

Contract No.: _____
Termination Date: XX/XX/20XX
Amount \$XXX
Authorized: [Yes/No]
Federal Funding: [Yes/No]
State Funding:

ON-CALL SERVICES AGREEMENT

for

Construction Management and Inspection

between

County of Riverside • Transportation Department

and

[Consultant Legal Name]



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ARTICLE I INTRODUCTION

A. This On-Call Services Agreement ("Agreement") is entered into this _____ day of _____, 20_____, by and between COUNTY OF RIVERSIDE, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and [CONSULTANT LEGAL NAME] hereinafter referred to as "CONSULTANT".

B. Coordination of CONSULTANT and COUNTY activities shall be accomplished through a CONSULTANT Contract Manager and a COUNTY Contract Administrator.

The CONSULTANT's Contract Manager for CONSULTANT shall be:

[CONSULTANT CONTRACT MANAGER NAME]

Located at:

[CONSULTANT ADDRESS]

The COUNTY's Contract Administrator for COUNTY shall be:

Hector Davila, PE

Located at:

2950 Washington Street, Riverside, CA 92504

C. CONSULTANT shall perform:

- The covenants set forth in Article III entitled Statement of Work;
In accordance with the time frames set forth in Article IV entitled Performance Periods;
For the fees set forth in Article V entitled Allowable Costs and Payments.

D. CONSULTANT in the performance of this Agreement, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY.

E. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the Agreement, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligations hereunder, is only subject to the control or direction of the COUNTY as to the designation of tasks to be performed and the results to be accomplished.

F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction,

1 supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds COUNTY harmless
2 from any and all claims that may be made against COUNTY based upon any contention by any third party that
3 an employer-employee relationship exists by reason of this Agreement.

4 G. Without the written consent of COUNTY, this Agreement is not assignable or transferable by CONSULTANT
5 either in whole or in part. Except as expressly authorized herein, CONSULTANT shall not subcontract any work,
6 without the prior written approval of the COUNTY.

7 H. CONSULTANT shall be as fully responsible to the COUNTY for the acts and omissions of its contractors and
8 subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same
9 manner as persons directly employed by CONSULTANT.

10 I. No alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by
11 the authorized representatives of both parties; and no oral understanding or agreement not incorporated herein,
12 shall be binding on any of the parties hereto.

13 J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of
14 CONSULTANT’s expenses incurred in the performance hereof, including travel and per diem, unless otherwise
15 expressly so provided.

16 K. COUNTY may be working cooperatively with other agencies (collectively referred to as the “AGENCIES”) in
17 the effort to complete services performed under this Agreement.

18 **ARTICLE II CONSULTANT’S REPORTS OR MEETINGS**

19 A. To ensure understanding and performance of the Agreement objectives, meetings between COUNTY,
20 AGENCIES, and CONSULTANT shall be held in accordance with the terms of each Task Order. All work
21 objectives, CONSULTANT’s work schedule, the terms of the Agreement and any other related issues will be
22 discussed and/or resolved. CONSULTANT shall keep minutes of meetings and distribute copies of minutes as
23 appropriate. Progress reporting shall conform with the contract administration requirements of the COUNTY’s
24 Consulting Services Manual.

25 B. CONSULTANT’s Contract Manager shall meet with COUNTY’s Contract Administrator, as needed, to discuss
26 progress on the Agreement and/or Task Orders.

27 **ARTICLE III STATEMENT OF WORK**

28 CONSULTANT shall furnish all technical and professional services including labor, material, equipment,
29 transportation, supervision, and expertise to fully and adequately perform and complete the covenants set forth in

1 Attachment A, Scope of Services, which is attached hereto and incorporated herein by reference and in any Task
2 Order executed under the authority of this Agreement.

3 **ARTICLE IV PERFORMANCE PERIOD**

4 A. This Agreement shall go into effect upon the execution of this Agreement by both parties, and CONSULTANT
5 shall commence work after written notification to proceed by COUNTY Contract Administrator. The Agreement
6 shall end on XXXX XX, 20XX, unless extended by a written amendment signed by the authorized
7 representatives of both parties.

