

## AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, is entered into as of \_\_\_\_\_, between the COUNTY OF TULARE, referred to as "County", *NCM ENGINEERING CORPORATION*, referred to as "Consultant", incorporated within the State of California in 2012, with reference to the following:

A. County has requested proposals for professional engineering services for a bridge replacement project on Avenue 364 over Cottonwood Creek. These consulting services are to include project management, preliminary engineering, plan, specifications, and estimate (PS&E), bidding, and other compliance tasks as described per Exhibit A, to the satisfaction of the County, State, Federal Highway Administration (FHWA) and other jurisdictional agencies. Consultant shall document the results of the work to the satisfaction of the County, the State and FHWA. This may include preparation of progress and final reports or similar evidence of attainment of the agreement objectives.

B. Consultant's response indicates that it possesses the professional qualifications, relevant experience and demonstrated competence to provide such services. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take the precedence.

ACCORDINGLY, IT IS AGREED:

1. SERVICES. Consultant will provide professional engineering services, more particularly described in Exhibit A ("Scope of Work"). All work performed and billed to the County by the Consultant shall be grant eligible in accordance with the Caltrans Local Assistance Procedures Manual (LAPM), unless otherwise directed by the County, in writing.

2. TIME FOR PERFORMANCE/TERM. Time is of the essence in this Agreement. The services as described in Exhibit A, will commence within five days of receipt of a written notice to proceed issued following acceptance of this Agreement by the County. This agreement shall terminate on June 30<sup>th</sup>, 2018. Mutually acceptable changes in the scope, character, or complexity of the work if such changes become desirable or necessary as the work progresses will be accommodated by a supplemental agreement. An appropriate extension of time may be made in the form of a supplemental agreement in case of unavoidable delays. Corresponding warranted adjustments in payment will be made based upon the incorporated rate schedule. Consultant is advised that any recommendation for contract award is not binding on County until the contract is fully executed and approved by County.

3. COMPENSATION.

- a. The County shall reimburse the Consultant for hours worked at the hourly rates specified in the Consultant's Cost Proposal, Exhibit B. The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this contract.
- b. In addition, the Consultant will be reimbursed for incurred direct costs other than salary costs that are identified in the Scope of Work, Exhibit A, and the Cost Proposal, Exhibit B.
- c. No additional compensation will be paid to the Consultant, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of the work or the scope of the project, adjustment to the fee will be negotiated between the Consultant and County. Adjustment in the fee will not be effective until authorized by supplemental agreement and approved by the County.
- d. The Consultant shall not commence performance of work or services until this contract has been approved by County, and a notification to proceed has been issued.
- e. The total amount payable by the County for services identified in Exhibit A and Exhibit B shall not exceed **ONE HUNDRED SEVENTY EIGHT THOUSAND SIX HUNDRED THIRTY SEVEN DOLLARS AND 00/100 (\$178,637.00).**

The Consultant shall not commence performance of work or services until this contract has been approved by County, and a notification to proceed has been issued. The Consultant shall not commence performance of optional services until a notification to proceed has been issued. No payment will be made prior to approval or for any optional services performed prior to issuance of a notice to proceed.

It is agreed that Federal Acquisition Regulations in 48 CFR 31 are the governing factors regarding allowable elements of cost.

2 CFR, Part 200, Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, shall be complied with.

Any cost for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., or 2 CFR, Part 200, Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, will be repaid by the Consultant to the State.

Any subcontract in excess of \$25,000, entered into as a result of this contract, shall contain all the provisions of this article.

4. PAYMENT. No sooner than the 10<sup>th</sup> day of each calendar month, Consultant will submit to the Resource Management Agency, Attn: Contract Administrator, a detailed invoice for services rendered under this Agreement during the previous calendar month. Consultant will be deemed to have waived all rights to compensation for any services not billed within 90 days after the month in which the services were provided. Invoices shall detail the work performed on each milestone, on each project as applicable and shall provide total contract recap of prior invoices, current invoice, and contract balance. Invoices shall reference this agreement number and the project title. Consultant shall not commence performance of work or services until this agreement has been approved by the County, and a notification to proceed has been issued. No payment will be made for any work performed prior to receiving the notification to proceed.

5. COMPLIANCE WITH LAW. Consultant will provide the services called for under this Agreement in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to Consultant's employees, Consultant will comply with all laws and regulations pertaining to wages and hours (including the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770), state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

6. RETENTION OF RECORDS/AUDIT. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; Consultant, subconsultants, and County shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, County, FHWA, or any duly

authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

7. AUDIT REVIEW PROCEDURES. Any dispute concerning a question of fact arising under an interim or post audit of this contract shall be reviewed by the County Administrative Officer if not resolved of by agreement. The Consultant may request a review within 30 days after issuance of the final audit report by the County Administrative Officer.

8. SUBCONTRACTING. Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be fully responsible to County for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant .

Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by County's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

Any subcontract in excess of \$25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

Any substitution of subconsultant(s) must be approved in writing by County's Contract Administrator prior to the start of work by the subconsultant(s).

9. INDEPENDENT CONTRACTOR STATUS. Consultant will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement may be construed to constitute Consultant or any of its agents, employees or officers as employees or officers of County. Consultant agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of County. Consultant will be solely responsible for determining the means and methods of performing the specified services, and County will have no right to control or exercise any supervision over Consultant as to how the services will be performed. County will not:

- a. Withhold FICA (Social Security) from Consultant's payments.

- b. Make state or federal unemployment insurance contributions on Consultant's behalf.
- c. Withhold state or federal income tax from payments to Consultant.
- d. Make disability insurance contributions on behalf of Consultant.
- e. Obtain unemployment compensation insurance on behalf of Consultant.

