

**TULARE COUNTY ON-CALL CONTRACT - AGREEMENT NO. \_\_\_\_\_**

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**COUNTY OF TULARE  
PROFESSIONAL CONSULTING SERVICES  
REAL ESTATE APPRAISAL SERVICES**

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**THIS AGREEMENT** ("Agreement") is entered into as of \_\_\_\_\_, between the **COUNTY OF TULARE**, a political subdivision of the State of California ("COUNTY"), and the **HOPPER COMPANY**, ("CONTRACTOR"). COUNTY and CONTRACTOR are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

- A.** COUNTY has requested proposals for Real Estate Appraisal Services for a number of projects, under which tasks or work orders are issued on an as-needed basis, for an established contract period. These consultant services are to include Real Estate Appraisal Services, and other optional tasks as described per the attached **Exhibit A** ("Scope of Work"), to the satisfaction of the COUNTY, State, Federal Highway Administration (FHWA) and other jurisdictional agencies. CONTRACTOR 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.** CONTRACTOR'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 CONTRACTOR'S approved Cost Proposal (attached as **Exhibit B**) and this Agreement, this Agreement shall take the precedence.

**THE PARTIES AGREE AS FOLLOWS:**

- 1. TERM:** This Agreement becomes effective as of \_\_\_\_\_ and expires at 11:59 PM on **September 28, 2025** unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement. The maximum term shall not exceed five (5) years.

CONTRACTOR is advised that any recommendation for contract award is not binding on COUNTY until the contract is fully executed and approved by COUNTY.

The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

- 2. SERVICES:** CONTRACTOR will provide Real Estate Appraisal Services under which a task or work orders are issued on an as-needed basis as requested by the COUNTY per attached **Exhibit A**. Task orders will be issued for specific projects based on mini-RFPs as defined in the Request For Qualifications (RFQ) solicitation process. All work performed and billed to the COUNTY by the CONTRACTOR shall be grant eligible in accordance with the Caltrans Local Assistance Procedures Manual (LAPM), unless otherwise directed by the COUNTY, in writing.

- 3.** CONTRACTOR shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for COUNTY'S Contract Administrator or Project Coordinator to determine, if CONTRACTOR is performing to

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expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

**4.** CONTRACTOR'S Project Manager shall meet with COUNTY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

**5. PAYMENT FOR SERVICES:** It is mutually agreed that the COUNTY shall pay CONTRACTOR no more than a maximum of THREE HUNDRED AND SEVENTY THOUSAND DOLLARS AND NO CENTS (\$370,000.00) for primary services and optional services as described **EXHIBIT A**. Expenses for other services or materials not herein listed are neither authorized nor reimbursable. Along with any monthly invoices, CONTRACTOR shall submit to COUNTY, a detailed invoice describing the type of work performed under each task, a total contract recap of prior invoices, current invoice, and contract balance. A progress report shall accompany each invoice with a description of all completed services and for services anticipated to be performed in the next invoice period. All payments under this Agreement shall be made in accordance with the COUNTY'S normal payment cycle.

COUNTY has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this Agreement ("Real Estate Appraisal Services – Task Order Contracts"). The other Real Estate Appraisal Services – Task Order Contracts are The Dore Group, Agreement No. \_\_\_\_\_ and Integra Realty Resources – Los Angeles, Agreement No. \_\_\_\_\_. The total amount payable by COUNTY for the Real Estate Appraisal Services – Task Order Contracts shall not exceed a cumulative maximum total value of ONE MILLION ONE HUNDRED AND TEN THOUSAND DOLLARS AND NO CENTS (\$1,110,000.00) ("NTE Sum").

It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the Real Estate Appraisal Services – Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the Real Estate Appraisal Services – Task Order Contracts, the COUNTY shall send written notification to CONTRACTOR and each of the other contractors entering into the Real Estate Appraisal Services – Task Order Contracts. The notice shall identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. CONTRACTOR acknowledges and agrees that COUNTY shall not pay any amount under this Agreement that would exceed the NTE Sum, and CONTRACTOR shall not enter into a Task Order that exceeds the NTE Sum.

- A. The COUNTY shall reimburse the CONTRACTOR for hours worked at the hourly rates specified in approved Cost Proposal. 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 Agreement.
- B. In addition, the CONTRACTOR will be reimbursed for incurred direct costs other than salary costs that are identified in **Exhibit A** and the approved Cost Proposal.
- C. No additional compensation will be paid to the CONTRACTOR, 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 CONTRACTOR and COUNTY. Adjustment in the fee will not be effective until authorized by a written amendment to this Agreement approved by the COUNTY.

