



**REQUEST FOR QUALIFICATIONS:
(RFQ No. DPW2019-002)**

For the Provision of On-Call Professional Geotechnical Investigation and Engineering Services

Date Released: October 22, 2019

Statements of Qualifications Due: November 20, 2019 (Received by 4 p.m.)

**Humboldt County Public Works
1106 Second Street
Eureka, California 95501**

REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
AND ENGINEERING SERVICES

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**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
AND ENGINEERING SERVICES**

1.0 DEFINITIONS:

1.1 Terms:

- A. **Addenda.** As used herein, the term “Addenda” refers to an amendment or modification to this Request for Qualifications.
- B. **Caltrans.** As used herein, the term “Caltrans” refers to the California Department of Transportation.
- C. **Caltrans Audits and Investigations.** As used herein, the term “Caltrans Audits and Investigations” refers to the California Department of Transportation’s Division of Audits and Investigations.
- D. **Consultant.** As used herein, the term “Consultant” refers to any individual, firm or company submitting a Statement of Qualifications in response to this Request for Qualifications.
- E. **Consultant Services Agreement.** As used herein the term “Consultant Services Agreement” refers to the non-specific, master agreement between the County and the Successful Consultant regarding the provision of certain on-call professional geotechnical investigation and engineering services.
- F. **County.** As used herein, the term “County” refers to the County of Humboldt, a political subdivision of the state of California, acting through its Public Works Department – Engineering Division.
- G. **Statement of Qualifications.** As used herein, the term “Statement of Qualifications” refers to the document submitted by a Consultant in response to this Request for Qualifications.
- H. **Successful Consultant.** As used herein, the term “Successful Consultant” refers to the individual, firm or company that the County chooses to enter into final Consultant Services Agreement with after the review, evaluation, selection, negotiation and approval processes set forth in this Request for Qualifications have been completed.
- I. **Services.** As used herein, the term “Services” refers to specified on-call professional geotechnical investigation and engineering services that are required to assist the County with specific roadway construction projects.
- J. **Task Order.** As used herein, the term “Task Order” refers to mutually agreed upon terms and conditions that define the scope, schedule and cost of the geotechnical investigation and engineering services required for each specific roadway construction project.

1.2 Abbreviations:

- A. **DBE.** As used herein, the abbreviation “DBE” refers to a Disadvantaged Business Enterprise as that term is defined in the Local Assistance Procedures Manual issued by the California Department of Transportation.

- B. **C.C.R.** As used herein, the abbreviation “C.C.R.” refers to the California Code of Regulations.
- C. **C.F.R.** As used herein, the abbreviation “C.F.R.” refers to the United States Code of Federal Regulations.
- D. **CUF.** As used herein, the abbreviation “CUF” refers to a Commercially Useful Function as that term is defined in the Local Assistance Procedures Manual issued by the California Department of Transportation.
- E. **DBE.** As used herein, the abbreviation “DBE” refers to a Disadvantaged Business Enterprise as that term is defined in Part 26 of Title 49 of the United States Code of Federal Regulations (“C.F.R.”).
- F. **LAPM.** As used herein, the abbreviation “LAPM” refers to the Local Assistance Procedures Manual issued by the California Department of Transportation.
- G. **PST.** As used herein, the abbreviation “PST” refers to Pacific Standard Time.
- H. **RFQ.** As used herein, the abbreviation “RFQ” refers to this Request for Qualifications seeking consulting firms to provide on-call professional geotechnical investigation and engineering services for state and federal funded roadway construction projects.
- I. **SOQ.** As used herein, the abbreviation “SOQ” refers to a Statement of Qualifications submitted by a Consultant in response to this Request for Qualifications.

2.0 **INTRODUCTION:**

2.1 **Statement of Purpose:**

The County of Humboldt (“County”), by and through its Public Works Department – Engineering Division, is issuing this request for Qualifications (“RFQ”) to retain experienced and qualified consulting firms and individuals to provide on-call professional geotechnical investigation and engineering services (“Services”) for various state and federal funded roadway construction projects. Such services shall include, without limitation, soil and rock boring, soil sampling, field and laboratory testing and other miscellaneous geotechnical investigation and engineering services.

The Successful Consultant must have the ability to provide trained and experienced staff, and subconsultants, if necessary, to perform professional geotechnical investigation and engineering services equivalent to those set forth in this RFQ. Responses to this RFQ will be in the form of a Statement of Qualifications (“SOQ”).

2.2 **Process Overview:**

Every year, the County undertakes several state and federally funded roadway construction projects. Due to limited staffing, certain services needed to complete such roadway construction projects are contracted out to private consulting firms. To comply with state and federal laws and regulations and minimize response time, a Consultant Services Agreement will be negotiated proactively to ensure that a qualified consulting firm will be available to provide Services equivalent to those set forth in this RFQ as such needs arise.

At the conclusion of the review, evaluation, selection, contract negotiation and approval processes set forth in this RFQ, a Consultant Services Agreement pertaining to the provision of Services equivalent to those set forth in this RFQ will be awarded to the Successful Consultant. The final Consultant Services Agreement will have a term of two (2) years unless such term is extended through written amendment. However, under no circumstances shall the maximum term of the Consultant Services Agreement exceed five (5) years.

The Successful Consultant will be asked to provide Services equivalent to those set forth in this RFQ for specific roadway construction projects pursuant to Task Orders issued under the final Consultant Services Agreement. Prior to issuing Task Orders, the County will discuss the scope of services required for the specific roadway project with the Successful Consultant. The Successful Consultant will be responsible for preparing a detailed scope of services, project schedule and project budget for each Task Order issued under the final Consultant Services Agreement. Once a Task Order is issued, the Successful Consultant shall perform the required Services within the parameters set forth therein.

The maximum total amount payable by the County pursuant to the terms and conditions of the Consultant Services Agreement is currently estimated at Three Million Dollars (\$3,000,000.00). The maximum amount payable by the County pursuant to the terms and conditions of each individual Task Order is currently estimated at One Hundred Fifty Thousand Dollars (\$150,000.00). Compensation paid for Services provided by the Successful Consultant pursuant to the terms and conditions of each individual Task Order will be based on the wage rates established in the final Consultant Services Agreement. The timing of individual Task Orders will largely depend on the requirements and the availability of state and/or federal funding.

This RFQ is not for specific projects, but for specific services. The County does not guarantee that a specific number of Task Orders, if any, will be issued to the Successful Consultant.

3.0 PRELIMINARY SCOPE OF SERVICES:

3.1 Outline of Anticipated Services:

The outline of anticipated services presented herein is for the primary purpose of allowing the County to compare SOQs submitted in response to this RFQ. The precise scope of services that will be incorporated into Task Orders for specific roadway construction projects shall be the subject of negotiations between the County and the Successful Consultant.