Notwithstanding this independent contractor relationship, County reserves the right to monitor and evaluate the performance of Consultant for the purpose of assuring compliance with this Agreement.

10. INSURANCE. Prior to approval of this agreement by the County, Consultant shall file with the Resource Management Agency, evidence of the insurance in accordance with Exhibit C attached, which outlines the minimum scope, specifications and limits of insurance required under this contract. Additional insured endorsements required as outlined in Exhibit C shall not be used to reduce limits available to County as an additional insured from the Contactor's full policy limits. Insurance policies shall not be used to limit liability or to limit the indemnification provisions and requirements of this contract or act in any way to reduce the policy coverage and limits available from the insurer (s). Failure to maintain or renew coverage, or to provide evidence of renewal, may be considered a material breach of this agreement.

11. INDEMNIFICATION: Consultant shall hold harmless, defend and indemnify County, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property arising out of the willful misconduct, or the negligent acts or omissions, of Consultant or its agents, officers and employees under this agreement. This indemnification specifically includes any claims that may be made against County by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, any claims made against County alleging civil rights violations by Consultant under Government Code sections 12920 et seq. (California Fair Employment and Housing Act). The indemnification obligation shall continue beyond the term of this Agreement as to any willful misconduct, negligent errors, acts or omissions, or negligent acts occurring under this Agreement or any extension of this Agreement.

12. TERMINATION. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

(a) Without Cause: County will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. County will pay to the Consultant the

compensation earned for work performed and not previously paid for to the date of termination. County will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from Consultant of any and all plans, specifications and estimates, and other documents prepared by Consultant in accordance with this Agreement. No Sanctions will be imposed.

(b) With Cause: This Agreement may be terminated by either party should the other party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) materially breach this Agreement.

In addition, County may terminate this Agreement based on:

- (6) material misrepresentation, either by Consultant or anyone acting on Consultant's behalf, as to any matter related in any way to County's retention of Consultant, or
- (7) other misconduct or circumstances which, in the sole discretion of the County, either impair the ability of Consultant to competently provide the services under this Agreement, or expose the County to an unreasonable risk of liability.

County will pay to the Consultant the compensation earned for work performed and not previously paid to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from Consultant of any and all reports and other documents prepared by Consultant by the date of termination in accordance with this Agreement. County will not pay lost anticipated profits or other economic loss, nor will the County pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If this Agreement is terminated and the expense of finishing the Consultant's scope of work exceeds the unpaid balance of the agreement, the Consultant must pay the difference to the County.

Sanctions taken will be possible rejection of future proposals based on specific cause of non performance.

(c) Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where Consultant's services have been terminated by the County, said termination will not affect any rights of the County to recover damages against the Consultant.

(d) Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of County for which Consultant's services are to be performed, may immediately suspend performance by Consultant, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by Consultant to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

13. ENTIRE AGREEMENT REPRESENTED. This Agreement represents the entire agreement between Consultant and County as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

14. HEADINGS. Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

15. NOTICE. Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

County:

Tulare County Resource Management Agency  
Attention: Benjamin Ruiz Jr., Contract Administrator  
5961 South Mooney Boulevard  
Visalia, CA 93277

Fax No.: (559) 730-2653      Confirming No.: (559) 624-7000,  
Email: [bruiz@co.tulare.ca.us](mailto:bruiz@co.tulare.ca.us)

Consultant:

NCM Engineering Corporation  
Attention: Steve Mislinski, P.E.  
1322 E. Shaw Ave, Suite 190  
Fresno, CA 93710

Confirming No.:(559) 492-3016  
Confirming Fax No.: (559) 492-3539

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail will be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph. The above stated Consultant address is to be the main working office location for the duration of this agreement.

16. CONSTRUCTION. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 will not apply to address and interpret any uncertainty.

17. NO THIRD PARTY BENEFICIARIES INTENDED. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy. The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this agreement. For breach or violation of this warranty, the County shall have the right to annul this agreement without liability, or at its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. The County warrants that they have not required the Consultant to employ or retain any company or person, or to pay or agree to pay any firm, person or organization, any fee, contribution donation or consideration of any land, contingent upon or resulting from the award or formation of this agreement.

18. JURISDICTION/VENUE. This Agreement will be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles.

19. WAIVERS. The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or



payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

20. EXHIBITS AND RECITALS. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

21. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY. This Agreement is subject to all applicable laws and regulations. If any provisions of this Agreement are found by any court or other legal authority, or are agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement will continue in full force and effect.

22. FURTHER ASSURANCES. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.

23. PROFESSIONAL STANDARDS. By submitting final documents for approval by County, Consultant represents that said documents are accurate. Consultant will be responsible to County for the professional quality, adequacy, and completeness of the services, studies, and reports provided, and represents that such services, studies and reports will be suitable for the intended purposes.

Consultant will perform the services provided in this Agreement in a manner consistent with the professional skill and care ordinarily exercised by expert members of the planning, engineering, and environmental profession practicing in the State of California under similar conditions.

Where applicable and in accordance with California law, the responsible Consultant/engineer shall sign and seal reports and engineering data furnished by him/her.

24. DBE PARTICIPATION REQUIREMENTS. The County has established a 0.00 % participation goal for the participation of DBE's for this Agreement. The Consultant shall be fully informed respecting Part 26, Title 49, Code of Federal Regulations, which is incorporated by reference, and is urged to obtain DBE participation. Participation by DBE Consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-01), or Consultant Contract information (Exhibit 10-02). For contracts with no DBE contract goal, only Exhibit 10-02 must be included by the Consultant.

