

**PERSONAL SERVICES AGREEMENT  
BETWEEN THE  
COUNTY OF SHASTA  
AND  
CRAWFORD & ASSOCIATES, INC.**



**TO PROVIDE GEOTECHNICAL SERVICES  
FOR THE STRUCTURE FOUNDATION INVESTIGATION AND REPORT FOR THE  
PARKVILLE ROAD AT ASH CREEK BRIDGE PROJECT**

**FEDERAL AID PROJECT NO. BRLO-5906(117)  
COUNTY PROJECT NO. 705933**

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## ARTICLE I INTRODUCTION

- A. This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the County of Shasta, a political subdivision of the State of California through the Department of Public Works, hereinafter referred to as, COUNTY.

The name of the "CONSULTANT" is as follows: Crawford & Associates, Inc.

Incorporated in the State of California

The Project Manager for the "CONSULTANT" will be Chris Trumbull

The Contract Administrator for COUNTY will be Stuart Davis

- B. The work to be performed under this AGREEMENT is described in Article VI entitled Statement of Work/Responsibilities of Consultant and the approved Consultant's Cost Proposal dated June 10, 2022. The approved Consultant's Cost Proposal is attached hereto (EXHIBIT B) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

## ARTICLE II INDEMNIFICATION

- A. To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless COUNTY, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses, (including, but not limited to, reasonable attorney's fees of County Counsel and counsel retained by COUNTY, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees arising from the work or the provision of services undertaken pursuant to this AGREEMENT by CONSULTANT, or by any of CONSULTANT's subcontractors, any person employed under CONSULTANT, or under any subcontractor, or in any capacity, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of COUNTY. CONSULTANT shall also, at CONSULTANT's own expense, defend the COUNTY, its elected officials, officers, employees, agents, and volunteers, against any claim, suit, action or proceeding brought against COUNTY, its elected officials, officers, employees, agents, and volunteers, arising from the work or the provision of services undertaken pursuant to this AGREEMENT by CONSULTANT, or any of CONSULTANT's subcontractors, any person employed under CONSULTANT, or under any Subcontractor, or in any capacity. CONSULTANT shall also defend and indemnify COUNTY for any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency and shall defend, indemnify, and hold harmless COUNTY with respect to CONSULTANT's "independent contractor" status that would establish a liability on COUNTY for failure to make social security deductions or contributions or income tax withholding payments, or any other legally mandated payment. The provisions of this paragraph are intended to be interpreted as broadly as permitted by applicable law. This provision shall survive the termination, expiration, or cancellation of this AGREEMENT.
- B. For professional services provided under this AGREEMENT, CONSULTANT shall indemnify, defend, and hold harmless COUNTY, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, actions, losses, liabilities, damage, and costs, including reasonable attorneys' fees, to the extent arising out of or resulting from the negligent performance of the professional services provided under this AGREEMENT, CONSULTANT shall also, at CONSULTANT's own expense, pay for defense of the COUNTY against any suit or action brought against COUNTY founded upon any claim, action or proceeding which is based upon the work or the provision of services undertaken pursuant to this AGREEMENT. Furthermore, the duty of CONSULTANT includes the duty of defense, inclusive of that set forth in the California Civil Code

Section 2778, and is subject to any limits provided for in Civil Code Section 2782.8. The words “professional services” shall be interpreted as defined in Civil Code Section 2782.8, as it may be amended from time to time. The provisions of this paragraph are intended to be interpreted as broadly as permitted by applicable law.

### **ARTICLE III EMPLOYMENT STATUS OF CONSULTANT**

CONSULTANT shall, during the entire term of this AGREEMENT, be construed to be an independent contractor, and nothing in this AGREEMENT is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow COUNTY to exercise discretion or control over the professional manner in which CONSULTANT performs the work or services that are the subject matter of this AGREEMENT; provided, however, that the work or services to be provided by CONSULTANT shall be provided in a manner consistent with the professional standards applicable to such work or services. The sole interest of COUNTY is to ensure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. CONSULTANT shall be fully responsible for payment of all taxes due to the State of California or the federal government that would be withheld from compensation if CONSULTANT were a COUNTY employee. COUNTY shall not be liable for deductions for any amount for any purpose from CONSULTANT’s compensation. CONSULTANT shall not be eligible for coverage under COUNTY’s workers’ compensation insurance plan nor shall CONSULTANT be eligible for any other COUNTY benefit. CONSULTANT must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONSULTANT’s assigned personnel under the terms and conditions of this AGREEMENT.