- A. Geotechnical Investigation and Engineering Services.** The types of professional geotechnical investigation and engineering services that the Successful Consultant may be required to provide pursuant to the terms and conditions of project specific Task Orders include, without limitation, all of the following:
1. Conducting soil and rock boring, soil sampling, and other geotechnical investigation services, as necessary.
 2. Preparing field and laboratory reports based on information obtained from the provision of geotechnical investigation services required by project specific Task Orders in accordance with current applicable American Society for Testing and Materials, American Association of State Highway/Transportation Officials, California Building Code, and California Department of Transportation (“Caltrans”) standards.

- B. Project Management Services.** The types of project management services that Successful Consultant may be required to provide pursuant to the terms and conditions of a project specific Task Order, include, without limitation, responding to potential contractors regarding questions that arise during the construction bid process and preparing addendums to bid-related documents, if necessary.

3.2 Project Development:

The County anticipates that the Successful Consultant will maintain timely and regular communication with the County throughout the term of the final Consultant Services Agreement in order to plan and organize information, including, but not limited to, participating in planning sessions and regular meetings.

4.0 REQUIREMENTS STATEMENT:

4.1 Eligibility Requirements:

- A. Required Qualifications.** In order to be considered for award of a Consultant Services Agreement pursuant to this RFQ process, Consultants must possess, at a minimum, all of the following qualifications:
1. At least six (6) years of experience in providing Services equivalent to those set forth in this RFQ.
 2. Familiarity with local, state and federal laws, regulations, standards and best practices applicable to the types of Services set forth in this RFQ.
 3. Familiarity with the local coordinate, global positioning and geographic information systems.
 4. Familiarity with the types of federal funding available to local agencies for roadway reconstruction and repair, including, without limitation, the federal project and phase approval processes.
 5. Knowledge of the requirements applicable to the provision of the types of Services set forth in this RFQ for state and federally funded roadway construction projects, including, without limitation, Caltrans' Local Assistance Procedures.
 6. Knowledge of current geotechnical investigation and engineering practices and techniques.
 7. Knowledge of the standard methods, techniques and practices used in the design and construction of a variety of public works projects.
 8. Knowledge of the Caltrans design procedures and standard plans and specifications.
 9. Ability to work long hours as necessitated by site work.
 10. Good verbal and written communication skills.

B. Required Personnel. In order to be considered for award of a Consultant Services Agreement pursuant to this RFQ process, Consultants must have personnel that are capable, competent and experienced in performing the types of Services set forth herein with minimal instruction. The types of personnel that Consultants must have available include, without limitation, all of the following:

1. Project Managers that shall be responsible for coordinating the provision of professional geotechnical investigation and engineering services pursuant to the terms and conditions of project specific Task Orders. Project Managers shall be registered geotechnical engineers, civil engineers or engineering geologists, licensed in the State of California, and have public geotechnical investigation and engineering experience.
2. Professional Engineers that shall be responsible for performing geotechnical investigation, engineering and design services pursuant to the terms and conditions of project specific Task Orders. Professional Engineers shall be registered geotechnical engineers, civil engineers or engineering geologists, licensed in the State of California, and have public geotechnical investigation and engineering experience.
3. Materials Testing Teams that shall be responsible for performing materials testing services pursuant to the terms and conditions of a project specific Task Orders. All members of the Materials Testing Team shall be certified by the Caltrans Materials Testing Laboratory.

4.2 Licensure, Certification and Accreditation Requirements:

In order to be considered for an award of a Consultant Services Agreement pursuant to this RFQ process, Consultants must be in compliance with any and all applicable local, state and federal licensure, certification and accreditation requirements and standards.

5.0 SCHEDULE EVENTS:

The following schedule of events represents the County’s best estimate of the schedule that will be followed with regard to this RFQ process. Unless otherwise specified, the time of day for the following events shall be between 8:00 a.m. and 5:00 p.m. Pacific Standard Time (“PST”). The County hereby reserves the right, at its sole discretion, to modify this tentative schedule as it deems necessary, including, without limitation, extending the deadline for submission of SOQs.

| EVENT | DATE |
|--|----------------------------------|
| RFQ Issued by the County: | October 22, 2019 |
| Deadline for Submission of Questions: | November 8, 2019 |
| Deadline for Responses to Questions: | November 13, 2019 |
| Deadline for SOQs to be Received: | November 20, 2019, 4:00 p.m. PST |
| Consultant Interviews (if necessary): | December 4-6, 2019 |
| Completion of Review and Evaluation Process: | December 16, 2019 |
| Finalization of Consultant Services Agreement: | February 18, 2020 |
| Recommendation of Award to Board of Supervisors: | February 25, 2020 |
| Start Date of Consultant Services Agreement: | February 26, 2020 |

6.0 GENERAL INFORMATION REGARDING STATEMENTS OF QUALIFICATIONS:

6.1 Submission of Statements of Qualifications:

Consultants shall prepare and submit one (1) original SOQ and one (1) electronic copy thereof, in PDF format on a CD, DVD or thumb Drive, by **4:00 p.m. PST, on November 20, 2019**. SOQs shall be signed by an authorized agent of the Consultant, and must be placed in a sealed envelope clearly marked "RFQ No. DPW2019-002" along with the name and address of the Consultant and the closing date and time for submission of SOQs. SOQs that are unsigned or signed by an individual not authorized to bind the prospective consultant will be considered nonresponsive and rejected. SOQs shall be personally delivered or mailed to:

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

SOQs submitted to any other County office will be rejected and returned to the Consultant unopened. Time is of the essence, and any SOQs received after the above-referenced date and time for submittal, whether by mail or otherwise, will be rejected and returned to the Consultant unopened. It is the sole responsibility of the Consultant to ensure that its SOQ is received before the submittal deadline, and postmarks will not be accepted in lieu of this requirement. However, nothing in this RFQ precludes the County from extending the deadline for submission of SOQs or from requesting additional information at any time during the evaluation process.

6.2 Withdrawal of Submitted Statements of Qualifications:

A Consultant may withdraw its SOQ at any time prior to the above-referenced submittal deadline by submitting a written notification of withdrawal signed by the consultant or an authorized representative thereof. Consultants must retrieve the entire sealed SOQ package in person. SOQs will become the County's property after the submission deadline has passed.

6.3 Modification of Submitted Statements of Qualifications:

Any Consultant who wishes to make modifications to a submitted SOQ must withdraw its initial SOQ as required by this RFQ. It is the responsibility of the Consultant to ensure that a modified SOQ is resubmitted before the designated deadline for submission of SOQs in accordance with the terms of this RFQ. SOQs may not be changed or modified after the submission deadline.

6.4 Consultant Investigations:

Before submitting a SOQ, each Consultant shall make all investigations and examinations necessary to ascertain its ability to perform Services equivalent to those set forth in this RFQ in accordance with the requirements and standards described herein. In addition, each Consultant shall verify any representations made by the County that the Consultant will rely upon. Failure to make such investigations and examinations will not relieve the Consultant from its obligation to comply with all provisions and requirements set forth in this RFQ. In addition, a Consultant's lack of due diligence will not be accepted as a basis for any claim for monetary consideration on the part of the Consultant.