8 B. CONSULTANT is advised that any recommendation for Agreement award is not binding on COUNTY until the
9 Agreement is fully executed and approved by COUNTY.

10 C. Services provided under this Agreement will be performed in accordance with the requirements set forth in each
11 Task Order. If work on a Task Order is in progress on the expiration date of this Agreement, the terms of the
12 Agreement shall be extended by written amendment. Agreement extensions may be executed by the Director
13 of Transportation if authorized by the County Board of Supervisors.

14 **ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

15 A. The method of payment for this Agreement will be based on actual cost plus a fixed fee and will be based on
16 the Specific Rates of Compensation set forth in Article CVI, Cost Proposal, of Attachment C, Compensation
17 Plan, which is attached hereto and incorporated herein by reference. COUNTY will reimburse CONSULTANT
18 for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other
19 direct costs) incurred by CONSULTANT in performance of the work as agreed upon in each Task Order.
20 CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits,
21 travel, equipment rental, overhead, and other estimated costs set forth in the Compensation Plan, unless
22 modified by written amendment signed by the authorized representatives of both parties. In no event, will
23 CONSULTANT be reimbursed for overhead costs at a rate that exceeds COUNTY’s approved overhead rate
24 set forth in the Compensation Plan.

25 B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are
26 in the cost proposal and identified in the cost proposal and in the executed Task Order.

27 C. Specific assignments will be authorized to CONSULTANT through issuance of Task Orders.

28 D. Each Task Order will identify the scope of services, expected results, deliverables, period of performance and
29 will designate a COUNTY Task Coordinator. CONSULTANT shall prepare a Cost Estimate, including a written

1 estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses,
2 overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and
3 total cost; the finalized Task Order shall be prepared in accordance with the format as specified in the County
4 Consulting Services Manual and shall be signed by both COUNTY and CONSULTANT.

5 E. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved
6 Compensation Plan.

7 F. Progress payments for each Task Order will be made monthly in arrears based on services provided and
8 allowable costs incurred.

9 G. CONSULTANT shall not commence performance of work or services until this Agreement has been approved
10 by COUNTY, and notification to proceed has been issued by COUNTY'S Contract Administrator. No payment
11 will be made prior to approval or for any work performed prior to approval of this Agreement.

12 H. A Task Order is of no force or effect until returned to COUNTY and signed by an authorized representative of
13 COUNTY. No expenditures are authorized on an assignment and work shall not commence until a Task Order
14 for that assignment has been executed by COUNTY.

15 I. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by COUNTY'S
16 Contract Administrator of itemized invoices. Separate invoices itemizing all costs are required for all work
17 performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the
18 performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall
19 follow the format stipulated in the COUNTY'S Consulting Services Manual. Credits due COUNTY that includes
20 any equipment purchased under the provisions of Article XI Equipment Purchase and Other Capital
21 Expenditures of this Agreement, must be reimbursed by CONSULTANT prior to the expiration or termination of
22 this Agreement. Invoices shall be mailed to COUNTY's Contract Administrator at the address provided in Article
23 I.

24 J. The period of performance for Task Orders shall be in accordance with time frame specified in each Task Order.

25 K. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in
26 the Task Order. Additional services or budget will require the issuance of a new Task Order.

27 L. If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order,
28 no payment will be made until the deliverable has been satisfactorily completed.

29 M. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this

1 Agreement.

2 N. The total amount payable by COUNTY for all Task Orders resulting from this Agreement shall not exceed
3 \$5,000,000.

4 O. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will
5 be authorized under this Agreement through Task Orders.

6 **ARTICLE VI TERMINATION**

7 A. This Agreement may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30) calendar
8 days' written notice (delivered by certified mail, return receipt requested) to CONSULTANT of COUNTY's
9 termination. Upon termination, COUNTY may proceed with the work in any manner deemed proper by
10 COUNTY. COUNTY shall be entitled to all work, including but not limited to, reports, investigations, appraisals,
11 inventories, studies, analyses, drawings and date estimates performed to that date, whether complete or not.