### **ARTICLE IV NONASSIGNMENT OF AGREEMENT; NON-WAIVER**

Inasmuch as this AGREEMENT is intended to secure the specialized services of CONSULTANT, CONSULTANT may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of COUNTY. The waiver by COUNTY of any breach of any requirement of this AGREEMENT shall not be deemed to be a waiver of any other breach.

### **ARTICLE V ENTIRE AGREEMENT; AMENDMENTS; HEADINGS; EXHIBITS/ APPENDICES**

- A. This AGREEMENT supersedes all previous contracts relating to the subject of this AGREEMENT and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits other than those specified herein. CONSULTANT specifically acknowledges that in entering into and executing this AGREEMENT, CONSULTANT relies solely upon the provisions contained in this AGREEMENT and no others.
- B. No changes, amendments, or alterations to this AGREEMENT shall be effective unless in writing and signed by both parties. However, minor amendments, including retroactive, that do not result in a substantial or functional change to the original intent of this AGREEMENT and changes in the scope of work and modifications of the total compensation that do not exceed 10% in the aggregate of the total CONSULTANT compensation may be agreed to in writing between CONSULTANT and Public Works Director, provided that the amendment is in substantially the same format as the COUNTY’s standard format amendment contained in the Shasta County Contracts Manual (Administrative Policy 6-101).
- C. The headings that appear in this AGREEMENT are for reference purposes only and shall not affect the meaning or construction of this AGREEMENT.
- D. If any ambiguity, inconsistency, or conflict exists or arises between the provisions of this AGREEMENT and the provisions of any of this AGREEMENT’s exhibits or appendices, the provisions of this AGREEMENT shall govern.

**ARTICLE VI STATEMENT OF WORK/RESPONSIBILITIES OF CONSULTANT**

- A. Pursuant to the terms and conditions of this contract, CONSULTANT shall provide geotechnical services, including subsurface investigations, as described in the attached Scope of Work (Exhibit A).
- B. CONSULTANT shall submit deliverable items according to the following schedule, unless there are mutually agreed upon changes to the schedule:

<b>Deliverables</b>	<b>Start Date</b>
Preliminary Foundation Memorandum	November 3, 2022
Draft Foundation Report	March 31, 2023
Foundation Report and Log of Test Borings (LOTB)	June 30, 2023

- C. CONSULTANT shall perform all services provided for in this contract in accordance with the Foundation Reports for Bridges, by State of California Department of Transportation ("Caltrans") dated January 2021 ("FRB"). For purposes of this contract, all references in the FRB to Caltrans shall be changed to COUNTY.
- D. As required by Government Code section 7550, each document or report prepared by CONSULTANT for or under the direction of COUNTY pursuant to this AGREEMENT shall contain the numbers and dollar amount of the AGREEMENT and all subcontracts under the AGREEMENT relating to the preparation of the document or written report. If multiple documents or written reports are the subject of the AGREEMENT or subcontracts, the disclosure section may also contain a statement indicating that the total AGREEMENT amount represents compensation for multiple documents or written reports. CONSULTANT shall label the bottom of the last page of the document or report as follows: department name, County Project number, and dollar amount. If more than one document or report is produced under this AGREEMENT, CONSULTANT shall add: "This [document or report] is one of [number] produced under this contract."

**ARTICLE VII RESPONSIBILITIES OF COUNTY**

- A. Pursuant to the terms and conditions of this AGREEMENT COUNTY shall provide information about the requirements for the project including the budget limitations and scheduling.
- B. Pursuant to the terms and conditions of this AGREEMENT COUNTY shall provide existing non-confidential maps, drawings, specifications, data, or any other non-confidential information in COUNTY's possession requested by the CONSULTANT in furtherance of performing the services provided for in this AGREEMENT.
- C. Pursuant to the terms and conditions of this AGREEMENT COUNTY shall be responsible for obtaining right to enter agreements with landowners as necessary to conduct on-site investigations.

**ARTICLE VIII CONSULTANT'S REPORTS OR MEETINGS**

- A. CONSULTANT shall submit progress reports to COUNTY's Contract Administrator at least once a month. The report must be sufficiently detailed for the COUNTY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with COUNTY's Contract Administrator, as directed by COUNTY's Contract Administrator, to discuss progress on the AGREEMENT.

**ARTICLE IX PERFORMANCE PERIOD**

- A. This AGREEMENT shall go into effect upon the date of signing by the Chairman of the Shasta County Board of Supervisors, and CONSULTANT shall commence work after notification to proceed by COUNTY’s Contract Administrator. The AGREEMENT shall end on December 31, 2023, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on COUNTY until the AGREEMENT is fully executed and approved by COUNTY.