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6.5 Conflict of Interest:

By submitting a SOQ in response to this RFQ, Consultant warrants and covenants that no official or employee of the County, nor any business entity in which an official or employee of the County has an interest, has been employed or retained to assist in the preparation or submission of such SOQ.

6.6 Expenses Incurred in Preparing Statements of Qualifications:

The County accepts no responsibility for, and shall not pay any costs resulting from, or associated with, a Consultant's participation in this RFQ process, including, without limitation, the preparation and presentation of a SOQ.

6.7 Right to Reject Statements of Qualifications:

The County reserves the unqualified right to reject any and all SOQs or to waive, at its sole discretion, any irregularity, which the County deems reasonably correctable or otherwise not warranting rejection of a SOQ.

6.8 Public Records and Trade Secrets:

All SOQs and materials submitted in response to this RFQ shall become the County's property and are subject to disclosure under the Public Records Act, California Government Code Sections 6250, *et seq.* This RFQ, and all SOQs submitted in response hereto, are considered public information, except for specifically identified trade secrets, which will be handled according to any and all applicable local, state and federal laws and regulations. Any portion of a SOQ that is deemed to be a trade secret by the Consultant shall be clearly marked "PROPRIETARY INFORMATION" at the top of the page in at least one-half inch (1/2") letters. Specifically identified proprietary information will not be released, if the Consultant agrees to indemnify and defend the County in any action brought to disclose such information. By submitting a SOQ in response to this RFQ, the Consultant agrees that the County's failure to contact the Consultant prior to the release of any proprietary information contained therein will not be a basis for liability by the County or any employee thereof.

7.0 REQUIRED FORMAT OF STATEMENTS OF QUALIFICATIONS:

7.1 General Instructions and Information:

A. **Content Requirements.** In order for SOQs to be considered for award of a Consultant Services Agreement pursuant to this RFQ process, all of the following conditions must be satisfied:

1. SOQs must be submitted in accordance with the standards and specifications set forth in this RFQ and contain all required attachments, including, without limitation, a signed and completed Signature Affidavit.
2. SOQs must be complete and specific unto themselves. For example, "See Enclosed Brochure" will not be considered an acceptable response.
3. SOQs must contain information which enables the County to evaluate the Consultant's ability to provide the types of Services set forth in this RFQ.

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4. All information, statements, letters and other documentation and attachments required by this RFQ must be included with the SOQ.
5. Receipt of all Addenda to this RFQ, if any, must be acknowledged on the bottom of the Signature Affidavit sheet attached to the SOQ.

B. Presentation Requirements. In order for SOQs to be considered for award of a Consultant Services Agreement pursuant to this RFQ process, all of the following conditions must be satisfied:

1. SOQs must be bound or contained in loose leaf binders. However, costly bindings, color plates, glossy brochures, etc. are not necessary or recommended.
2. SOQs must be uniformly typed in twelve (12) point font on standard eight and one-half (8.5) by eleven (11) inch white paper, single or double sided, with:
 - a. Each section and subsection clearly titled;
 - b. Each page consecutively numbered, including all attachments;
 - c. Each page having one (1) inch margins; and
 - d. Each page being clean and suitable for copying.
3. SOQs must not be any more than seventy-five (75) pages in length. SOQs exceeding such maximum page length may be rejected by the County.

C. Formatting Requirements. In order to be considered for award of a Consultant Services Agreement pursuant to this RFQ process, SOQs shall follow the format outlined herein. Failure to follow this format may result in the rejection of the SOQ. Each SOQ shall consist of the following sections:

- 1.0 Introductory Letter
- 2.0 Signature Affidavit
- 3.0 Table of Contents
- 4.0 Business Profile
- 5.0 References
- 6.0 Supplemental Documentation
- 7.0 Evidence of Insurability and Business Licenses
- 8.0 Exceptions, Objections and Requested Changes
- 9.0 Required Attachments

7.2 Introductory Letter:

The introductory letter shall, in one (1) page or less, summarize Consultant's qualifications and experience regarding the provision of Services equivalent to those set forth in this RFQ. The introductory letter must also provide the Consultant's current contact information, list any subconsultants that may be used to provide Services equivalent to those set forth in this RFQ and identify the offices where such Services will be performed. The introductory letter shall be signed in blue ink by an authorized representative of the Consultant.

7.3 **Signature Affidavit:**

Each SOQ must contain a signed and completed Signature Affidavit which is attached to this RFQ as Attachment A. The Signature Affidavit must be signed by an authorized representative of the Consultant. Signature authorization on the Signature Affidavit shall constitute a warranty, the falsity of which shall entitle the County to pursue any and all remedies authorized by law. Receipt of all Addenda, if any, must be acknowledged on the bottom of the Signature Affidavit.

7.4 **Table of Contents:**

SOQs shall include a comprehensive table of contents that identifies submitted material by sections 1.0 through 9.0 listed above and any subsections thereof with sequential page numbers.

7.5 **Business Profile:**

SOQs shall include a clear and concise narrative which identifies the Consultant's ability to provide the types of Services specified in this RFQ.

A. **Company Overview.** The Business Profile must include an overview of the business structure and operation of the Consultant's firm. The company overview should include, at a minimum, all of the following items:

1. The Consultant's business name, physical location, mission statement, legal business status, such as partnership, corporation, limited liability company or sole proprietorship and the Consultant's current staffing levels.
2. A detailed description of the Consultant's current and previous business activities, including, without limitation:
 - a. The history of the Consultant's firm, including the date when the firm was founded and how innovation and high quality performance is fostered thereby.
 - b. The number of years the Consultant has been operating under the present business name and any prior business names under which the Consultant has provided Services equivalent to those set forth in this RFQ.
 - c. The number of years the Consultant has been providing Services equivalent to those set forth in this RFQ.
 - d. The total number of government agencies for which the Consultant has provided Services equivalent to those set forth in this RFQ.
3. A detailed description of any litigation regarding the provision of Services equivalent to those set forth in this RFQ that has been brought by or against the Consultant, including the nature and result of such litigation, if applicable.
4. A detailed description of any fraud convictions related to public contracts, if applicable.
5. A detailed description of any current or prior debarments, suspension or other ineligibility to participate in public contracts, if applicable.