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- D. The CONTRACTOR shall not commence performance of work or services until this Agreement has been approved by COUNTY, and a notification to proceed has been issued. No payment will be made for any work performed prior to COUNTY approval of this Agreement.
- E. The CONTRACTOR will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by COUNTY’S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONTRACTOR is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due COUNTY that include any equipment purchased under the provisions of Article 26 Equipment Purchase of this Agreement. The final invoice should be submitted within 60 calendar days after completion of CONTRACTOR’S work. Invoices shall be mailed to COUNTY’S Contract Administrator at the following address:

Juan Carmona, Contract Administrator  
 Resource Management Agency - Public Works – Design Division  
 County of Tulare  
 5961 S. Mooney Blvd.  
 Visalia, CA 93277

The CONTRACTOR shall not commence performance of work or services until this Agreement has been approved by COUNTY, and a notification to proceed has been issued. The CONTRACTOR 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 the issuance of a notice to proceed.

**6. INSURANCE:** Before approval of this Agreement by COUNTY, CONTRACTOR must file with the Clerk of the Board of Supervisors, evidence of the required insurance as set forth in the attached **Exhibit C**.

**7. GENERAL AGREEMENT TERMS AND CONDITIONS:** COUNTY’S “General Agreement Terms and Conditions” are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. COUNTY’S “General Agreement Terms and Conditions” can be viewed at <http://tularecountycounsel.org/default/index.cfm/public-information/>

**8. ADDITIONAL EXHIBITS:** CONTRACTOR shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement.

X	<b>Exhibit C</b>	Professional Services Contracts – Insurance Requirements
X	<b>Exhibit D</b>	Additional terms and conditions for federally-funded contracts. This Exhibit can be viewed at <a href="http://tularecountycounsel.org/default/index.cfm/public-information/">http://tularecountycounsel.org/default/index.cfm/public-information/</a>
X	<b>Exhibit E</b>	Mandatory fiscal and federal provisions required by Caltrans for federally funded projects
X	<b>Exhibit F</b>	Consultant Proposal DBE Commitment (Caltrans Exhibit 10-O1)

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X	<b>Exhibit G</b>	Consultant Contract DBE Commitment (Caltrans Exhibit 10-O2)
X	<b>Exhibit H</b>	Exhibit 10-I Notice to Proposers DBE Information

**9. NOTICES:** (a) 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 pre-paid and addressed as follows:

**COUNTY:**

Tulare County Resource Management Agency  
 Attention: Juan Carmona, Contract Administrator  
 5961 South Mooney Boulevard  
 Visalia, CA 93277

Phone No.: (559) 624-7000  
 Fax No.: (559) 730-2653

**With a Copy to:**

COUNTY ADMINISTRATIVE OFFICER  
 2800 W. Burrel Ave.  
 Visalia, CA 93291  
 Phone No.: 559-636-5005  
 Fax No.: 559- 733-6318

**CONTRACTOR:**

Hopper Company  
 1005 N. Demaree St.  
 Visalia, CA 93291

Phone No.: 559-733-1230  
 Email: keith@hopperco.com

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

**10. AUTHORITY:** CONTRACTOR represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONTRACTOR to its terms. CONTRACTOR acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

**11. ORDER OF PRECEDENCE:** Notwithstanding anything to the contrary in this Agreement, including the COUNTY’S “General Agreement Terms and Conditions” incorporated by reference, and the attached Exhibits, because the services to be provided under this Agreement are at least partially federally-funded, the provisions of the attached **Exhibit E** shall prevail over any inconsistent provisions herein.