12 B. COUNTY may temporarily suspend this Agreement, at no additional cost to COUNTY, provided that
13 CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary
14 suspension. If COUNTY gives such notice of temporary suspension, CONSULTANT shall immediately suspend
15 its activities under this Agreement. A temporary suspension may be issued concurrent with the notice of
16 termination.

17 C. Notwithstanding any provisions of this Agreement, CONSULTANT shall not be relieved of liability to COUNTY
18 for damages sustained by COUNTY by virtue of any breach of this Agreement by CONSULTANT, and COUNTY
19 may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due
20 to COUNTY from CONSULTANT is determined.

21 D. In the event of termination, COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this
22 Agreement prior to termination, unless the cost of completion to COUNTY exceeds the funds remaining in the
23 Agreement. In which case the overage shall be deducted from any sum due CONSULTANT under this
24 Agreement and the balance, if any, shall be paid to CONSULTANT upon demand.

25 **ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

26 A. The CONSULTANT agrees that 48 CFR 31, Contract Cost Principles and Procedures, shall be used to determine
27 the allowability of individual terms of cost.

28 B. The CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR 200, Uniform
29 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

1 C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be
2 unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by CONSULTANT to COUNTY.

3 **ARTICLE VIII RETENTION OF RECORDS/AUDIT**

4 The CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books,
5 documents, papers, accounting records, independent CPA Audited Indirect Cost Rate workpapers, and other
6 evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering the
7 Agreement. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and
8 materials available at their respective offices at all reasonable times during the Agreement period and for three (3)
9 years from the date of final payment under the Agreement and records for real property and equipment acquired
10 with federal funds must be retained for three (3) years after final disposition. COUNTY, Caltrans Auditor, FHWA,
11 or any duly authorized representative of the federal government having jurisdiction under federal laws or regulations
12 (including the basis of federal funding in whole or in part) shall have access to any books, records, and documents
13 of the CONSULTANT, subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the
14 Agreement for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be
15 furnished if requested without limitation.

16 **ARTICLE IX AUDIT REVIEW PROCEDURES**

17 A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not
18 disposed of by agreement, shall be reviewed by COUNTY's Chief Financial Officer.

19 B. Not later than thirty (30) days after issuance of the final audit report, CONSULTANT may request a review by
20 COUNTY's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in
21 writing.

22 C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and
23 timely performance, in accordance with the terms of this Agreement.

24 D. CONSULTANT and subconsultant agreements, including cost proposals and Indirect Cost Rates (ICR), may
25 be subject to audits or reviews such as, but not limited to, an agreement audit, an incurred cost audit, an ICR
26 Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost proposal and
27 ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and other
28 related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's
29 responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work

1 papers including making copies as necessary. The Agreement, cost proposal, and ICR shall be adjusted by
2 CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or review
3 recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be
4 incorporated into the Agreement by this reference if directed by COUNTY at its sole discretion. Refusal by
5 CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local
6 governments have access to CPA work papers, will be considered a breach of Agreement terms and cause for
7 termination of this Agreement and disallowance of prior reimbursed costs.

8 E. If State or Federal funds are identified in this Agreement, CONSULTANT's Cost Proposal may be subject to a
9 CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI).
10 IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost
11 Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY Contract Administrator to
12 conform to the Work Paper Review recommendations included in the management letter or audit
13 recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper
14 Review recommendations included in the management letter or audit recommendations included in the audit
15 report will be considered a breach of the Agreement terms and cause for termination of the Agreement and
16 disallowance of prior reimbursed costs.

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

- 26 a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed
27 will be ninety percent (90%) of the proposed rate.
- 28 b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%)
29 - 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 Article IX.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 Article IX.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 Article IX.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 rejects 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) 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 X SUBCONTRACTING

A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between COUNTY and any subconsultant(s), and no subagreement 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 shall be subcontracted without written authorization by COUNTY Contract Administrator, except that which is expressly identified in the CONSULTANT's Cost Proposal.

- 1 C. Any subagreement entered into as a result of this Agreement, shall contain all the provisions stipulated in this
2 entire Agreement to be applicable to subconsultants unless otherwise noted.
- 3 D. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made
4 to CONSULTANT by COUNTY.
- 5 E. Any substitution of subconsultants must be approved in writing by COUNTY Contract Administrator in advance
6 of assigning work to a substitute subconsultant.