6. A detailed description of any violations of local, state and/or federal industry or regulatory requirements, if applicable.
 7. A detailed description of any controlling or financial interest the Consultant has in any other firms or organizations, or whether the Consultant's firm is owned or controlled by any other firm or organization. If the Consultant does not hold a controlling or financial interest in any other firms or organizations, that must be stated.
- B. Overview of Qualifications and Experience.** The Business Profile must include an overview of the Consultant's qualifications and experience regarding the provision of Services equivalent to those set forth in this RFQ. The overview of the Consultant's qualifications and experience should include, at a minimum, all of the following items:
1. A detailed description of the Consultant's knowledge of the requirements pertaining to the provision of Services equivalent to those set forth in this RFQ for state and federally funded projects, including, without limitation, Caltrans' Local Assistance Procedures.
 2. A detailed description of the Consultant's overall experience in providing Services equivalent to those set forth in this RFQ.
 3. The number of staff members and subconsultants currently providing Services equivalent to those set forth in this RFQ.
 4. A detailed description of the qualifications and experience of staff members and subconsultants currently providing Services equivalent to those set forth in this RFQ, including, without limitation, job titles, responsibilities, special training and licenses.
- C. Project Understanding and Quality Control.** The business profile must include an overview of the Consultant's policies and procedures regarding quality control. The quality control overview should include, at a minimum, all of the following items:
1. A detailed description of the Consultant's understanding of the requirements, challenges and potential hurdles applicable to the provision of Services equivalent to those set forth in this RFQ.
 2. Identification of the Consultant's management team and other key personnel, including, without limitation, an organizational chart and resumès for each staff member that may provide Services equivalent to those set forth in this RFQ pursuant to the terms and conditions of project specific Task Orders.
 3. A detailed description of the management strategies that will be utilized by the Consultant in order to achieve the goals and objectives of specific roadway construction projects in an efficient manner.
 4. A detailed description of the Consultant's abilities to implement innovative management techniques and identify opportunities for the use of such techniques.
 5. A detailed description of the Consultant's management expertise and approach, and how such expertise and approach will assure staff continuity and timely performance of Services equivalent to those set forth in this RFQ pursuant to the terms and conditions of project specific Task Orders.

6. A detailed description of the expected communication channels between the Consultant's staff and the County to ensure that Services equivalent to those set forth in this RFQ will be performed to the County's satisfaction, including, without limitation, how potential problems will be solved.

7.6 **References:**

- A. **Reference Data Sheet.** SOQs shall include a Reference Data Sheet, which is attached hereto as Attachment B, containing present and past performance information from a minimum of three (3) former clients, preferably government agencies, to whom the Consultant has provided Services equivalent to those set forth in this RFQ within the past five (5) years.
- B. **Required Information.** The performance information provided with each reference must be clearly correlated to the types of Services and responsibilities set forth in this RFQ. Each reference must include, at a minimum, all of the following information:
 1. The name, physical address, email address and telephone number for the current contact person of each referenced client.
 2. The dates of project commencement and completion for each referenced client.
 3. A detailed description of the services performed for each referenced client, including, without limitation, the time period in which such services were delivered.
 4. A detailed description of how the services rendered by the Consultant led to accomplishment of each referenced client's project objectives.
 5. A detailed description of the amount and outcome of each referenced client's project.
 6. A verification that all information provided in the Reference Data Sheet is true and correct to the best of the Consultant's knowledge.

7.7 **Supplemental Documentation:**

SOQs shall include a detailed description of any and all reports, drawings, studies, invoices and any other pertinent documents, including, without limitation, Exhibit 10-01 – Consultant Proposal DBE Commitment of Caltrans' Local Assistance Procedures Manual ("LAPM"), that may be prepared and/or used to provide Services equivalent to those set forth in this RFQ pursuant to the terms and conditions of project specific Task Orders. Samples of each document described in the documentation section of the SOQ shall be attached thereto.

7.8 **Evidence of Insurability and Business Licenses:**

All Consultants shall submit evidence of eligibility for all insurances required by the sample Consultant Services Agreement that is attached hereto as Attachment I. Upon the award of a final Consultant Services Agreement, the Successful Consultant will have ten (10) calendar days to produce certificates of the required insurance, including a certified endorsement naming the County as an additional insured. However, Consultants should not purchase additional insurance until a final Consultant Services Agreement has been awarded by the County. In addition, all Consultants shall certify the possession of any and all licenses and/or certifications required for the provision of Services equivalent to those set forth in this RFQ.

7.9 Exceptions, Objections and Requested Changes:

Consultants should carefully review the terms and conditions of this RFQ. Any exceptions, objections or requested changes to this RFQ, and/or the sample Consultant Services Agreement attached hereto, shall be clearly stated and explained in the SOQ with supporting rationale. Descriptions of any exceptions, objections or requested changes should include the page and paragraph number of the referenced portion of this RFQ and/or the sample Consultant Services Agreement attached hereto. Protests based on any exception, objection or requested change to this RFQ, and/or sample Consultant Services Agreement attached hereto, shall be considered waived and invalid by the County if the exception, objection or requested change is not clearly identified and explained in the SOQ.

7.10 Required Attachments:

SOQs that do not contain each of the following attachments will be considered nonresponsive and rejected by the County:

- **Attachment 1 – Signature Affidavit** (See Section 7.3)
- **Attachment 2 – Staff Resumès for Key Personnel** (See Section 7.5(B)(5))
- **Attachment 3 – Reference Data Sheet** (See Section 7.6)
- **Attachment 4 – Supplemental Documentation** (See Section 7.7)
- **Attachment 5 – LAPM Exhibit 10-01 - Consultant Proposal DBE Commitment** (See Section 7.7)

8.0 MODIFICATION AND CORRECTION:

8.1 Requests for Clarification or Correction:

Consultants shall be responsible for meeting all of the requirements and conditions set forth in this RFQ. If a Consultant discovers any ambiguity, conflict, discrepancy, omission or other error in this RFQ, a written request for clarification or correction should be submitted to the County at the following address:

COUNTY: Humboldt County Department of Public Works – Engineering Division
Attention: Tony Seghetti, Deputy Director
1106 Second Street
Eureka, California 95501
Email: tseggetti@co.humboldt.ca.us

Requests for clarification or correction and any other questions pertaining to this RFQ must be received by the County before **5:00 p.m. PST on November 8, 2019**. All responses to such requests for clarification or correction and written questions shall be issued by the County on or before **November 13, 2019**.

8.2 Addenda:

Any modifications to this RFQ shall be made by written Addenda. Addenda to this RFQ, if necessary, will be distributed via mail, email or facsimile to all Consultants by the County and will be posted on the County's website. Addenda issued by the County interpreting or modifying any portion of this RFQ shall be incorporated into the Consultant's SOQ. The Addenda Cover Sheet

shall be signed and dated by the Consultant and submitted to the County with the SOQ. Any oral communications concerning this RFQ by County personnel are not binding on the County, and shall in no way modify this RFQ or the obligations of the County or any Consultants.

9.0 EVALUATION CRITERIA AND REVIEW PROCESS:

The County will review and evaluate all SOQs for responsiveness to this RFQ, in order to determine whether the Consultant possesses the qualifications necessary for the satisfactory performance of Services equivalent to those set forth in this RFQ. In evaluating the SOQs, the County will employ a one hundred (100) point competitive evaluation system with consideration given to each of the following categories:

- **Relevant and Comparable Experience – 30 points:** The Consultant's experience in providing Services equivalent to those set forth in this RFQ for government agencies of comparable size.
- **Staffing Levels – 30 points:** The Consultant's ability to provide key personnel familiar with providing Services equivalent to those set forth in this RFQ.
- **Location – 10 points:** The Consultant's ability to provide capable, competent and experienced staff from offices located in or near Humboldt County.
- **Ability to Provide High-Quality Services – 30 points:** The overall impression of the Consultant's ability to provide Services equivalent to those set forth in this RFQ.