It is the policy of the County that certified DBE firms shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant shall ensure that certified DBE firms, as defined in said Code of Federal Regulations, have the maximum opportunity to participate in the performance of this Agreement and shall take all necessary and reasonable steps, as set forth in said Part 26, for such assurance. The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subconsultant. Failure to carry out the requirements of this paragraph shall constitute a breach of the Agreement and may result in termination of this Agreement or such other remedy the County may deem appropriate.

If DBE participation is obtained, the Consultant shall maintain records of all subconsultant agreements entered into with DBE subconsultants and records of materials purchased from DBE suppliers. Such records shall show each subconsultant's and vendor's name and address and the actual dollars paid to each. Upon completion of the Agreement, a summary of these records shall be prepared, certified correct and submitted on the form "FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST – TIER SUBCONTRACTORS" Form 17-F of the LAPM, or equivalent, by the Consultant to the County's Contract Administrator showing total dollars paid to each DBE subconsultant and supplier.

Any DBE firm working as a subconsultant under this Agreement 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.

The Consultant shall make every reasonable effort to replace a certified DBE firm that is unable to perform the provisions of this contract with another certified DBE firm.

The "Notice To Proposers Disadvantaged Business Enterprise Information" (Exhibit 10-I of the LAPM) is included in this Consultant contract.

25. OWNERSHIP OF DOCUMENTS. Tracings, plans, specifications, maps and reports prepared or obtained under the terms of this agreement shall be delivered to and become the property of the County, and that basic survey notes and sketches, charts, computations, and other data prepared or obtained under this agreement shall be made available, upon request, to the County without restriction or limitation on their use. County will indemnify and hold Consultant harmless for any reuse by County of documents produced under this agreement for any other projects without the written approval of Consultant. Final reports shall be provided to the County

in hardcopy and in electronic Adobe Acrobat format. Other electronic files shall be provided in electronic format using standard software.

Applicable patent rights provisions regarding right to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 -- Patent Rights under Government Contracts for federal-aid contracts.

County may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

26. EQUIPMENT PURCHASE. Prior authorization in writing by the County's Contract Administrator shall be required before the Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Consultant services. The Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

Prior to seeking authorization by the County's Contract Administrator for the purchase of any item, service or consulting work not covered in the Consultant's Cost Proposal and exceeding \$5,000, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

Any equipment purchased as a result of this contract is subject to the following: "The Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the County shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the Consultant may either keep the equipment and credit the 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 the County in an amount equal to the sales price. If the County elects to keep the equipment, fair market value shall be determined at the 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 the County and the Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the County. 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5000.00 is credited to the project.

All subcontracts in excess \$25,000 shall contain the above provisions.

27. DISPUTES. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the County's Contract Administrator and the Assistant Director – Public Works, who may consider written or verbal information submitted by the Consultant.

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 contract.

Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, Consultant may request review by the Tulare County Board of Supervisors for unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

28. CONFIDENTIALITY OF DATA. All financial, statistical, personal, technical, or other data and information relative to the County's operations, which are designated confidential by the County and made available to the Consultant in order to carry out this contract, shall be protected by the Consultant from unauthorized use and disclosure.

Permission to disclose information on one occasion or by public hearing held by the County relating to the contract, shall not authorize the Consultant to further disclose such information, or disseminate the same on any other occasion.

The Consultant shall not comment publicly to the press or any other media regarding the contract or the County's actions on the same, except to the County's staff, Consultant's own personnel involved in the performance of this contract, at public hearings or in response to questions from Legislative committee.

The Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the County and receipt of the County's written permission.

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

All information related to the construction estimate is confidential, and shall not be disclosed by Consultant to any entity other than County.

29. CONFLICT OF INTEREST. The Consultant shall disclose any financial, business, or other relationship with the County that may have an impact upon the outcome of this contract, or any ensuing County construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow.

The Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.

Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this article.

The Consultant hereby certifies that neither the Consultant, its employees, nor any firm affiliated with the Consultant providing services on this project will bid on any construction contract, or any contract to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultants who have provided design services in connection with this contract shall be eligible to bid on any construction contract, or any contract to provide construction inspection for any construction project resulting from this agreement.

30. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION. The Consultant warrants that this contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion to terminate the contract without liability; to pay only for the value of the work actually performed; to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

31. PROHIBITION OF EXPENDING COUNTY, STATE OR FEDERAL FUNDS FOR LOBBYING. The Consultant certifies to the best of his or her knowledge and belief that:

- a. No state, federal or County appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

- b. No state, federal or County appropriated funds have been paid, or will be paid by-or-on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

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 federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

32. CLAIMS FILED BY CONSTRUCTION CONTRACTOR. If claims are filed by County's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial.

Consultant's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County.

Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this contract.

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

Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

33. SAFETY. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by County Safety Officer and other County representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.

Pursuant to authority contained in Section 591 of the 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, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

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

35. EVALUATION OF CONSULTANT. Consultant's performance will be evaluated by County. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the contract record.

36. STATEMENT OF COMPLIANCE. Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program

requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

37. FUNDING REQUIREMENTS. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.

This contract is valid and enforceable only if sufficient funds are made available to County for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or County governing board that may affect the provisions, terms, or funding of this contract in any manner

It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.

County has the option to void the contract under the 30-day termination clause pursuant to Article 12 of this agreement, or by mutual agreement to amend the contract to reflect any reduction of funds.

38. INSPECTION OF WORK. Consultant and any subconsultant shall permit County, the state, and the FHWA if federal participating funds are used in this contract, to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

39. RETENTION OF FUNDS. No retainage will be withheld by the Resource Management Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be



construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.

40. DEBARMENT AND SUSPENSION. Consultants signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgement rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct with the past three (3) years. 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 Consultant responsibility. Disclosure must indicate to whom exceptions apply, initiating agency, and dates of action.