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

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

1 **ARTICLE XII STATE PREVAILING WAGE RATES**

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

5 B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the
6 payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this
7 Agreement are available and on file with the Department of Transportation's Regional/District Labor Compliance
8 Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part
9 of this Agreement by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a
10 construction project site. Prevailing wages will be applicable to all inspection work performed at COUNTY
11 construction sites, at COUNTY facilities and at off-site locations that are set up by the construction contractor
12 or one of its subcontractors solely and specifically to serve COUNTY projects. Prevailing wage requirements
13 do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that
14 provide goods and services to the general public.

15 C. General Prevailing Wage Rate Determinations applicable to each Task Order may also be obtained from the
16 Department of Industrial Relations website at <http://www.dir.ca.gov>.

17 D. Payroll Records

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

25 a. The information contained in the payroll record is true and correct.

26 b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any
27 work performed by his or her employees on the public works project.

28 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the
29 CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made

1 available for inspection and copying by COUNTY representatives at all reasonable hours at the principal
2 office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit
3 inspection of its records as follows:

- 4 a. A certified copy of an employee's payroll record shall be made available for inspection or furnished
5 to the employee or the employee's authorized representative on request.
 - 6 b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available
7 for inspection or furnished upon request to a representative of COUNTY, the Division of Labor
8 Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial
9 Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement
10 and the Division of Apprenticeship Standards shall not be altered or obliterated by the
11 CONSULTANT.
 - 12 c. The public shall not be given access to certified payroll records by the CONSULTANT. The
13 CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract
14 Administrator by both email and regular mail on the business day following receipt of the request.
- 15 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the
16 entity that requested the records within ten (10) calendar days after receipt of a written request.
 - 17 4. Any copy of records made available for inspection as copies and furnished upon request to the public or
18 any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure
19 of each individual's name, address, and social security number. The name and address of the
20 CONSULTANT or subconsultant performing the work shall not be marked or obliterated.
 - 21 5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1)
22 above, including the street address, city and county, and shall, within five (5) working days, provide a notice
23 of a change of location and address.
 - 24 6. The CONSULTANT or subconsultant shall have ten (10) calendar days in which to comply subsequent to
25 receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the
26 CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty
27 to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker,
28 until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then
29 due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a

1 subconsultant to comply with this section.

2 E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified
3 payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY Contract
4 Administrator.

5 F. Penalty

6 1. The CONSULTANT and any of its subconsultants shall comply with Labor Code §1774 and §1775.
7 Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the COUNTY a
8 penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each
9 worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which
10 the worker is employed for any public work done under the Agreement by the CONSULTANT or by its
11 subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to
12 1780, inclusive.

13 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on
14 consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay
15 the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in
16 meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or
17 subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to
18 pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had
19 knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the
20 appropriate rate, including any escalations that take place during the term of the Agreement.

21 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage
22 rates and the amount paid to each worker for each calendar day or portion thereof for which each worker
23 was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or
24 subconsultant.

25 4. If a worker employed by a subconsultant on a public works project is not paid the general prevailing per
26 diem wages by the subconsultant, the prime CONSULTANT of the project is not liable for the penalties
27 described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to pay
28 the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply
29 with all of the following requirements:

- a. The Agreement 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,

1 except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any
2 one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and
3 forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided
4 in §1815.

5 H. Employment of Apprentices

6 1. Where either the prime Agreement or the subagreement exceeds thirty thousand dollars (\$30,000), the
7 CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of
8 Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

9 2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding
10 the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to
11 commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of
12 Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the
13 employment of apprentices and for the specific journey-to- apprentice ratios for the Agreement work. The
14 CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are
15 specified in Labor Code §1777.7.