**12. COUNTERPARTS:** The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURES FOLLOW ON NEXT PAGE]

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

Date: 9/10/2020

**Hopper Company** 

By \_\_\_\_\_

Print Name Keith J. Hopper

Title Owner

Date: \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

**COUNTY OF TULARE**

Date: \_\_\_\_\_

By \_\_\_\_\_

Chair, Board of Supervisors

ATTEST: JASON T. BRITT  
County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

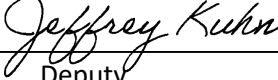
Date: \_\_\_\_\_

By \_\_\_\_\_

Deputy Clerk

Approved as to Form  
County Counsel

Date: 9-14-20

By  \_\_\_\_\_

Deputy

Matter # 2020432

# **Exhibit A**

Scope of Work

[To be provided by consultant based on a specific project and task order  
after issuance of Mini-RFP by the County]

**Exhibit B**  
Contractor's Cost Proposal



[Cost proposals shall not be submitted until requested by the County  
through the competitive Mini-RFP]

**Exhibit C**  
Insurance Requirements

## **PROFESSIONAL SERVICES CONTRACTS**

### **INSURANCE REQUIREMENTS**

CONTRACTOR 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 CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

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

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. 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 CONTRACTOR's profession, with limit no less than \$1,000,000 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 three (3) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General 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 CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.*
  - b. *For any claims related to this project, the CONTRACTOR'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 CONTRACTOR's insurance and shall not contribute with it.*
  - c. *CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*

d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled, except after 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 CONTRACTOR, its employees, agents and subcontractors. CONTRACTOR 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 employers liability.

C. Deductibles and Self-Insured Retentions

Deductibles and Self-insured retentions must be declared and any deductible or self-insured retention that exceeds \$100,000 will be reviewed by the COUNTY Risk Manager for approval.

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.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, 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.

WAIVERS:

I represent and attest that I am a person authorized to make representations on behalf of the CONTRACTOR, and represent the following:

(mark X if applicable)


Automobile Exemption: I certify that \_\_\_\_\_ does not own nor use vehicles in the performance of the agreement for which this insurance requirement is attached.

Workers' Compensation Exemption: I certify that \_\_\_\_\_ is not required to carry workers' compensation coverage or has filed an exemption with the State of California as required by law.

I acknowledge and represent that we have met the insurance requirements listed above.

Print Name Keith J. Hopper Date: 8/31/2020

Contractor Name Hopper Company

Signature 

**Exhibit D**  
Additional Terms & Conditions for  
Federally Funded Contracts

**COUNTY OF TULARE**  
**EXHIBIT D**  
**TO SERVICES AGREEMENT**  
**ADDITIONAL TERMS & CONDITIONS FOR FEDERALLY-FUNDED CONTRACTS**  
**(Form revision approved 01/19/2018)**

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**FEDERALLY-FUNDED SERVICES.** COUNTY will be paying for the services to be provided under this Agreement, in whole, or in part, with Federal grant funds, and so the following additional terms and conditions will apply to this Agreement:

**(1) Equal Employment Opportunity** — Except as otherwise provided under 41 CFR Part 60, if this Agreement meets the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3, then during the performance of this Agreement, the CONTRACTOR agrees as follows:(1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.(2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.(3) The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR'S legal duty to furnish information.(4) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to

be provided advising the said labor union or workers' representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.(5) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.(6) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.(7) In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.(8) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the COUNTY may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by the COUNTY, then the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States. The COUNTY further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

The COUNTY agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor

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**EXHIBIT D**  
**TO SERVICES AGREEMENT**  
**ADDITIONAL TERMS & CONDITIONS FOR FEDERALLY-FUNDED CONTRACTS**  
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in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The COUNTY further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the COUNTY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the COUNTY under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the COUNTY; and refer the case to the Department of Justice for appropriate legal proceedings.

The CONTRACTOR and each of its subcontractors shall include the equal opportunity clause in each of its subcontracts.

**(2) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148).** — If this Agreement involves payment for construction services in excess of \$2,000, then the CONTRACTOR must comply with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the Davis-Bacon Act, the CONTRACTOR is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the U.S. Secretary of Labor. In addition, the CONTRACTOR is required to pay wages not less than once a week. The COUNTY must provide CONTRACTOR with a copy of the current prevailing wage determination issued by the U.S. Department of Labor with respect to the services to be provided under the subject Agreement. The CONTRACTOR’S execution of the

subject Agreement constitutes the CONTRACTOR’S acceptance of the wage determination. The COUNTY must report all suspected or reported violations to the Federal awarding agency.

**(3) Copeland “Anti- Kickback” Act (40 U.S.C. 3145).** — CONTRACTOR must comply with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Under the Copeland “Anti- Kickback” Act, the CONTRACTOR and all subcontractors are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The COUNTY must report all suspected or reported violations to the Federal awarding agency.