Exceptions to the Federal Government Excluded Parties List System maintained by General Services Administration are to be determined by the Federal Highway Administration.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

By \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST: \_\_\_\_\_,  
County Administrative Officer/  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

CONSULTANT

By \_\_\_\_\_  
Title President

By \_\_\_\_\_  
Title CFO

Corporations Code Section 313 requires that contracts with a corporation shall be signed by the (1) chairman of the Board, the president or any vice-president and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer; unless the contract is also accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract.

Approved as to Form  
County Counsel

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

# EXHIBIT A

Tulare County Resource Management Agency  
Design Services for Avenue 364 Cottonwood Creek Bridge Replacement



## Project Understanding

NCM Engineering's understanding of the Avenue 364 Cottonwood Creek Bridge project is based on information provided in the On-Call Consultant Services RFQ, County project programming information, review of bridge inventory and inspection data and discussions with County staff.

### Project Description

The existing Avenue 364 bridge (Bridge No.: 46C0208) is located approximately 3 miles north of Woodlake and 1 mile west of SR-245. The bridge is a single lane, 14.5ft wide and 103ft long, three span steel stringer structure over Cottonwood Creek. The structure is supported on concrete pile extension bents and RC seat-type abutments, all founded on RC piles. The bridge approaches constrict creek flows with fills on the east and west protruding significantly and slightly into the creek respectively. In addition to hydraulic issues, the RC bridge deck has had a history of cracking, delaminating and spalling and is flagged as Structurally Deficient (SD) with a Sufficiency Rating (SR) of 64.5. Due to substandard deck width and moderate ADT, the bridge is also flagged as Functionally Obsolete (FO).

To correct the SD and FO flags, low SR and to improve channel hydraulics, the existing bridge will be replaced with a five span, 250ft CIP/PS flat slab that will span the full width of Cottonwood Creek. The new bridge will incorporate "open-type" concrete barriers (Caltrans Type 80 Concrete Barrier) with metal beam guard railing on the approaches. It is understood that Avenue 364 will be closed during construction, and traffic will be detoured to a temporary creek crossing (designed by County) located approximately 0.5 miles upstream. The temporary bridge will be comprised of railroad flatcars and other temporary structural elements.

## Work Plan

The following discussion outlines the tasks necessary to complete preliminary engineering from planning level design study and type selection (30%

design) through final design and development of plans, specifications and estimates. Although bidding assistance and design support during construction are part of the construction phase and are not funded with preliminary engineering dollars, tasks for each are included here for completeness.

### 1.1 Project Management

The NCM project manager will undertake a proactive, solutions based management approach that will include communication and coordination with the County and other consultants working under separate contract, attendance of the NCM PM at up to 6 PDT meetings, preparation of invoices and status reports and development and maintenance of a project delivery schedule. The objective of this task is to provide overall management of the Engineering Services.

All project communication will be coordinated between the County Project Manager and the NCM Project Manager. No communication between any Consultant team members will take place with County Staff, County Leadership, Local Media, or outside agencies without the express permission of the County Project Manager.

Project management activities will also include preparation and submittal of invoices and progress reports. NCM proposes to prepare and submit on a monthly basis invoices and project progress reports for all work completed during the previous month, including labor costs and direct expenses, and percent completion of work during that reporting period.

A project delivery schedule will be developed in coordination with the County. The schedule will be developed using the Critical Path Method and will identify major milestones, including the completion of the following:

- Project Memorandum (Type Selection)
- 65% PS&E
- 90% PS&E
- Final PS&E

Progress for each of the milestones will be discussed in reference to the project schedule at each team meeting. A plan will be developed to deal with issues that arise, which could delay the schedule.

# EXHIBIT A

Tulare County Resource Management Agency  
Design Services for Avenue 364 Cottonwood Creek Bridge Replacement



**Task 1.1 Deliverables:** Monthly progress reports, schedule updates and invoices, and meeting agendas and minutes

## **1.2 Prepare Preliminary Bridge Design**

### **1.2.1 – Obtain and Review Project Data and Information**

NCM will compile and review relevant project background information produced by others, including surveys and mapping, right of way, hydraulics, roadway geometrics and geotechnical information. It is understood that project data produced by others will be used by NCM to develop preliminary and final bridge design, and that the accuracy and completeness of such data is the responsibility of the firms/entities developing the data. NCM is not responsible for verifying the accuracy or completeness of data provided by others and is entitled to rely on its accuracy and completeness.

### **1.2.2 – Planning Study Drawings**

NCM will develop planning study drawings for up to three bridge alternatives on the preferred roadway alignment that will be developed by others. Each drawing will show sufficient detail for County Staff to make a decision on the preferred alternative to proceed with final design. The drawings will show a bridge Plan, Elevation and Typical Section as outlined in Caltrans Bridge Design Details, Section 3. Details will show controlling bridge dimensions, such as length, span lengths, deck width, lane configuration and lane and shoulder dimensions. In addition, superstructure and substructure types will be clearly identified. All known utilities will be identified on the Typical Section.

### **1.2.3 – Planning Estimates**

NCM will develop planning level estimates for the probable construction cost for up to three bridge alternatives. The estimates will be developed in general conformance with Caltrans Bridge Design Aids Chapter 11 and will use the format prescribed by Caltrans Division of Structures Local Assistance. Costs for each alternative will include a contingency of 25% and will be presented in a cost per square foot format for ease of comparison.