**ARTICLE X ALLOWABLE COSTS AND PAYMENTS**

- A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article VI Statement of Work/Responsibilities of Consultant. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and COUNTY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by COUNTY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article VI Statement of Work/Responsibilities of Consultant, COUNTY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article XI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by COUNTY and notification to proceed has been issued by COUNTY’S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by COUNTY’S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this County Project 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 XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT’s work unless a later date is approved by the COUNTY. Invoices shall be mailed to COUNTY’s Contract Administrator found in Article XLVII Notification.
- E. CONSULTANT shall be paid via electronic invoice payment; automated clearing house (“ACH”), COUNTY credit card, or Commerce Bank virtual card. ACH payments require submission of a Department-supplied authorization form within five days of execution of the contract.
- F. The total amount payable by COUNTY shall not exceed \$54,795.55.

**ARTICLE XI TERMINATION**

- A. This AGREEMENT may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30) calendar days’ written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

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

**ARTICLE XII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

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

**ARTICLE XIII RETENTION OF RECORD/AUDITS**

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

**ARTICLE XIV AUDIT REVIEW PROCEDURES**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by COUNTY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by COUNTY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.



- C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and Subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, COUNTY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by COUNTY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, COUNTY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, COUNTY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.  
Accepted rates will be as follows:
    - a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
    - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
    - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
  2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COUNTY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COUNTY and the CONSULTANT, either as a prime or Subconsultant, with the same fiscal period ICR.

#### **ARTICLE XV SUBCONTRACTING**

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

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

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

**G. Prompt Payment of Withheld Funds to Subconsultants**

No retainage will be held by the COUNTY from progress payments due to CONSULTANT. CONSULTANTS and Subconsultants are prohibited from holding retainage from Subconsultants. Any delay or postponement of payment may take place only for good cause and with the COUNTY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or Subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or Subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient Subconsultant performance and/or noncompliance by a Subconsultant. This clause applies to both DBE and non-DBE Subconsultants.

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

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

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

**ARTICLE XVII STATE PREVAILING WAGE RATES**

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer:

<https://dot.ca.gov/programs/construction/labor-compliance>.

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

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

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
  - a. The information contained in the payroll record is true and correct.
  - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COUNTY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
  - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
  - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
  5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
  6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the COUNTY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
  2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
  3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
  4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

- a. The subagreement executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
  - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
  - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
  - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, COUNTY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
  6. If COUNTY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if COUNTY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by COUNTY.

#### G. Hours of Labor

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

#### H. Employment of Apprentices

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

**ARTICLE XVIII CONFLICT OF INTEREST**

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

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

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY 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 XX NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

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

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

**ARTICLE XXI DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
  - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
  - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
  - 3. Does not have a proposed debarment pending; and
  - 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.



- C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

## **ARTICLE XXII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

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

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

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

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

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

- B. The goal for DBE participation for this AGREEMENT is 0%. Participation by DBE CONSULTANT or Subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE Subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE Subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

- D. Contract Assurance

Under 49 CFR 26.13(b):

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

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

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

E. Termination and Substitution of DBE Subconsultants

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

The COUNTY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The COUNTY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the COUNTY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the AGREEMENT.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the AGREEMENT
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the AGREEMENT.
11. The COUNTY determines other documented good cause.

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

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

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

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

F. Commitment and Utilization

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

The COUNTY shall request CONSULTANT to:

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

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

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

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

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

- G. 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 AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE Subconsultant is decertified during the life of the AGREEMENT, the decertified Subconsultant shall notify CONSULTANT in writing with the date of decertification. If a Subconsultant becomes a certified DBE during the life of the AGREEMENT, the Subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

### **ARTICLE XXIII INSURANCE**

- A. Without limiting CONSULTANT's duties of defense and indemnification, CONSULTANT and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this contract Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other coverage necessary to protect COUNTY and the public with limits of liability of not less than \$1 million per occurrence; such insurance shall be primary as to any other insurance maintained by COUNTY.
- B. CONSULTANT and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover CONSULTANT, subcontractor, CONSULTANT's partner(s), subcontractor's partner(s), CONSULTANT's employees, and subcontractor's(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by CONSULTANT or subcontractor. Each such policy shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against COUNTY, its elected officials, officers, employees, agents, and volunteers which might arise in connection with this contract. CONSULTANT hereby certifies that CONSULTANT is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and CONSULTANT shall comply with such

provisions before commencing the performance of the work or the provision of services pursuant to this AGREEMENT.

