contract.
8. **Task Order Number** - Enter task order or work order number.
9. **FPN** - Enter Federal Project Number that corresponds to task order.
10. **Task Order Description** - Enter the description of the task order.
11. **Contract Payments** - Enter all non-DBE and DBE actual total payment amounts.
12. **Date Work Completed** - Enter the date the subconsultant's item work was completed.
13. **Date of Final Payment** - Enter the date when the prime consultant made the final payment to the subconsultant for the portion of work listed as being completed.
14. **Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibit 10-02 for the contract.
15. **Total** - Verify autosum of the "Contract Payments" Non-DBE and DBE columns.
16. **Explanation Box:** If original DBE commitment does not match or exceed actual utilization, please explain.
17. **Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
18. **Phone** - Enter the area code and telephone number of the person signing the form.
19. **Date** - Enter the date the form is signed by the consultant's preparer.
20. **Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records of the DBE(s) has been monitored.
21. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
22. **Phone** - Enter the area code and telephone number of the person signing the form.
23. **Date** - Enter the date the form is signed by the Local Agency Representative.
24. **Consultant Representative's Signature** - The person completing the form on behalf of the consultant's firm must sign their name.

**ATTACHMENT I – CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL
MANAGEMENT SYSTEM (EXHIBIT 10-K FOR PRIME AND SUBCONSULTANTS)**

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

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

Consultant's Full Legal Name: Points West Surveying Company

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

Indirect Cost Rate:

Combined Rate 97.71 % OR

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

Facilities Capital Cost of Money _____ % (if applicable)

Fiscal period * 1/1/2020-12/31/2020

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

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

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

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

Financial Management System:

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

Our financial management system has the following attributes:

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

Consultant Annual Certification of Indirect Costs and Financial Management System

accounts;

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

Cost Reimbursements on Contracts:

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

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

All A&E Contract Information:

- Total participation amount \$ 980000 on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is 1.
- Years of consultant's experience with 48 CFR Part 31 is 4.
- Audit history of the consultant's current and prior years (if applicable)

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

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

Name**: Michael D. PulleyTitle**: Principal, Vice-PresidentSignature: Date of Certification (mm/dd/yyyy): 02/15/2022Email**: pulley@pointswestsurveyincPhone Number**: 707-840-9510

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

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

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

ATTACHMENT J – DISCLOSURE OF LOBBYING ACTIVITIES (EXHIBIT 10-Q)

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

ATTACHMENT K – LIABILITY INSURANCE