**Task 1.2 Deliverables:** Planning Study Drawings and Estimates

## **1.3 Project Memorandum**

### **1.3.1 – Draft Project Memorandum**

NCM will produce a Project Memorandum using Caltrans procedures and processes as outlined in Section 10 of Caltrans Bridge Design Aids. Caltrans form DSD0045, "Structure Type Selection" will be used to document the information and decisions that lead to the recommended structure type / alternative.

The memorandum will summarize cost and description of each alternative developed as part of Task 1.2 and will include discussion for each alternative with respect to construction footprint with anticipated access, laydown and staging areas; anticipated construction schedule; utility relocation requirements and accommodation; design exceptions; long-term maintenance; bridge configurations/elements, such as superstructure type and depth, and substructure and foundation type with particular attention to anticipated scour depths and comparison of driven and standard CIDH piles; passage of flood debris, seismicity and seismic performance expectations for each alternative, hydraulics and a discussion of the advantages and disadvantages of each alternative.

The memorandum will outline recommendations for the alternative to be advanced to final design and implementation and will include specific design decisions needed from the County and a list of identified issues that will need to be resolved during final design.

### **1.3.2 – Final Project Memorandum**

NCM will update the Project Memorandum to incorporate comments received from the County, Caltrans and other project team members. Once updated, submitted and approved by Caltrans, it is assumed that the Final Project Memorandum will serve as the approved Bridge Type Selection Report.

**Task 1.3 Deliverables:** Project Memorandum, draft and final

## **2.1 Final Design (65% PS&E)**

### **2.1.1 – Bridge Design**

Bridge design will be in accordance with current Caltrans procedures and practices using Caltrans manuals: Bridge Design Aids, Bridge Design

# EXHIBIT A

Tulare County Resource Management Agency  
Design Services for Avenue 364 Cottonwood Creek Bridge Replacement



Details and Bridge Design Memos. AASHTO LRFD Bridge Design Specifications with 2006 interims and Addenda by Caltrans will serve as the bridge design criteria. The design shall meet County, Caltrans and FHWA standards that are in effect on the date of Notice to Proceed. Seismic design will follow the latest Caltrans Seismic Design Criteria.

## **2.1.2 -- Bridge Plans**

Detailing of plans will be in accordance with County CAD Drafting Standards and Caltrans Bridge Design and Details manual and will use the current Caltrans Standard Plans where applicable. All plans shall be checked by the designer and will be revised based on comments from the independent check, the County, Caltrans and other team members. Our cost proposal is based on development of the following plan sheets:

1. General Plan
2. General Notes
3. Deck Contours
4. Foundation Plan
5. Abutment Layout
6. Abutment Details No. 1
7. Abutment Details No. 2
8. Bent Layout
9. Bent Details
10. Typical Section
11. Deck Slab Details
12. PT Tendon Layout
13. Pile Details

## **2.1.3 -- Engineer's Estimate of Probable Construction Cost**

NCM will prepare quantity calculations and develop unit costs for items that are applicable to this project for development of the bridge cost estimate. Quantities will be prepared in accordance with Caltrans 2010 Standard Specifications and Payment Items. Unit prices will be based on the latest cost data from the County and Caltrans. Quantities for all contract items, including the cost of lump sum items, will be substantiated by calculations. Quantity calculations will be neat, orderly, and will include all sketches, diagrams and dimensions necessary to allow them to be independently used by field engineers. The Engineer's Estimate will be presented using the Caltrans Structural Quantity and Marginal Estimate form DS-D 0019 using standard Caltrans pay items and codes with the "Check" column blank.

## **2.1.4 -- Contract Specifications / Special Provisions**

NCM will prepare project specific Structure Special Provisions, in accordance with Caltrans' Plans, Specification and Estimates Guide, using Caltrans Standard Special Provisions (SSP) format with imperial units based on the 2010 Caltrans Standards. The Structure SSP's will bear the State of California Professional Engineer registration seal with the signature, license number and registration certificate expiration date of the Engineer who prepared the special provisions, or the Engineer under whose direction they were prepared. A list of contract items, with item descriptions, item numbers, units of pay, and item pay codes, but without quantities or estimated unit costs, will be included in the front of the SSP's. It is assumed that the County will be responsible for preparation of and updates to the "boiler plate" special provisions.

### **Task 2.1 Deliverables:**

- Three full-size sets of plans (22x34)
- One half-size set of plans (11x17)
- Three sets of annotated Special Provisions
- Three Copies of Cost Estimate/Marginal Estimate
- One set of draft (unchecked) Design Calculations

## **2.2 90% PS&E**

### **2.2.1 -- Bridge Independent Design Check**

The unchecked plans and special provisions will be independently checked by a registered engineer who was not involved with the planning level or final design that led to the 65% unchecked details. The plans will be checked with regard to bridge layout geometry and structural integrity and the special provisions will be checked for consistency with the plans and completeness. A set of engineering calculations will be developed as part of the independent check to document the structural analysis performed, the results obtained and any design change recommendations made. The independent check calculations will be neatly organized with a table of contents and will be signed by the professional engineer registered in the State of California responsible for performing and/or overseeing the independent check. Comments on the plans made by the independent check engineer will be made in red to indicate items to be discussed or yellow for approval. The independent check and design engineers will work together to discuss and

# EXHIBIT A

Tulare County Resource Management Agency  
Design Services for Avenue 364 Cottonwood Creek Bridge Replacement



resolve discrepancies. The bridge design and independent check calculations will be updated to reflect the final design resolution.

## 2.2.2 – Bridge Plan Updates

The plans will be updated as necessary to incorporate comments from the County and other team members, as well as to reflect comments from the independent design check.

## 2.2.3 – Update to Engineer's Estimate of Probable Construction Cost

The quantities and marginal estimate form will be updated to reflect any changes due to comments from the County and other team members and from changes incorporated as part of the independent check resolution and an independent quantity check. The independent quantity check will be performed in accordance with Caltrans standards with agreement between the originator and the checker being within 3% for all items except for earthwork which should be within 5%.