All SOQs will be evaluated by an RFQ Evaluation Committee made up of County staff members and other parties that have expertise or experience in the types of Services set forth in this RFQ. The RFQ Evaluation Committee may directly request clarification of SOQs from, and/or conduct interviews with, one (1) or more Consultants. The purpose of any such requests for clarification or interviews shall be to ensure the RFQ Evaluation Committee's full understanding of the SOQs. If clarifications are made as a result of such discussions, the Consultant shall put such clarifications in writing. Any delay caused by a Consultant's failure to respond to direction from the County may lead to rejection of the SOQ.

The evaluation and selection process is designed to award the procurement to the Consultant with the best combination of attributes based upon the above-referenced evaluation criteria. Accordingly, SOQs will be evaluated against the evaluation criteria set forth in this RFQ and not against other SOQs. The award of a final Consultant Services Agreement, if made by the County, will be based upon a total review and evaluation of each SOQ.

All contacts made with the County during the evaluation and selection process shall be through Humboldt County Public Works Deputy Director, Tony Seghetti (see Section 8.1 for contact information). Attempts by a Consultant to contact any other representative of the County during the evaluation and selection process may lead to rejection of the SOQ. Conflict resolution shall be handled by County staff upon receiving a written statement from the Consultant about this RFQ process.

10.0 CONTRACT DEVELOPMENT:

10.1 Contract Negotiation Process:

Once the SOQ evaluation process has been completed, the County will notify the Consultants of the final rankings, and negotiate the terms and conditions of the final Consultant Services Agreement with the highest-ranking Consultant. The highest-ranking Consultant shall participate in good faith

negotiations in accordance with direction from the County. Any delay caused by a Consultant's failure to participate in good faith negotiations may lead to rejection of the SOQ. The contract negotiation process shall include, without limitation, all of the following:

- A. **Cost Proposal.** The highest-ranking Consultant will be asked to submit a sealed Cost Proposal for the types of Services set forth in this RFQ, within one (1) week after receiving notification of the final rankings. Cost Proposals shall be in a format that is substantially similar to LAPM Exhibit 10-H2 – Specific Rate of Compensation, and include an itemized list of the hourly rates that will be charged for each type of service set forth in this RFQ. All subconsultants providing Services equivalent to those set forth in this RFQ pursuant to the terms and conditions of project specific Task Orders will be required to submit cost proposals in the same format as the Successful Consultant. It should be noted that compensation paid pursuant to the terms and conditions of project specific Task Orders will be based on the rate schedules incorporated into the final Consultant Services Agreement.
- B. **Scoping Meeting.** The highest-ranking Consultant may be asked to attend a scoping meeting, within two (2) weeks after receiving notification of the final rankings, to ensure that the Consultant have a full understanding of the terms and conditions of the Consultant Services Agreement and the types of Services that will be required pursuant to project specific Task Orders issued thereunder. The scoping meeting will also provide the highest-ranking Consultant's Project Manager with an opportunity to ask technical questions regarding the types of Services that they will be expected to provide.

10.2 Award of Consultant Services Agreement:

If the County determines, after the completion of the contract negotiation process, to award a contract for the provision of Services equivalent to those set forth in this RFQ, a Consultant Services Agreement shall be sent to the Successful Consultant for signature. Once signed copies have been returned to the County, the Consultant Services Agreement will be submitted to the Humboldt County Board of Supervisors for approval. The County hereby reserves the right to award a Consultant Services Agreement to the Consultant which, in the sole judgment of the County, will best serve the interests thereof. No SOQ shall be binding upon the County until a final Consultant Services Agreement has been signed by duly authorized representatives of both the Successful Consultant and the County.

10.3 Contractual Requirements:

- A. **Contract Audit and Review Process Requirements.** The final Consultant Services Agreement resulting from this RFQ process, and any subcontracts associated therewith, are subject to audit or review by the California Department of Transportation's Division of Audits and Investigations ("Caltrans Audits and Investigations") and any other duly authorized local, state and/or federal agencies. The Successful Consultant, and any subconsultants, shall be responsible for complying with any and all local, state and federal laws, regulations, policies, procedures, standards and contract requirements related to audits and reviews, including, without limitation, any and all applicable requirements set forth in Chapter 10 of the LAPM.
- B. **Cost Certification Requirements.** The Successful Consultant must certify the accuracy of the costs associated with the provision of the Services equivalent to those set forth in this RFQ by submitting LAPM Exhibit 10-K – Consultant Certification of Contract Costs and Financial Management System or other applicable forms. The County will then submit a complete packet to Caltrans Audits and Investigations in accordance with the LAPM. All documentation

supporting the cost certification, including, without limitation, LAPM Exhibit 10-A – A&E Consultant Financial Review Request Letter and Checklist, must be retained by the County and the Successful Consultant for the applicable retention period in the event an audit or review is performed by Caltrans Audits and Investigations or any other duly authorized local, state or federal agency.

- C. Prevailing Wage Requirements.** The Successful Consultant, and any subconsultants with subcontracts exceeding Twenty-Five Thousand Dollars (\$25,000.00), shall be responsible for complying with the applicable State of California Prevailing Wage Rate requirements set forth in California Labor Code, Sections 1770, *et seq.*, as well as all other applicable local, state and federal wage requirements. California State Prevailing Wage information is available at the following California Department of Industrial Relations websites:
- http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html
 - <http://www.dir.ca.gov/oprl/DPreWageDetermination.html>
- D. Financial Management and Accounting System Requirements.** The Successful Consultant must have an adequate financial management and accounting system as required by 49 of the C.F.R. Part 18 and 48 C.F.R. Part 31.
- E. Non-Discrimination Requirements.** The Successful Consultant, and all subconsultants, shall be responsible complying with all of the following non-discrimination requirements:
1. The Successful Consultant, and all subconsultants, shall certify under penalty of perjury under the laws of the State of California that the Successful Consultant, and all subconsultants, unless exempt, have complied with the non-discrimination program requirements of California Government Code Section 12990 and Section 8103 of Title 2 of the California Code of Regulations (“C.C.R.”).
 2. During the performance of project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process, the Successful Consultant, and all subconsultants, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over forty (40) years of age), marital status, and denial of family care leave. The Successful Consultant, and all subconsultants, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Successful Consultant, and all subconsultants, shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Sections 12990(a-f), *et seq.*) and the applicable regulations promulgated thereunder (2 C.C.R. Sections 7285, *et seq.*). The Successful Consultant, and all subconsultants, shall give written notice of their obligations under this provision to labor organizations with which they have a collective bargaining or other agreement.
 3. The Successful Consultant, and all subconsultants, shall act in accordance with the regulations relative to Title VI of the Civil Rights Act of 1964 (nondiscrimination in federally-assisted programs of the Department of Transportation – 49 C.F.R. Part 21 – Effectuation of Title VI of the Civil Rights Act of 1964). Title VI of the Civil Rights Act of 1964 provides that the recipients of federal assistance will implement and maintain a policy of non-discrimination in which no person in the State of California shall, on the

basis of race, color, national origin, religion, sex, age or disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

4. During the performance of project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process, the Successful Consultant shall act in accordance with Title VI of the Civil Rights Act of 1964. Specifically, the Successful Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Successful Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the United States Department of Transportation Regulations, including, without limitation, employment practices for employment related programs.