**(4) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708)** — If this Agreement involves payments for services in excess of \$100,000 that include the employment of mechanics or laborers, then the CONTRACTOR must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the CONTRACTOR is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(5) Rights to Inventions Made Under a Contract or Agreement** — If the Federal award supporting payments for services under this Agreement meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the Agreement is with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” then the COUNTY and the CONTRACTOR recipient or subrecipient must comply with

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the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**(6) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended** — If this Agreement involves payments for services in excess of \$150,000, then the CONTRACTOR must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(7) Debarment and Suspension (Executive Orders 12549 and 12689)** — By execution of this Agreement, CONTRACTOR certifies to the COUNTY that it is not a party listed on the government-wide exclusions list in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," and is not debarred, suspended, or otherwise excluded from the award of a federally-supported contract under statutory or regulatory authority other than Executive Order 12549.

**(8) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** — If this Agreement involves payments for services in excess of \$100,000, then by execution of this Agreement, the CONTRACTOR certifies to the COUNTY that it will not and has not used Federally-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. The CONTRACTOR must also disclose to the COUNTY is writing any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**(9) Procurement of recovered materials** — Pursuant to 2 CFR § 200.322, the COUNTY and the CONTRACTOR must comply with section 6002 of the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include

procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**(10) Records Retention and Access** — Pursuant to 2 CFR §§ 200.333 through 200.337, the following provisions regarding Records Retention and Access will apply to this Agreement:

**(A) Retention requirements for records.** CONTRACTOR must retain all financial records, supporting documents, statistical records, and all other of its records pertinent to this Agreement for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or COUNTY. The only exceptions to the 3 year limit are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, then the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the CONTRACTOR is notified in writing by the COUNTY or Federal awarding agency, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the COUNTY, or Federal awarding agency, the 3-year retention requirement is not applicable to the CONTRACTOR.



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(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the CONTRACTOR'S fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the COUNTY or the Federal Government to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the COUNTY or Federal Government for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

**(B) Methods for collection, transmission and storage of information.** In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the CONTRACTOR should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or COUNTY must always provide or accept paper versions of Federal award-related information to and from the CONTRACTOR upon request. If paper copies are submitted, the Federal awarding agency or COUNTY must not require more than an original and two copies. When original

records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

**(C) Access to records.**

(a) Records of CONTRACTOR. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the COUNTY, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the CONTRACTOR which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the CONTRACTOR'S personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the CONTRACTOR and the Federal awarding agency or COUNTY. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and COUNTY must not impose any other access requirements upon CONTRACTOR.

## **Exhibit E**

Mandatory Fiscal and Federal Provisions Required by Caltrans  
for Federally Funded Projects

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**ARTICLE IV PERFORMANCE PERIOD**

- A. This AGREEMENT shall go into effect on 09/29/20, contingent upon approval by COUNTY, and CONTRACTOR shall commence work after notification to proceed by COUNTY'S Contract Administrator. The AGREEMENT shall end on 09/28/2025, unless extended by AGREEMENT amendment.
- B. CONTRACTOR is advised that any recommendation for AGREEMENT award is not binding on COUNTY until the AGREEMENT is fully executed and approved by COUNTY.
- Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTS. On-call AGREEMENTS shall be 5 years maximum.*
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

**ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

*(Choose either Option 1, 2, 3, or 4)*

*(Option 1 - For **Actual Cost-Plus-Fixed Fee** AGREEMENTS, Use [Exhibit 10-H1: Cost Proposal Format](#))*

*(Option 2 - For **Cost per Unit of Work** AGREEMENTS, Use [Exhibit 10-H3: Cost Proposal Format](#))*

*(Option 3 - For **Specific Rates of Compensation** AGREEMENTS [such as on-call Agreements],*

*Use [Exhibit 10-H2: Cost Proposal Format](#)).*

*(Option 4 - For **Lump Sum** AGREEMENTS, Use [Exhibit 10-H1: Cost Proposal Format](#))*

*(Tulare County uses Specific Rates of Compensation, Use [Exhibit 10-H2: Cost Proposal Format](#)).*

- A. CONTRACTOR will be reimbursed for hours worked at the hourly rates specified in the CONTRACTOR'S approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONTRACTOR will be reimbursed within thirty (30) days upon receipt by COUNTY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONTRACTOR will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.