## 2.2.4 – Contract Specifications / Special Provisions Updates

Structural special provisions will be updated to incorporate comments from the County, other team members and from the independent design check.

### Task 2.2 Deliverables:

- Three full-size sets of plans (22x34)
- Two half-size set of plans (11x17)
- Three sets of annotated Special Provisions
- Three Copies of Cost Estimate/Marginal Estimate
- Three sets of Final (Checked) Design Calculations
- Three sets of Foundation Report with Log of Test Borings (by Kleinfelder)
- Three sets of Hydraulic Design Report (by WRECO)

## 2.3 Final PS&E

After receipt of final approval from the County, NCM will deliver the Final PS&E to include the following items:

### Task 2.3 Deliverables:

- One set of Mylar Final plans (22x34)
- Final Plans on compact disk in AutoCAD 2012 format with CAD files prepared using County CAD standards

- Bidding Documents on compact disk in MS word format
- Engineer's Estimate/Marginal Estimate on compact disk in MS Excel format
- Three full-size sets of plans (22x34)
- Two half-size set of plans (11x17)
- Two sets of Independent Bridge Design Calculations
- Two sets of Independent Quantity Calculations

## 3.1 Assistance During Bidding

It is understood that the County will advertise the project for bids, distribute plans to prospective bidders, analyze bids received and award a construction contract. NCM will assist the County during the bidding phase with requests for information, interpretation of the bid documents and preparation of addenda. The NCM Project Manager or Engineer of Record will attend the pre-bid, preconstruction or bid opening if requested by the County.

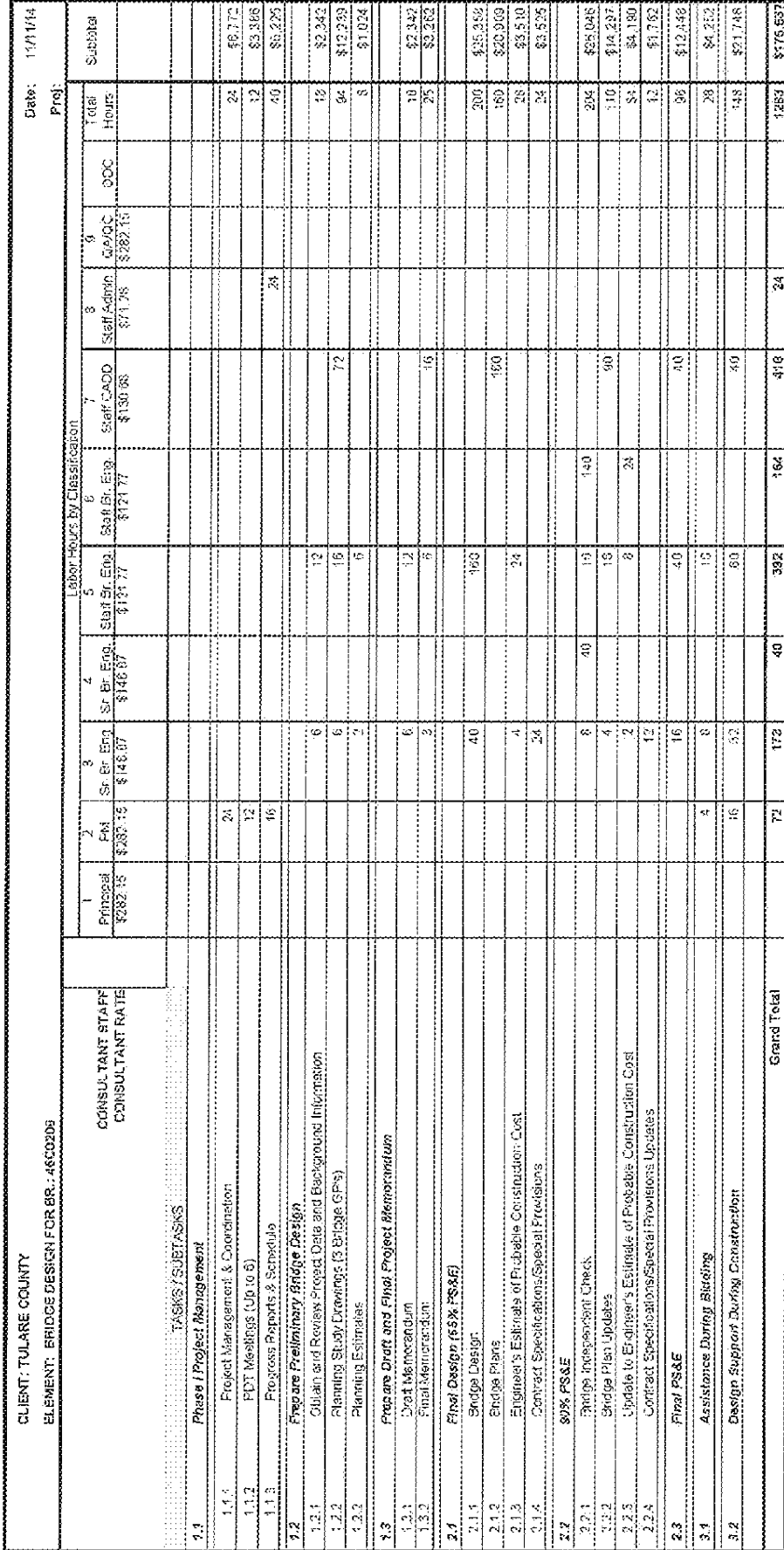
**Task 3.1 Deliverables:** Responses to RFI's and Addenda to Bid Documents

## 3.2 Design Support During Construction

NCM will provide general support to the County during construction of the project. The NCM Project Manager or Engineer of Record will attend the pre-construction meeting in addition to site meetings if necessary. Submittals of shop drawings, quotes, materials, etc. will be reviewed by NCM and clarifications to construction documents will be made as necessary. NCM will also review and respond to contractor RFI's. NCM will review and approve all submittals and shop plan drawings submitted by the construction contractor for consistency with the bid documents.