F. Disadvantaged Business Enterprises Participation. The final Consultant Services Agreement resulting from this RFQ process shall be subject to the requirements set forth in 49 C.F.R. Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” Accordingly, the Successful Consultant is encouraged to obtain the participation of Disadvantaged Business Enterprises (“DBE”) in the performance of project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process in order to assist Caltrans in meeting its federally mandated statewide overall DBE goal. The Successful Consultant, and all subconsultants, shall be responsible for complying with all of the following provisions regarding DBE participation:

1. The goal for DBE participation for the final Consultant Services Agreement resulting from this RFQ process is **Six Percent (6%)**. Participation by a DBE consultant or subconsultants shall be in accordance with information contained in LAPM Exhibit 10-O1 – Consultant Proposal DBE Commitment or LAPM Exhibit 10-O2 – Consultant Contract DBE Information. If a DBE subconsultant is unable to satisfactorily perform the Services required by project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process, the Successful Consultant must make a good faith effort to replace such DBE subconsultants with other DBE subconsultants, if the goal is not otherwise met.
2. DBEs and other small businesses, as defined in 49 C.F.R. Part 26, are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Successful Consultant and its subconsultants shall not discriminate on the basis of race, color, national origin or sex in the performance of project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process. The Successful Consultant shall carry out the applicable requirements of 49 C.F.R. Part 26 in the award and administration of federally assisted agreements. The Successful Consultant’s failure to carry out these requirements shall constitute a material breach of the final Consultant Services Agreement, which may result in the termination thereof or such other remedy as the County deems appropriate.
3. Any subcontracts relating to the final Consultant Services Agreement resulting from this RFQ process shall contain all of the DBE provisions set forth therein.
4. A DBE firm may be terminated only with prior written approval from the County for the reasons specified in 49 C.F.R. Section 26.53(f).

5. A DBE performs a Commercially Useful Function (“CUF”) when it is responsible for the provision of services pursuant to the terms and conditions of a federally assisted contract, and is carrying out its responsibilities by actually performing, managing and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installation (where applicable) and paying for the material itself. 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 federally assisted contract is commensurate with the work it is actually performing and other relevant factors must be evaluated.
6. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, similar transactions, particularly those in which DBEs do not participate, must be examined.
7. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its federally assisted contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
8. The Successful 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 corresponding dollar value of the work.
9. Upon completion of the Services required by a project specific Task Order issued under the final Consultant Services Agreement resulting from this RFQ process, a summary of the above-referenced records shall be prepared and submitted on the form entitled, “Final Report-Utilization of Disadvantaged Business Enterprise, First-Tier Subconsultants” CEM-2402F (LAPM Exhibit 17-F), certified correct by the Successful Consultant, or the Successful Consultant’s authorized representative, and shall be furnished to the County with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until such summary is submitted. Any amounts withheld as a result of a failure to provide a summary of DBE payments will be returned to the Successful Consultant when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises, First-Tier Subconsultants” form is submitted to the County.
10. If a DBE subconsultant is decertified during the term of the final Consultant Services Agreement resulting from this RFQ process, the decertified subconsultant shall notify the Successful Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the term of the final Consultant Services Agreement resulting from this RFQ process, the subconsultant shall notify the Successful Consultant in writing with the date of certification. The Successful Consultant shall report any changes in DBE status to the County within thirty (30) calendar days thereof.

- G. Disclosure of Confidential Information.** During the performance of project specific Task Orders issued under the final Consultant Services Agreement resulting from this RFQ process, the Successful Consultant may receive information that is confidential under local, state and/or federal law. The Successful Consultant will be required to protect all confidential information in conformance with any and all applicable local, state and federal laws and regulations.
- H. Indemnification Requirements.** To the fullest extent permitted by law, and in accordance with California Civil Code Section 2782.8, the Successful Consultant will be required to hold harmless, defend and indemnify the County and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages and liabilities of any kind or nature, including, without limitation, attorney fees and other costs of litigation, arising out of, or in connection with, the Successful Consultant's negligent performance of, or failure to comply with, any of the obligations contained in the final Consultant Services Agreement resulting from this RFQ process, or any project specific Task Orders issued thereunder, except such loss or damage which was caused by the sole negligence or willful misconduct of the County.
- I. Insurance Requirements.** The Successful Consultant will be required to satisfy the insurance requirements set forth in the sample Consultant Services Agreement attached hereto. The Successful Consultant shall furnish the County with certificates and original endorsements effecting the required insurance coverage prior to execution of the final Consultant Services Agreement resulting from this RFQ process. In addition, the County may require additional insurance requirements dependent upon the scope of the Services that will be provided by the Successful Consultant pursuant to the terms and conditions of project specific Task Orders.
- J. Assignment.** The final Consultant Services Agreement resulting from this RFQ process, and any project specific Task Orders issued thereunder, shall not be assignable by the Successful Consultant without prior approval by the County.
- K. Jurisdiction and Venue.** The final Consultant Services Agreement resulting from this RFQ process, and any project specific Task Orders issued thereunder, shall be governed in all respects by the laws of the State of California. Any disputes regarding the final Consultant Services Agreement, or any project specific Task Orders issued thereunder, 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.

11.0 CANCELLATION OF THE RFQ PROCESS:

The County hereby reserves the right to cancel this RFQ process at any time after the issuance of this RFQ, but prior to the award of a final Consultant Services Agreement, if the County determines, in its sole discretion, that cancellation is in the County's best interests for reasons, including, but not limited to, the following: the types of Services set forth in this RFQ are no longer required; the SOQs did not independently arrive in open competition, were collusive or were not submitted in good faith; or the County determines, after review and evaluation of the SOQs, that the County's needs can be satisfied through an alternative method.

The County reserves the right to amend or modify the preliminary scope of services set forth in this RFQ prior to the award of a final Consultant Services Agreement, as necessity may dictate, and to reject any and all SOQs received in response hereto. This RFQ does not commit the County to award a Consultant Services Agreement for the provision of Services equivalent to those set forth in this RFQ or to award project specific Task Orders to any Successful Consultant.

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
 ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
 AND ENGINEERING SERVICES**

**ATTACHMENT A – SIGNATURE AFFIDAVIT
 (Submit with Statement of Qualifications)**

| REQUEST FOR QUALIFICATIONS – NO. DPW2019-002 SIGNATURE AFFIDAVIT | |
|---|--|
| NAME OF FIRM: | |
| STREET ADDRESS: | |
| CITY, STATE, ZIP | |
| CONTACT PERSON: | |
| PHONE #: | |
| FAX #: | |
| EMAIL: | |

Government Code Sections 6250, *et seq.*, the “Public Records Act,” define a public record as any writing containing information relating to the conduct of public business. The Public Records Act provides that public records shall be disclosed upon written request, and that any citizen has a right to inspect any public record, unless the document is exempted from disclosure.