- C. Specific projects will be assigned to CONTRACTOR through issuance of Task Orders.
- D. After a project to be performed under this AGREEMENT is identified by COUNTY, COUNTY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a COUNTY Project Coordinator. The draft Task Order will be delivered to CONTRACTOR for review. CONTRACTOR shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both COUNTY and CONTRACTOR.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONTRACTOR'S approved Cost Proposal.
- CONTRACTOR shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONTRACTOR is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.
- F. (COUNTY to include either (a) or (b) below; delete the other one)
- (a) Reimbursement for transportation and subsistence costs shall not exceed State rates.
- (b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONTRACTOR will be responsible for transportation and subsistence costs in excess of State rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONTRACTOR shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONTRACTOR shall not commence performance of work or services until this AGREEMENT has been approved by COUNTY and notification to proceed has been issued by COUNTY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.

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- J. A Task Order is of no force or effect until returned to COUNTY and signed by an authorized representative of COUNTY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by COUNTY.
K. CONTRACTOR will be reimbursed within thirty (30) days upon receipt by COUNTY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONTRACTOR is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due COUNTY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONTRACTOR prior to the expiration or termination of this AGREEMENT. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:
(NAME OF COUNTY/ NAME OF CONTRACT ADMINISTRATOR) (ADDRESS)
L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.
M. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
N. If CONTRACTOR fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
P. The total amount payable by COUNTY for all Task Orders resulting from this AGREEMENT shall not exceed \$ 370,000. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

ARTICLE VI TERMINATION

(Tulare County uses own termination clause, included on Page 4 of the General Agreement Terms and Conditions revised on 01/1/2018)

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONTRACTOR agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
B. The CONTRACTOR also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
C. Any costs for which payment has been made to the CONTRACTOR that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONTRACTOR to COUNTY.
D. When a CONTRACTOR or Subcontractor is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.
E. CONTRACTOR agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
F. CONTRACTOR also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
G. CONTRACTOR also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
H. Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., are subject to repayment by CONTRACTOR to the COUNTY.
I. The approved Indirect Cost Rate (ICR), specified in Exhibit B, shall be fixed for the term of this Agreement and no adjustment will be made unless both Parties are in mutual agreement.
J. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this article.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONTRACTOR, Subcontractors, and COUNTY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of

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administering the AGREEMENT. All parties, including the CONTRACTOR's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. COUNTY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSUTANT, Subcontractors, and the CONTRACTOR's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

**ARTICLE IX AUDIT REVIEW PROCEDURES**

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

prior reimbursed costs.

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

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

Accepted rates will be as follows:

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

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unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONTRACTOR may submit to COUNTY final invoice only when all of the following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COUNTY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONTRACTOR MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COUNTY and the CONTRACTOR, either as a prime or subcontractor, with the same fiscal period ICR.

**ARTICLE X SUBCONTRACTING**

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

**ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES**

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

**ARTICLE XII STATE PREVAILING WAGE RATES**

- A. No CONTRACTOR or Subcontractor may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONTRACTOR shall comply with all of the applicable provisions of the California Labor Code requiring the

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payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer

([http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region\\_Map\\_Construction\\_7-8-15.pdf](http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region_Map_Construction_7-8-15.pdf)). These wage rates are made a specific part of this

AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at COUNTY construction sites, at COUNTY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve COUNTY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each CONTRACTOR and Subcontractor shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONTRACTOR or Subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONTRACTOR under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COUNTY representatives at all reasonable hours at the principal office of the CONTRACTOR. The CONTRACTOR shall provide copies of certified payrolls or permit inspection of its records as follows:

- a. A certified copy of an employee's payroll record

shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONTRACTOR.

c. The public shall not be given access to certified payroll records by the CONTRACTOR. The CONTRACTOR is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.

3. Each CONTRACTOR shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONTRACTOR or Subcontractor performing the work shall not be marked or obliterated.

5. The CONTRACTOR shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five

(5) working days, provide a notice of a change of location and address.

6. The CONTRACTOR or Subcontractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONTRACTOR or Subcontractor fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONTRACTOR is not subject to a penalty assessment pursuant to this section due to the failure of a Subcontractor to comply with this section.

E. When prevailing wage rates apply, the CONTRACTOR is responsible for verifying compliance with certified payroll

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requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract Administrator.