**Task 3.2 Deliverables:** Responses to RFI's and contractor submittals

**TULARE COUNTY  
AVENUE 384 COTTONWOOD CREEK BRIDGE REPLACEMENT  
COST PROPOSAL FOR CONSULTANT SERVICES**



## EXHIBIT B

<b>TULARE COUNTY</b> <b>AVENUE 364 COTTONWOOD CREEK BRIDGE REPLACEMENT</b> <b>COST PROPOSAL FOR CONSULTANT SERVICES</b>
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Contract No. \_\_\_\_\_  
 Consultant NCM ENGINEERING CORPORATION

Date: 11/11/2014

### DIRECT LABOR

Classification	Name	Range	Hours	Initial Hourly Rate	Total
Principal			0 @	\$95.00	\$ 0
Project Manager			72 @	\$95.00	\$ 6,840
Senior Bridge Engineer			173 @	\$49.45	\$ 8,555
Senior Bridge Engineer			40 @	\$49.45	\$ 1,978
Staff Bridge Engineer			392 @	\$41.00	\$ 16,072
Staff Bridge Engineer			164 @	\$41.00	\$ 6,724
Staff CADD			418 @	\$44.00	\$ 18,392
Staff Administration			24 @	\$24.00	\$ 576
QA/QC			0 @	\$95.00	\$ 0
Subtotal Direct Labor Costs					\$ 59,137
Anticipated Salary Increases %					\$ 0
Total Direct Labor Costs					\$ 59,137

FRINGE BENEFITS	Rate	Total
	%	\$ 0
Total Fringe Benefits		\$ 0

INDIRECT COSTS	Rate	Total
Overhead	%	\$
General and Administrative	%	\$
Total	170.00 %	\$
Total Indirect Costs		\$ 100,533

FEE (Profit on Direct Labor + Fringe Benefits + Indirect)	Rate	
	10.00 %	
Fee (DC+FB+I)		\$ 15,967

OTHER COSTS	
1. Reproduction	\$
2. Copying	\$
3. Plotting (Full Size Bond and Mylar Plans)	\$ 1,000
4. Transportation / Travel	\$ 1,500
5. Special Deliveries	\$ 500
6. Computer Costs	\$
Subtotal Other Costs	\$ 3,000

FEE (Other Costs)	Rate	
	%	
Fee (OC)		\$ 0

SUBCONTRACTOR COSTS (attach detailed cost estimate for each subcontractor)	
	\$
	\$
	\$
	\$

TOTAL COST	\$ 178,637
------------	------------



## EXHIBIT C

### PROFESSIONAL SERVICES CONTRACTS INSURANCE REQUIREMENTS

CONSULTANT shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONSULTANT, his agents, representatives, employees and subcontractors, if applicable.

#### A. Minimum Scope & Limits of Insurance

1. Insurance Services Office Commercial General Liability coverage of \$1,000,000 combined single Limit per occurrence (occurrence Form CG 00 01). If an annual aggregate applies it must be no less than \$2,000,000.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, (any auto) of \$1,000,000 per occurrence. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) Insurance appropriate to the CONSULTANT's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

#### B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
2. CONSULTANT must submit endorsements to the General Liability and Auto Liability reflecting the following provisions:
  - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT.*
  - b. *For any claims related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.*
  - c. *Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been provided to the County.*
3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONSULTANT, its employees, agents and subcontractors.

## EXHIBIT C

- a. *Waiver of Subrogation. The workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONSULTANT, its employees, agents and subcontractors. CONSULTANT waives all rights against the County and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employee liability.*

C. Deductibles and Self-Insured Retentions

The COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

F. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONSULTANT shall file with the Tulare County Board of Supervisors, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

## EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1) Page 1 of 2

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)			\$ _____	\$ _____
(Sr. Civil Engineer)			\$ _____	\$ _____
(Envir. Scientist)			\$ _____	\$ _____
(Jr. Highway Engr)			\$ _____	\$ _____
			\$ _____	\$ _____

**LABOR COSTS**

a) Subtotal Direct Labor Costs \$ \_\_\_\_\_

b) Anticipated Salary Increases (see page 2 for sample) \$ \_\_\_\_\_

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] \$ \_\_\_\_\_**FRINGE BENEFITS**

d) Fringe Benefits (Rate: \_\_\_\_\_%)

e) **TOTAL FRINGE BENEFITS**

[(c) x (d)] \$ \_\_\_\_\_

**INDIRECT COSTS**

f) Overhead (Rate: \_\_\_\_\_%)

g) Overhead [(c) x (f)] \$ \_\_\_\_\_

h) General and Administrative (Rate: \_\_\_\_\_%) i) Gen &amp; Admin [(c) x (h)] \$ \_\_\_\_\_

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] \$ \_\_\_\_\_**FEE (Profit)**

q) (Rate: \_\_\_\_\_%)

k) **TOTAL FIXED PROFIT** [(c) + (j) x (q)] \$ \_\_\_\_\_**OTHER DIRECT COSTS (ODC)**

Description	Unit(s)	Unit Cost	Total
l) Travel/Mileage Costs (supported by consultant actual costs)	_____	\$ _____	\$ _____
m) Equipment Rental and Supplies (itemize)	_____	\$ _____	\$ _____
n) Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc.	_____	\$ _____	\$ _____
o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)	_____	\$ _____	\$ _____

p) **TOTAL OTHER DIRECT COSTS** [(l) + (m) + (n) + (o)] \$ \_\_\_\_\_**TOTAL COST** [(c) + (j) + (k) + (p)] \$ \_\_\_\_\_**NOTES:**

- Employees subject to prevailing wage requirements to be marked with an \*.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead rate.

**EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1)** Page 2 of 2**ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS**

(SAMPLE CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

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

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$250,000.00	5000	=	\$50.00	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

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

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$257,871.10	
Direct Labor Subtotal before Escalation				=	\$250,000.00	
Estimated total of Direct Labor Salary Increase				=	\$7,871.10	Transfer to Page 1

**NOTES:**

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

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

The Agency has established a DBE goal for this Contract of \_\_\_\_\_ 0 \_\_\_\_\_ %

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.

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

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of  
DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at  
[http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**

Consultant Firm Name: NCM Engineering Corporation

Indirect Cost Rate: 250.04% (see note)\* for fiscal period 01/01/2013 to 12/31/2013 (mm/dd/yyyy to mm/dd/yyyy)

\*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: Tulare County

Contract Number: \_\_\_\_\_ Project Number: \_\_\_\_\_

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E Contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$ \$5,900,000.00 and the number of states in which the firm does business is 1.

**Certification of Direct Costs:**

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

Note: The NCM independently audited overhead rate for FY 2013 was 250.04%. However, NCM offered a lower rate to Caltrans for two contracts, as well as other agencies due to the high rate that was a result of business startup that occurred in 2012 through 2013. A reduced rate of 170% is proposed for this contract as shown in our cost proposal.



with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).
2. Compliant with the terms of the contract and is incurred specifically for the contract.
3. Not prohibited by 23 CFR, Chapter 1, Part 172 -- Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

**Subconsultants (if applicable)**

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ \_\_\_\_\_

**Prime Consultants (if applicable)**

Proposed **Total** Contract Amount (or amount not to exceed if on-call contract): \$ 178,637.00

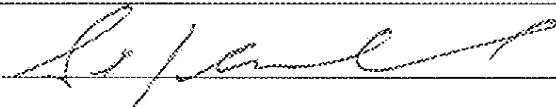
Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Consultant Certifying (Print Name and Title):

Name: Stephen J Mislinski, PE

Title: President

Consultant Certification Signature \*\*: 

Date of Certification (mm/dd/yyyy): 01/08/2016

Consultant Contact Information:

Email: steve@ncmcivil.com

Phone number: (916) 396-3327

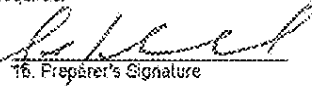
**\*\*An individual executive or financial officer of the consultant's organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.**

*Note: Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

**Distribution:** 1) Original to Caltrans Audits and Investigations  
2) Retained in Local Agency Project Files

## EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: County of Tulare 2. Contract DBE Goal: 0%  
 3. Project Description: Replacement of Avenue 364 Bridge over Cottonwood Creek  
 4. Project Location: On Avenue 364 over Cottonwood Creek, 0.2 miles west of State Route 245  
 5. Consultant's Name: NCM Engineering Corp. 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: \$176,637.00  
 8. Total Dollar Amount for ALL Subconsultants: \$0 9. Total Number of ALL Subconsultants: 0

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION	\$ 0.00
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			0 %
23. Local Agency Representative's Signature: _____ 24. Date: _____ 25. Local Agency Representative's Name: _____ 26. Phone: _____ 27. Local Agency Representative's Title: _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  16. Preparer's Signature: _____ Stephen J Misinski 17. Preparer's Name: _____ President 18. Phone: _____ 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) 664-6410 or TDD (916) 664-3690 or write Records and Forms Management, 1120 N Street, MS-85, 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 Location** - Enter the project location as it appears on the project advertisement.
4. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
5. **Consultant's Name** - Enter the consultant's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
8. **Total Dollar Amount for ALL Subconsultants** - Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
9. **Total number of ALL subconsultants** - Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
10. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
11. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
12. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
13. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
14. **Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
15. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
16. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
17. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
18. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
19. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

### LOCAL AGENCY SECTION

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

## EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change  <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
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<b>4. Name and Address of Reporting Entity</b> NGM Engineering Corp, 1322 E. Shaw Ave. Ste 190, Fresno, CA 93710 <input checked="" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known  Congressional District, if known _____	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known _____
--	--

<b>6. Federal Department/Agency:</b>  <b>8. Federal Action Number, if known:</b>  <b>10. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)  (attach Continuation Sheet(s) if necessary)	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable _____ <b>9. Award Amount, if known:</b>  <b>11. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI)  (attach Continuation Sheet(s) if necessary)
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<b>12. Amount of Payment (check all that apply)</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned  <b>13. Form of Payment (check all that apply):</b> <input checked="" type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____	<b>14. Type of Payment (check all that apply)</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____
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<b>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b>  (attach Continuation Sheet(s) if necessary)	<b>16. Continuation Sheet(s) attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>
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<b>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	Signature: <u>Stephen J. Misilinski</u> Print Name: <u>Stephen J. Misilinski</u> Title: <u>President</u> Telephone No.: <u>(916) 396-3327</u> Date: <u>01/08/2016</u>
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Standard Form LLL Rev. 04-28-06

NOT APPLICABLE - NCM ENGINEER CORP DOES NOT ENGAGE IN LOBBYING ACTIVITES

**Distributions:** Orig- Local Agency Project Files

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

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

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

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