In signing this Statement of Qualifications, I certify that this firm has not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a Statement of Qualifications; that this Statement of Qualifications has been independently arrived at without collusion; that this Statement of Qualifications has not been knowingly disclosed to any other Consultant or competitor prior to the opening thereof; that the above statement is accurate under penalty of perjury.

The undersigned is an authorized representative of the above named firm and hereby agrees to all the terms, conditions, and specifications required by the County in this Request for Qualifications and declares that the attached Statement of Qualifications is in conformity therewith.

Signature

Title

Name

Date

This firm hereby acknowledges receipt / review of the following Addendum(s), if any
 Addendum # [] Addendum # [] Addendum # [] Addendum # []

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
 ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
 AND ENGINEERING SERVICES**

**ATTACHMENT B – REFERENCE DATA SHEET
 (Submit with Statement of Qualifications)**

| REQUEST FOR QUALIFICATIONS – NO. DPW2019-002 REFERENCE DATA SHEET | | |
|--|--|---------------|
| Provide a minimum of three (3) references with name, address, contact person and telephone number whose scope of business or services is similar to those of Humboldt County (preferably in California). Previous business with the County does not qualify. | | |
| NAME OF AGENCY: | | |
| STREET ADDRESS: | | |
| CITY, STATE, ZIP: | | |
| CONTACT PERSON: | | EMAIL: |
| PHONE #: | | FAX #: |
| Department Name: | | |
| Approximate County (Agency) Population: | | |
| Number of Departments: | | |
| General Description of Scope of Work: | | |
| | | |
| NAME OF AGENCY: | | |
| STREET ADDRESS: | | |
| CITY, STATE, ZIP: | | |
| CONTACT PERSON: | | EMAIL: |
| PHONE #: | | FAX #: |
| Department Name: | | |
| Approximate County (Agency) Population: | | |

| | | |
|--|--|---------------|
| Number of Departments: | | |
| General Description of Scope of Work: | | |
| | | |
| NAME OF AGENCY: | | |
| STREET ADDRESS: | | |
| CITY, STATE, ZIP: | | |
| CONTACT PERSON: | | EMAIL: |
| PHONE #: | | FAX #: |
| Department Name: | | |
| Approximate County (Agency) Population: | | |
| Number of Departments: | | |
| General Description of Scope of Work: | | |

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
AND ENGINEERING SERVICES**

**ATTACHMENT C – LAPM EXHIBIT 10-I – NOTICE TO PROPOSERS DBE INFORMATION
(Do Not Submit with Statement of Qualifications)**

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of **Six Percent (6%)** or the Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

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

5. RESOURCES

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

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

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

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

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
AND ENGINEERING SERVICES**

**ATTACHMENT D – LAPM EXHIBIT 10-01 – CONSULTANT PROPOSAL DBE COMMITMENT
(SUBMIT WITH STATEMENT OF QUALIFICATIONS)**

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

| 7. Description of Work, Service, or Materials Supplied | 8. DBE Certification Number | 9. DBE Contact Information | 10. DBE % |
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| | | | |
| | | | |
| Local Agency to Complete this Section | | 11. TOTAL CLAIMED DBE PARTICIPATION | % |
| 17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. | IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. _____ 12. Preparer's Signature 13. Date _____ 14. Preparer's Name 15. Phone _____ 16. Preparer's Title | | |
| _____ 20. Local Agency Representative's Signature | _____ 21. Date | | |
| _____ 22. Local Agency Representative's Name | _____ 23. Phone | | |
| _____ 24. Local Agency Representative's Title | | | |

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION:

1. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project 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.

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
AND ENGINEERING SERVICES**

**ATTACHMENT E – LAPM EXHIBIT 10-O2 – CONSULTANT CONTRACT DBE COMMITMENT
(DO NOT SUBMIT WITH STATEMENT OF QUALIFICATIONS)**

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

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

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

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

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT

CONSULTANT SECTION:

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

LOCAL AGENCY SECTION:

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

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION
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**ATTACHMENT F – LAPM EXHIBIT 10-Q – DISCLOSURE OF LOBBYING ACTIVITIES
(Submit with Statement of Qualifications)**

Local Assistance Procedures Manual

EXHIBIT 10-Q
Disclosure of Lobbying Activities

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 style="text-align: right;">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 style="text-align: center;">Congressional District, if known</p> | <p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">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 style="text-align: center;">(attach Continuation Sheet(s) if necessary)</p> | <p>11. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)</p> | |
| <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 style="text-align: center;">(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: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p> |
| Federal Use Only: | | <p>Authorized for Local Reproduction Standard Form - LLL</p> |

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

Local Assistance Procedures Manual

**EXHIBIT 10-Q
Disclosure of Lobbying Activities**

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

**REQUEST FOR QUALIFICATIONS – NO. DPW2019-002
ON-CALL PROFESSIONAL GEOTECHNICAL INVESTIGATION AND ENGINEERING
SERVICES**

**ATTACHMENT G – SAMPLE CONSULTANT SERVICES AGREEMENT
AGREEMENT FOR CONSULTANT SERVICES
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
[NAME OF CONSULTANT]
FOR
[NAME OF SERVICES BEING PROVIDED BY CONSULTANT]
[FOR NAME OF PROJECT]**

This Agreement for Consultant Services (“Agreement”) entered into this ____ day of _____, 2020, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and [Name of Consultant], a [Name of State] [Type of Business], 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 [name of services] that are further described in Attachment [] – Scope of Work, which is attached hereto and incorporated herein by reference; 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. The Project Manager for CONSULTANT will be [Name]. The Contract Administrator for COUNTY 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 [Date], which is attached hereto as Attachment [] – Cost Proposal & Schedule of Work and incorporated herein by reference. If there is any conflict between the approved Cost Proposal and 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 subcontractors, 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 subcontractors, 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 [] – Scope of Work and Attachment [] – 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.

ARTICLE IV – PERFORMANCE PERIOD

- A. This Agreement shall go into effect on [Date], 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 [Date], unless extended by a written amendment hereto.
- 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 issuance of Task Orders.
- 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.
- 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 commence performance of 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 [AMOUNT] (\$___,___,___). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Task Orders.

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, in accordance with Article XXVI – Ownership of Data of this Agreement.
- 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 provided for in subsection A of this article.
- 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, except as provided in subsection C of this article. 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, in accordance with Article XXVI – Ownership of Data of this Agreement.

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 subcontractors 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. 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 audit 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 Caltrans Audits and Investigation ("Caltrans A&I"). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by 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 Caltrans A&I's review of the ICR audit work papers created by CONSULTANT's independent CPA, Caltrans A&I will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, COUNTY will reimburse 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 Caltrans A&I. Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) – the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) – the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) – the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If Caltrans A&I is unable to issue a cognizant letter per subsection E(1) of this article, Caltrans A&I may require CONSULTANT to submit a revised independent CPA audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review CONSULTANT's and/or the independent CPA's revisions.
 3. If CONSULTANT fails to comply with the requirements set forth herein, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR 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: Caltrans A&I 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 Caltrans A&I 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.