- C. CONSULTANT shall obtain and maintain continuously a policy of Errors and Omissions coverage with limits of liability of not less than \$1 million per occurrence.
- D. CONSULTANT shall require subcontractors to furnish satisfactory proof to COUNTY that liability and workers' compensation and other required types of insurance have been obtained and are maintained similar to that required of CONSULTANT pursuant to this contract.
- E. With regard to all insurance coverage required by this contract:
  - (1) Any deductible or self-insured retention exceeding \$25,000 for CONSULTANT or subcontractor shall be disclosed to and be subject to approval by the COUNTY Risk Manager prior to the effective date of this AGREEMENT.
  - (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, CONSULTANT or subcontractor shall maintain such insurance coverage with an effective date earlier or equal to the effective date of this contract and continue coverage for a period of three years after the expiration of this contract and any extensions thereof. In lieu of maintaining post-contract expiration coverage as specified above, CONSULTANT or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide the insurance coverage required hereunder for claims received and reported three years after the expiration date of this contract.
  - (3) All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance which names *Shasta County, its elected officials, officers, employees, agents, and volunteers* as additional insureds. In the event that coverage is reduced or canceled a notice of said reduction or cancellation shall be provided to COUNTY within 24 hours. Any available insurance proceeds in excess of the specified minimum limits and coverage pursuant to the terms of this AGREEMENT shall be applicable to the Additional Insured. The additional insureds coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations, and CG 20 37 for completed operations.
  - (4) Each insurance policy (except for workers' compensation and professional liability policies), or an endorsement thereto, shall contain a "separation of insureds" clause which shall read:

"Separation of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

    - a. As if each Named Insured were the only Named Insured; and
    - b. Separately to each suit insured against whom a claim is made or suit is brought."
    - (5) CONSULTANT shall provide COUNTY with an endorsement or amendment to CONSULTANT's policy of insurance as evidence of insurance protection before the effective date of this contract.
    - (6) The insurance coverage required herein shall be in effect at all times during the term of this contract. In the event any insurance coverage expires at any time during the term of this contract, CONSULTANT shall provide COUNTY, at least 20 days prior to said expiration

date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein for not less than the remainder of the term of this contract or for a period of not less than one year. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within 10 days of the expiration of the endorsement or policy amendment in effect at inception of this contract, COUNTY may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, CONSULTANT shall provide COUNTY a certificate of insurance reflecting those limits.
- (8) Any of CONSULTANT's Excess Insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of COUNTY.

#### **ARTICLE XXIV FUNDING REQUIREMENTS**

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

#### **ARTICLE XXV CHANGE IN TERMS**

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

#### **ARTICLE XXVI CONTINGENT FEE**

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

## **ARTICLE XXVII DISPUTES**

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

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

## **ARTICLE XXVIII INSPECTION OF WORK**

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

## **ARTICLE XXIX SAFETY**

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, COUNTY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

## **ARTICLE XXX OWNERSHIP OF DATA**

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of County, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, County shall be entitled to, and CONSULTANT shall deliver to County, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to County which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by County.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of COUNTY without restriction or limitation upon its use or dissemination by COUNTY.

- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by COUNTY for another project or project location shall be at COUNTY's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. COUNTY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

#### **ARTICLE XXXI CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR**

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

#### **ARTICLE XXXII CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to COUNTY's operations, which are designated confidential by COUNTY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by COUNTY, and receipt of COUNTY's written permission.

#### **ARTICLE XXXIII NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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



#### **ARTICLE XXXIV EVALUATION OF CONSULTANT**

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

#### **ARTICLE XXXV PROMPT PAYMENT FROM THE COUNTY TO CONSULTANT**

The COUNTY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the COUNTY fails to pay promptly, the COUNTY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the COUNTY shall act in accordance with both of the following:

- (1) Each payment request shall be reviewed by the COUNTY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

#### **ARTICLE XXXVI TITLE VI ASSURANCES**

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

1. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
2. Nondiscrimination: CONSULTANT, regarding the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.
3. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: CONSULTANT shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to

obtain the information.

5. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreementsanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to CONSULTANT under the Agreement within a reasonableperiod of time, not to exceed 90 days; and/or
  - b. Cancellation, termination, or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

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

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

**Pertinent Non-Discrimination Authorities:**

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients,sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of

public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;

9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**ARTICLE XXXVII CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

- A. CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. The CONSULTANT agrees to report each violation to COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the applicable federal funding agency, and the appropriate Environmental Protection Agency Regional Office.
- C. The CONSULTANT agrees to include these same Clean Air Act and Federal Water Pollution Control Act requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funding.