F. Penalty

1. The CONTRACTOR and any of its Subcontractors shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONTRACTOR and any Subcontractor shall forfeit to the COUNTY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONTRACTOR or by its Subcontractor in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONTRACTOR or Subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the CONTRACTOR or Subcontractor in meeting their respective prevailing wage obligations, or the willful failure by the CONTRACTOR or Subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONTRACTOR or Subcontractor had knowledge of the obligations under the Labor Code. The CONTRACTOR is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONTRACTOR or Subcontractor.
4. If a worker employed by a Subcontractor on a public works project is not paid the general prevailing per diem wages by the Subcontractor, the prime CONTRACTOR of the project is not liable for the penalties described above unless the prime CONTRACTOR had knowledge of that failure of the Subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime CONTRACTOR fails to comply with all of the following requirements:
  - a. The AGREEMENT executed between the CONTRACTOR and the Subcontractor for the performance of work on public works projects shall

include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

- b. The CONTRACTOR shall monitor the payment of the specified general prevailing rate of per diem wages by the Subcontractor to the employees by periodic review of the certified payroll records of the Subcontractor.
- c. Upon becoming aware of the Subcontractor's failure to pay the specified prevailing rate of wages to the Subcontractor's workers, the CONTRACTOR shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subcontractor for work performed on the public works project.
- d. Prior to making final payment to the Subcontractor for work performed on the public works project, the CONTRACTOR shall obtain an affidavit signed under penalty of perjury from the Subcontractor that the Subcontractor had paid the specified general prevailing rate of per diem wages to the Subcontractor's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, COUNTY shall notify the CONTRACTOR on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subcontractor has failed to pay workers the general prevailing rate of per diem wages.
6. If COUNTY determines that employees of a Subcontractor were not paid the general prevailing rate of per diem wages and if COUNTY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONTRACTOR shall withhold an amount of moneys due the Subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by COUNTY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONTRACTOR shall forfeit, as a penalty to the COUNTY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONTRACTOR or any of its Subcontractors for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8)



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hours per day and forty

(40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

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

**ARTICLE XIII CONFLICT OF INTEREST**

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

construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

**ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

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

*(Include this article in all AGREEMENTs where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the AGREEMENT; delete this article and re-number the subsequent articles.)*

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

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imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

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

**ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

- A. The CONTRACTOR's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONTRACTOR has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONTRACTOR and its subcontractors shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONTRACTOR and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONTRACTOR and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONTRACTOR shall permit access by representatives of the Department of Fair Employment and Housing and the COUNTY upon reasonable notice at any time during the

normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or COUNTY shall require to ascertain compliance with this clause.

- E. CONTRACTOR and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONTRACTOR shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONTRACTOR, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONTRACTOR shall comply with regulations relative to non-discrimination in federally- assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subcontractors.
- I.

**ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The CONTRACTOR's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONTRACTOR or any person associated therewith in the capacity of owner, partner, director, officer or manager:
  1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
  2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
  3. Does not have a proposed debarment pending; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

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- B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

**ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONTRACTORS who enter into a federally-funded agreement will assist the COUNTY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is  %. Participation by DBE CONTRACTOR or subcontractors shall be in accordance with information contained in [Exhibit 10- 01: CONTRACTOR Proposal DBE Commitment](#) , or in [Exhibit 10-02: CONTRACTOR Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subcontractor is unable to perform, CONTRACTOR must make a good faith effort to replace him/her with another DBE subcontractor, if the goal is not otherwise met.
- C. CONTRACTOR can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONTRACTOR must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONTRACTOR has not met the DBE goal, complete and submit Exhibit 15-H: *DBE Information – Good Faith Efforts* to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. DBEs and other small businesses, as defined in 49 CFR Part 26 are encouraged to participate in the performance of AGREEMENTs financed in whole or in part with federal funds. The COUNTY, CONTRACTOR or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this

AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the COUNTY deems appropriate, which may include, but is not limited to:

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

- E. A DBE firm may be terminated only with prior written approval from COUNTY and only for the reasons specified in 49 CFR §26.53(f). Prior to requesting COUNTY consent for the termination, CONTRACTOR must meet the procedural requirements specified in 49 CFR §26.53(f). If a DBE subcontractor is unable to perform, CONTRACTOR must make a good faith effort to replace him/her with another DBE subcontractor, if the goal is not otherwise met.
- F. CONTRACTOR shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of CONTRACTOR) pursuant to prior written authorization of the COUNTY's Contract Administrator.
- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the

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AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