ARTICLE X – SUBCONTRACTING

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between COUNTY and any of CONSULTANT's subcontractors 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 subcontractors 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 subcontractors 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 subcontractors within Fifteen (15) calendar days from receipt of each payment made to CONSULTANT by COUNTY.

- E. Any substitution of subcontractors must be approved in writing by COUNTY's Contract Administrator in advance of assigning work to a substitute subcontractor.

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 subcontractors 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 made a specific part of this Agreement by reference 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 subcontractors solely and specifically to serve COUNTY projects. Prevailing wage requirements do not

apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from DIR's website at <http://www.dir.ca.gov>.
- D. By executing this Agreement, CONSULTANT, for itself, and its subcontractors, 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 subcontractors 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 subcontractors 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 representative's 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 by CONSULTANT.
 - c. The public shall not be given access to certified payroll records by CONSULTANT. CONSULTANT is required to 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 entity that requested the records 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 subcontractors 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 subcontractors 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. Invoice payment will not be made until the invoice is approved by COUNTY's Contract Administrator.
- F. By executing this Agreement, CONSULTANT, for itself, and its subcontractors, 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 subcontractors shall comply with California Labor Code Sections 1774 and 1775. Pursuant to California Labor Code Section 1775, CONSULTANT and its subcontractors 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 subcontractors 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 subcontractors in failing to pay the correct rate of prevailing wages, or the previous record of CONSULTANT or its subcontractors in meeting their respective prevailing wage obligations, or the willful failure by CONSULTANT or its subcontractors 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 subcontractors 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 subcontractors.

4. If workers employed by CONSULTANT's subcontractors on a public works project are not paid the general prevailing per diem wages by the subcontractors, 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 subcontractors' 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 subcontractors 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 subcontractors to their employees by periodic review of the subcontractors' certified payroll records.
 - c. Upon becoming aware of the subcontractors' failure to pay the specified prevailing rate of wages to the subcontractors' employees, CONSULTANT shall diligently take corrective action to halt or rectify the failure, including, without limitation, retaining sufficient funds due the subcontractors for work performed on the public works project.
 - d. Prior to making final payment to the subcontractors for work performed on the public works project, CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subcontractors 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 subcontractors have failed to pay their employees the general prevailing rate of per diem wages.
6. If COUNTY determines that any of CONSULTANT's subcontractors 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 subcontractors 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 subcontractors 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 subcontractors, assignees and successors in interest, agrees to comply with the following requirements pertaining to the employment of apprentices:
 1. CONSULTANT, and any of its subcontractors working under a subcontract exceeding Thirty Thousand Dollars (\$30,000.00), shall comply with any and 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 subcontractors 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 subcontractors 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 subcontractors' 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 subcontractors, or any firm affiliated with CONSULTANT or its subcontractors, 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 the nondiscrimination requirements of California Government Code Section 12990 and 2 CCR Section 8103.
- B. During the performance of this Agreement, CONSULTANT and its subcontractors 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 subcontractors 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 subcontractors 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 subcontractors 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 subcontractors.

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.
- B. The goal for DBE participation for this Agreement is [] Percent (amount%). Participation by DBE consultants or subcontractors shall be in accordance with information contained in Attachment [] – Consultant Proposal DBE Commitment (Exhibit 10-O1), or in Attachment [] – Consultant Contract DBE Commitment (Exhibit 10-O2), 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 either 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 [] – DBE Information, Good Faith Efforts (Exhibit 15-H), which is attached hereto and incorporated herein by reference, 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. DBEs and other small businesses, as defined in 49 CFR Part 26, are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. COUNTY, CONSULTANT and any subcontractors hereunder shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. CONSULTANT shall carry out any and all applicable requirements of 49 CFR part 26 in the award and administration of United States Department of Transportation assisted agreements. 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 or liquidated damages; and/or disqualifying CONSULTANT or any subcontractor hereunder 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.
- F. CONSULTANT shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces, including those of CONSULTANT, pursuant to prior written authorization of COUNTY’s Contract Administrator.
- 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 corresponding dollar value of the work.
- K. Upon completion of this Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise First-Tier Subconsultants [Exhibit 17-F of the Local Assistance Procedures Manual], certified correct by CONSULTANT, or an authorized representative thereof, and shall be furnished to COUNTY's Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until such summary is submitted. Any amounts withheld as a result of a failure to provide a summary of DBE payments will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprise First-Tier Subconsultants" is submitted to COUNTY's Contract Administrator.
- L. 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 subcontractors become certified DBEs during the term of this Agreement, such subcontractors shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.
- M. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this 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. 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 provisions 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 subcontractors 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.

CONSULTANT: [Name of Consultant]
Attention: [Name of Project Manager], Project Manager
[Street Address]
[City], [State] [Zip Code]

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 professional design 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 subcontractors. 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 under this Agreement 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 subcontractors 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 the authority contained in 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.
- 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. In the performance of this Agreement, CONSULTANT may receive information that is confidential under local, state or federal laws, regulations and standards. CONSULTANT hereby agrees to protect all confidential information in accordance with any and all applicable local, state and federal laws, regulations and standards.
- B. All financial, statistical, personal, technical or other data and information relative to COUNTY's operations, which are designated confidential by COUNTY and made available to CONSULTANT in order to carry out this Agreement, shall be protected by CONSULTANT from unauthorized use and disclosure.
- 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 subcontractors, 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 hereunder 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 – RETENTION OF FUNDS

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

ARTICLE XXXII – 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: [Name of Consultant]
Attention: [Name of Project Manager], Project Manager
[Street Address]
[City], [State] [Zip Code]

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

ARTICLE XXXIII – 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 arising hereunder, or 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, or any extension thereof, 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 XXXIV – 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 XXXV – 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 XXXVI – 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 XXXII – 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 XXXVIII – 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.

[NAME OF CONSULTANT]:

By: _____

Date: _____

Name: _____

Title: _____

By: _____

Date: _____

Name: _____

Title: _____

COUNTY OF HUMBOLDT:

By: _____

Date: _____

[Name of Board Chair]

Chair, Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: _____

Date: _____

Risk Management

LIST OF ATTACHMENTS:

Attachment – Scope of Work

Attachment – Cost Proposal & Schedule of Work

Attachment – Consultant Proposal DBE Commitment (Exhibit 10-O1)

Attachment – Consultant Contract DBE Commitment (Exhibit 10-O2)

Attachment – DBE Information, Good Faith Efforts (Exhibit 15-H)

Attachment – Consultant Certification of Contract Costs and Financial management System (Exhibit 10-K for Prime and Subconsultants)

Attachment – Disclosure of Lobbying Activities (Exhibit 10-Q)

Attachment – Liability Insurance