**ARTICLE XXXVIII COMPLIANCE WITH CHILD, FAMILY, AND SPOUSAL SUPPORT REPORTING OBLIGATIONS**

CONSULTANT’s failure to comply with state and federal child, family, and spousal support reporting requirements regarding CONSULTANT’s employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this AGREEMENT. CONSULTANT’s failure to cure such default within 90 days of notice by COUNTY shall be grounds for termination of this AGREEMENT.

**ARTICLE XXXVIX PROPERTY TAXES**

CONSULTANT represents and warrants that CONSULTANT, on the date of execution of this AGREEMENT, (1) has paid all property taxes for which CONSULTANT is obligated to pay, or (2) is current in payments due under any approved property tax payment arrangement. CONSULTANT shall make timely payment of all property taxes at all times during the term of this AGREEMENT.

**ARTICLE XL LICENSES AND PERMITS**

CONSULTANT, and CONSULTANT’s officers, employees, and agents performing the work or services required by this AGREEMENT, shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the County of Shasta, and all other appropriate governmental agencies, including any certification and credentials required by COUNTY.

Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this AGREEMENT and constitutes grounds for the termination of this AGREEMENT by COUNTY.

#### **ARTICLE XLI AGREEMENT PREPARATION**

It is agreed and understood by the parties that this AGREEMENT has been arrived at through negotiation and that neither Party is to be deemed the Party which created any uncertainty in this AGREEMENT within the meaning of section 1654 of the Civil Code.

#### **ARTICLE XLII COMPLIANCE WITH POLITICAL REFORM ACT**

CONSULTANT shall comply with the California Political Reform Act (Government Code sections 81000, et seq.), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with the County's Conflict of Interest Code, with regard to any obligation on the part of CONSULTANT to disclose financial interests and to recuse from influencing any COUNTY decision which may affect CONSULTANT's financial interests. If required by the COUNTY'S Conflict of Interest Code, CONSULTANT shall comply with the ethics training requirements of Government Code sections 53234, et seq.

#### **ARTICLE XLIII SEVERABILITY**

If any portion of this AGREEMENT or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or COUNTY ordinance, the remaining provisions of this AGREEMENT, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this AGREEMENT are severable.

#### **ARTICLE XLIV COUNTY'S RIGHT OF SETOFF**

To the fullest extent permitted by law, COUNTY shall have the right but not the obligation, to setoff, in whole or in part, against any compensation owed to CONSULTANT or any of its subsidiaries under any contract with the COUNTY, any amount of any Federal or State audit liability owed by or claimed or asserted against the COUNTY or any amounts owed to COUNTY by CONSULTANT or its subsidiaries.

#### **ARTICLE XLV USE OF COUNTY PROPERTY**

CONSULTANT shall not use COUNTY premises, property (including equipment, instruments, and supplies), or personnel for any purpose other than in the performance of CONSULTANT's obligations under this AGREEMENT.

#### **ARTICLE XLVI COUNTERPARTS/ELECTRONIC, FACSIMILE, AND PDF SIGNATURES**

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

**ARTICLE XLVII NOTIFICATION**

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

**CONSULTANT:**

Crawford & Associates, Inc.  
Chris Trumbull, Project Manager  
1100 Corporate Way, Suite 230  
Sacramento, CA 95831  
Ph: (916) 455-4225  
Chris.trumbull@crawford-inc.com

**COUNTY:**

Shasta County Department of Public Works  
Stuart Davis, Contract Administrator  
1855 Placer Street  
Redding, CA 96001  
Ph: (530) 225-5661; Fax: (530) 225-5667  
E-mail: sdavis@co.shasta.ca.us

Any oral notice authorized by this AGREEMENT shall be given to the persons specified in Article XLVII Notification and shall be deemed to be effective immediately.

Unless otherwise stated in this AGREEMENT, any written or oral notices on behalf of the COUNTY as provided for in this AGREEMENT may be executed and/or exercised by the County Executive Officer.

**ARTICLE XLVIII CONTRACT**

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

***SIGNATURE PAGE FOLLOWS***

**ARTICLE XLIX SIGNATURES**

**IN WITNESS WHEREOF**, COUNTY and CONSULTANT have executed this AGREEMENT on the dates set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this contract and to bind the Party on whose behalf his/her execution is made.