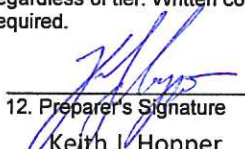
- J. CONTRACTOR shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONTRACTOR's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the AGREEMENT, a summary of these records shall be prepared and submitted on the form entitled, [Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise \(DBE\) First-Tier Subcontractors](#), certified correct by CONTRACTOR or CONTRACTOR's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONTRACTOR when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" is submitted to the Contract Administrator.
- L. If a DBE subcontractor is decertified during the life of the AGREEMENT, the decertified subcontractor shall notify CONTRACTOR in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the AGREEMENT, the subcontractor shall notify CONTRACTOR in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

**Exhibit F**  
Consultant Proposal DBE Commitment  
(Caltrans Exhibit 10-O1)

**EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT**

1. Local Agency: County of Tulare 2. Contract DBE Goal: 0 %  
 3. Project Description: On-Call Real Estate Appraisal Services  
 4. Project Location: Tulare County, California  
 5. Consultant's Name: Keith J. Hopper dba Hopper Company 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Real estate appraisals	---	Keith J. Hopper (559) 733-1230	0%

<b>Local Agency to Complete this Section</b>		<b>11. TOTAL CLAIMED DBE PARTICIPATION</b>	<b>0%</b>
17. Local Agency Contract Number: _____	_____		
18. Federal-Aid Project Number: _____	_____	<b>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</b>  12. Preparer's Signature _____ 13. Date <u>8/7/2020</u> 14. Preparer's Name <u>Keith J. Hopper</u> 15. Phone <u>(559) 733-1230</u> 16. Preparer's Title <u>Owner</u>	
19. Proposed Contract Execution Date: <u>09/29/20</u>	_____		
20. Consultant's Ranking after Evaluation: <u>1</u>	_____		
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
21. Local Agency Representative's Signature <u>Juan Carmona</u>	22. Date <u>09/9/20</u>	15. Phone _____ 16. Preparer's Title _____	
23. Local Agency Representative's Name <u>Juan Carmona</u>	24. Phone <u>559-624-7149</u>		
25. Local Agency Representative's Title <u>Contract Administrator</u>			

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

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

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

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

**LOCAL AGENCY SECTION**

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

## **Exhibit G**

Consultant Contract DBE Commitment  
(Caltrans Exhibit 10-O2)



**EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT**

1. Local Agency: County of Tulare 2. Contract DBE Goal: 0 %  
 3. Project Description: On-Call Real Estate Appraisal Services  
 4. Project Location: Tulare County - TBD  
 5. Consultant's Name: The Hopper Company 6. Prime Certified DBE:  7. Total Contract Award Amount: \$370,000  
 8. Total Dollar Amount for **ALL** Subconsultants: \_\_\_\_\_ 9. Total Number of **ALL** Subconsultants: \_\_\_\_\_

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Real estate appraisals	---	Keith J. Hopper (559) 733-1230	\$0
<b>Local Agency to Complete this Section</b>			\$0
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: <u>On-Call Contract</u> 22. Contract Execution Date: <u>09/22/20</u>			<b>14. TOTAL CLAIMED DBE PARTICIPATION</b> 0%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u>Juan Carmona</u>                          23. Local Agency Representative's Signature                          Juan Carmona</p> <p>25. Local Agency Representative's Name                          Contract Administrator</p> <p>27. Local Agency Representative's Title</p> </div> <div style="width: 45%;"> <p><u>08/29/20</u>                          24. Date                          559-624-7149</p> <p>26. Phone</p> </div> </div>			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u>Keith J. Hopper</u>                          15. Preparer's Signature                          Keith J. Hopper</p> <p>17. Preparer's Name                          Owner</p> <p>19. Preparer's Title</p> </div> <div style="width: 45%;"> <p><u>8/21/2020</u>                          16. Date                          (559) 733-1230</p> <p>18. Phone</p> </div> </div>

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

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

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

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

LOCAL AGENCY SECTION

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

## **Exhibit H**

Notice to Proposers DBE Information  
(Caltrans Exhibit 10-I)

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

(Federally funded projects only)

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

**1. TERMS AS USED IN THIS DOCUMENT**

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

**2. AUTHORITY AND RESPONSIBILITY**

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

**3. SUBMISSION OF DBE INFORMATION**

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

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

**4. DBE PARTICIPATION GENERAL INFORMATION**

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by DBE 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 Civil Rights [website](#).
  - 1. Click on the link titled "Access the DBE Query Form"
  - 2. Click on "Start DBE Firms Query" linkSearches 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.