**COUNTY OF SHASTA**

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

\_\_\_\_\_  
LES BAUGH, CHAIR  
Board of Supervisors  
County of Shasta  
State of California

ATTEST:

PATRICK J. MINTURN  
Acting Clerk of the Board of Supervisors

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

Approved as to form:

RUBIN E. CRUSE, JR  
County Counsel

DocuSigned by:  
By: Matthew M. McComber | 08/23/2022 | 6:12 PM PDT  
Matthew M. McComber  
Senior Deputy County Counsel

RISK MANAGEMENT APPROVAL

DocuSigned by:  
By: James Johnson | 08/23/2022 | 3:33 PM PDT  
James Johnson  
Risk Management Analyst III

**CONSULTANT**

Crawford and Associates, Inc.

DocuSigned by:  
By: Benjamin D Crawford  
822E9A2224134EF...

Print Name: Ben Crawford

Title: President

Date: 08/23/2022 | 3:11 PM PDT

Tax I.D.#: 46-0779018

DocuSigned by:  
By: Sarah Crawford  
574B8C9BB574449...

Print Name: Sarah Crawford

Title: Secretary

Date: 08/23/2022 | 3:13 PM PDT

**Exhibit A**  
**Scope of Work**

## Task 1 Permitting, Coordination & Field Preparation

Crawford will discuss the project design needs, issues, and schedule with the County; we will review available record documents, the General Plan, existing geotechnical and geologic data (e.g., reports, geologic maps, soil survey data, etc.) and preliminary project data; and acquire County boring permit for our fieldwork. We will mark our proposed boring locations and register them with USA North.

Crawford will visit the site to finalize access for our fieldwork. Based on our recent site reconnaissance, the boring locations are accessible with a medium-sized track-mounted drill rig (the size of this rig is rare and will work well for the site access and drilling/coring necessary).

## Task 2 Subsurface exploration

Crawford has reconnoitered the site, including the surface geology, and understands that the site and its vicinity is underlain by a soil mantle over bedrock, which is preliminarily suitable for shallow foundation support. The boring for the east abutment will require minor clearing or some brush and tree limbs to access the abutment location; Crawford will access this location from the eastern end of the guard rail through the fence and will clear the obstructing branches to access the boring location. The west abutment is accessible without clearing.

The proposed boring locations are shown below on the Exploration Map.



Crawford's Engineer/Geologist will direct the sampling and the borings will be logged in accordance with the latest Caltrans Logging Manual (2010 Edition). Drilling will be performed with rotary wash drilling equipment with rock coring drilling capability and the borings will extend to 10 to 40 ft below the base of proposed abutments, as detailed above. Although we expect strong and scour-resistant rock that should substantiate relatively shallow borings, we have included an allowance for deeper borings if weaker or scourable rock is encountered below the abutment to evaluate design/construction of deep foundations (e.g., cast-in-drilled-hole piles), if/as needed. If competent foundation conditions for shallow foundations



are confirmed during drilling, the boring(s) would be terminated and the county notified with commensurate reduction field exploration effort/cost.

Drive samples in soil will be taken at approximate 2.5-foot to 5-foot intervals in the borings using a 2.0-inch O.D. Standard Penetration Test (ASTM D1586) or 3.0-inch O.D. “Modified California” sampler (ASTM D3550), driven with a standard 350 ft-lb automatic hammer per ASTM D1586. Rock core sampling (ASTM D2113) will be performed if/when refusal in rotary drilling is encountered. Groundwater depths will be recorded if encountered and when the drilling method allows. The borings will be backfilled according to the County permit requirements. The drill cuttings will be removed from site.

While on site, rock outcrop will be tested with a rebound hammer to gain additional data for rock strength and excavatability.

### **Task 3 laboratory testing**

Crawford will perform the following laboratory tests, as appropriate, on selected samples retrieved from the borings.

- Moisture Content, Unit Weight (ASTM D2216, D7263)
- Gradation, Fines Content, Plasticity Index (ASTM D6913, D1140, D4318)
- Unconfined Compression – Soil, Rock (ASTM D2166, D2938)
- Point Load Test – Rock (ASTM 5731)
- R-Value (CTM 301)
- Corrosivity – pH and Minimum Resistivity, Sulfate Content, Chloride Content (CTM 643, 417, 422m)

### **Task 4 engineering analyses and evaluations**

Crawford will perform the following engineering analyses and evaluations, that can be used to develop conclusions and design-level recommendations:

- Foundations (bearing, lateral resistance, frictional resistance, settlement)
- Retaining/Abutment Wall (active, at-rest, and incremental seismic lateral earth pressures)
- Excavatability of rock

We understand the County would like the R-value reported and they will perform pavement analysis.

### **Task 5 foundation reports**

Crawford will prepare two types of foundation reports, both in accordance with the 2021 Caltrans Report Guidelines. A Preliminary Foundation Report (PFR) will be prepared for use in type selection and once the foundation type has been selected, a Foundation Report (FR) will be prepared for use in design of the bridge. We understand that the County would like the PFR in memorandum format. A Log of Test Borings (LOTB) will be prepared for the FR.

The PFR memorandum will include:

- Introduction
- Project Description;
- Geotechnical Investigation;
- Laboratory Testing Program;
- Geotechnical Conditions (Geology, surface conditions, subsurface conditions);
- Groundwater

- As-built Foundation Data;
- Scour Data;
- Corrosion Evaluation;
- Seismic Information (including preliminary Caltrans ARS Curve);
- Preliminary Foundation and Pavement Recommendations.

If the subsurface exploration is completed prior to issuance of the PFR, boring logs and any completed laboratory testing will be included.

The FR will include:

- Introduction
- Project Description;
- Geotechnical Investigation;
- Laboratory Testing Program;
- Geotechnical Conditions (geology, surface conditions, subsurface conditions);
- Groundwater
- As-built Foundation Data;
- Scour Data;
- Corrosion Evaluation;
- Seismic information (ground motion and other seismic hazards, including Caltrans ARS curve);
- Discussion and conclusions;
- Geotechnical recommendations
  - Foundations (bearing, lateral resistance, settlement)
  - Retaining walls (active, at-rest, incremental seismic, and drainage)
  - Approach fills (type, compaction, lift thickness)
- Notes for specifications
- Notes for construction (e.g., groundwater, rock excavatability, etc.)
- Attachments: vicinity map; geologic map; Caltrans ARS curve; geotechnical engineering calculations, LOTB drawings; and, laboratory test results.

Our experience is that Caltrans commonly provides comments on the geotechnical documents and primarily the PFR. The PFR will be finalized, with stamps, ready for Caltrans' review. We assume Caltrans' comments on the memorandum will be minor, not cause any additional analysis, evaluation, conclusions, or recommendations, and can be resolved and revised memorandum can be produced in less than 24 hours of staff time.

#### **Task 6 consultations and review**

Crawford will be available for geotechnical consultations, assist in developing foundation or grading details, and perform a geotechnical review of the preliminary plans (65% or 90%) and final (100%) plans/specifications and provide comments to the County.

#### **Assumptions**

Our above scope of services assumes the following:

- Site access will be provided by the County. The property owner for the boring on the eastern side will not mind minor clearing to access the boring location.
- Site survey and topographic mapping will be completed by others.
- An encroachment permit will be not be necessary since the borings are planned on private property.
- The proposed abutment locations are outside of sensitive areas (e.g., wetlands) and no special permits are required to complete field exploration.
- Materials testing services are not included within this scope.

**Exhibit B**

**Cost Proposal**

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3  
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS  
(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant  Subconsultant  2nd Tier Subconsultant

Consultant Crawford & Associates, Inc.

Project No./RFQ Shasta County DPW - Geotechnical Services

Date 6/10/2022

Project Name Parkville Road at Ash Creek Bridge Replacement

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal *	Eric Nichols	6.0	\$56.81	\$ 340.86
Senior Project Manager *	Chris Trumbull	28.0	\$68.34	\$ 1,913.52
Project Manager	TBD	24.0	\$51.49	\$ 1,235.76
Senior Geologist	TBD	0.0	\$46.52	\$ -
Senior Engineer	TBD	44.0	\$46.52	\$ 2,046.88
Project Engineer II	TBD	0.0	\$39.38	\$ -
Project Engineer I	TBD	50.0	\$36.25	\$ 1,812.50
Staff Engineer	TBD	104.0	\$31.00	\$ 3,224.00
Administrative Assistant	TBD	6.0	\$27.25	\$ 163.50
Field Technician (PW) **	TBD	0.0	\$40.63	\$ -
Concrete Technician (PW) **	TBD	0.0	\$37.63	\$ -
Laborer Technician (PW) **	TBD	0.0	\$32.25	\$ -

262

LABOR COSTS

a) Subtotal Direct Labor Costs \$ 10,737.02  
 b) Anticipated Salary Increases (see page 2 for calculation) \$ 0.00  
 c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 10,737.02

INDIRECT COSTS

d) Fringe Benefits Rate: 88.29% e) Total Fringe Benefits [(c) x (d)] \$ 9,479.71  
 f) Overhead Rate: 116.79% g) Overhead [(c) x (f)] \$ 12,539.77  
 h) General & Administrative Rate: 20.00% i) Gen & Admin [(c) x (h)] \$ 2,147.40  
 Combined ICR %: 225.08%  
 j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 24,166.88  
 k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10% ] \$ 3,490.39  
 FIXED FEE

D) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage (Current IRS Rate)	650	Mile	0.625	\$ 406.25
Per Diem	2	Day	\$165.00	\$ 330.00
Permit Fees	1	At Cost	\$600.00	\$ 600.00
Traffic Control (Minor)		Day	\$700.00	\$ -
Traffic Control (Major)		Day	\$2,500.00	\$ -
Drilling	2	Day	\$6,500.00	\$ 13,000.00
Steel Liners	6	Liner	\$10.00	\$ 60.00
Hand Auger		Day	\$150.00	\$ -
Wildcat DCP Equipment		Day	\$750.00	\$ -
Wildcat DCP Tips		Each	\$15.00	\$ -
Laboratory Testing (Crawford 2022 Rates, Attached)	1	Lump Sum	\$2,005.00	\$ 2,005.00
				\$ 16,401.25

m) SUBCONSULTANT'S COSTS (Add additional pages if necessary)

Subconsultant 1: \$ -  
 Subconsultant 2: \$ -  
 m) TOTAL SUBCONSULTANT'S COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ 16,401.25  
 TOTAL COST [(c) + (j) + (k) + (n)] \$ 54,795.55

NOTES:

1. Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary calculation (page 2) must accompany.

## EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS  
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
<u>\$10,737.02</u>	<u>262</u>		<u>40.98</u>	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$40.98	+	5.0%	=	\$43.03	Year 2 Avg Hourly Rate
Year 2	\$43.03	+	5.0%	=	\$45.18	Year 3 Avg Hourly Rate
Year 3	\$45.18	+	5.0%	=	\$47.44	Year 4 Avg Hourly Rate
Year 4	\$47.44	+	5.0%	=	\$49.81	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	100%	*	262	=	262.00	Estimated Hours Year 1
Year 2	0%	*	262	=	0.00	Estimated Hours Year 2
Year 3	0%	*	262	=	0.00	Estimated Hours Year 3
Year 4	0%	*	262	=	0.00	Estimated Hours Year 4
Year 5	0%	*	262	=	0.00	Estimated Hours Year 5
Total	<u>100%</u>		Total	=	262.00	

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

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$40.98	*	262	=	10737.02	Estimated Hours Year 1
Year 2	\$43.03	*	0	=	\$0.00	Estimated Hours Year 2
Year 3	\$45.18	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$47.44	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$49.81	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$10,737.02	
	Direct Labor Subtotal before Escalation			=	\$10,737.02	
	Estimated total of Direct Labor Salary Increase			=	<u>\$0.00</u>	Transfer to Page 1

## NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

**Certification of Direct Costs:**

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


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

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

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

**Prime Consultant or Subconsultant Certifying:**

Name: Benjamin D. Crawford Title \*: President/Principal

Signature:  Date of Certification: 6/10/2022

Email: [ben.crawford@crawford-inc.com](mailto:ben.crawford@crawford-inc.com) Phone Number: (916) 455-4225

Address: Crawford & Associates, Inc., 1100 Corporate Way, Suite 230, Sacramento, CA 95831

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

List services the consultant is providing under the proposed contract:


**Geotechnical Engineering Services**

## **Exhibit C**

### **Consultant Contract DBE Information (LAPM Exhibit 10-02)**

**EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT**

1. Local Agency: County of Shasta Dept of Public Works 2. Contract DBE Goal: 0%  
 3. Project Description: Geotechnical Services  
 4. Project Location: Parkville Road at Ash Creek Bridge  
 5. Consultant's Name: Crawford & Associates, Inc. 6. Prime Certified DBE:  7. Total Contract Award Amount: \_\_\_\_\_  
 8. Total Dollar Amount for **ALL** Subconsultants: \_\_\_\_\_ 9. Total Number of **ALL** Subconsultants: \_\_\_\_\_

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>			
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		<b>14. TOTAL CLAIMED DBE PARTICIPATION</b>	\$
			0.00 %
23. Local Agency Representative's Signature _____ 24. Date _____  25. Local Agency Representative's Name _____ 26. Phone _____  27. Local Agency Representative's Title _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">                       15. Preparer's Signature                      Tracy Adkins                      17. Preparer's Name                      Controller                      19. Preparer's Title                 </div> <div style="text-align: center;">                     7/14/22                      16. Date                      916-705-4903                      18. Phone                 </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.

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