16 **ARTICLE XIII CONFLICT OF INTEREST**

17 A. CONSULTANT shall cause itself, its respective employees, agents, representatives, or independent contractors
18 and its subconsultants as well as their respective employees, agents, representatives, or independent
19 contractors to comply with all applicable conflict of interest laws and regulations, including but not limited to the
20 Political Reform Act and California Government Code section 1090. Furthermore, CONSULTANT shall cause
21 itself, its respective employees, agents, representatives, or independent contractors and its subconsultants as
22 well as their respective employees, agents, representatives, or independent contractors to comply with the
23 COUNTY's Conflict of Interest Code. CONSULTANT further agrees to cause itself, its respective employees,
24 agents, representatives, or independent contractors to complete any statements of economic interest if required
25 by COUNTY or State law. Notwithstanding any other provision contained in this Agreement, for a breach or
26 violation of this provision, COUNTY shall have the right to immediately terminate this Agreement without liability
27 and seek any other remedy provided by law or equity or this Agreement.

28 B. During the term of this Agreement, the CONSULTANT shall disclose any financial, business, or other
29 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.

C. 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.

D. 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.

ARTICLE XIV 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 COUNTY employee. For breach or violation of this warranty, COUNTY shall have the right, in its discretion, to terminate this Agreement without liability, to pay only for the value of the work actually performed, or to deduct from the Agreement price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

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

If federal funds are identified in this agreement, in whole or in part, to fund the services performed under this Agreement and such federal funding will exceed \$150,000 then compliance with the provisions of Article XV as described below is required. If Article V.K identifies that services are not funded in whole or in part with Federal funds of such federal funding will be less than \$150,000 then compliance with the requirements of Article XV is not required.

A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

1. No state, federal or COUNTY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, state or federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of making of this Agreement, or with the extension, continuation, renewal, amendment, or modification of this Agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an

1 officer or employee of Congress, or an employee of a Member of Congress in connection with this
2 Agreement, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report
3 Lobbying", in accordance with its instructions.

4 B. This certification is a material representation of fact upon which reliance was placed when this transaction was
5 made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction
6 imposed by 31 U.S.C. Section 1352. Any person who fails to file the required certification shall be subject to a
7 civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars
8 (\$100,000) for each such failure.

9 C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this
10 certification be included in all lower tier subagreements, which exceed one hundred thousand dollars
11 (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

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

13 A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury
14 under the laws of the State of California that CONSULTANT has, unless exempt, complied with the
15 nondiscrimination program requirements of Government Code Section 12990 and 2 California Code of
16 Regulations (CCR) Section 8102.

17 B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not deny the
18 Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry,
19 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender
20 identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully
21 discriminate, harass, or allow harassment against any employee or applicant for employment because of race,
22 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic
23 information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military
24 and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their
25 employees and applicants for employment are free from such discrimination and harassment.

26 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act
27 (Government Code Section 12990 et seq.), the applicable regulations promulgated there under (2 CCR Section
28 11000 et seq.), the provisions of Government Code Sections 11135-11139.5, and the regulations or standards
29 adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment and

1 Housing Commission implementing Government Code Section 12990 (a-f), set forth 2 CCR Sections 8100-
2 8504, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

3 D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and
4 the COUNTY upon reasonable notice at any time during the normal business hours, but in no case less than
5 twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and
6 its facilities as said Department or COUNTY shall require to ascertain compliance with this cause.

7 E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor
8 organizations with which they have a collective bargaining or other agreement.

9 F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts
10 to perform work under this Agreement.

11 G. The CONSULTANT, with regard to the work under this Agreement, shall act in accordance with Title VI of the
12 Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.). Title VI provides that the recipients of federal
13 assistance will implement and maintain a policy of nondiscrimination in which no person in the United States
14 shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in,
15 denied the benefits of or subject to discrimination under any program or activity by the recipients of federal
16 assistance or their assignees and successors in interest.

17 H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs
18 of the U.S. Department of Transportation (49 CFR 21 – Effectuation of Title VI of the Civil Rights Act of 1964).
19 Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited
20 by 49 CFR Section 21.5, including employment practices and the selection and retention of subconsultants.

21 I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any
22 person the benefits of, or otherwise discriminate against anyone in connection with the award and performance
23 of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. If a DBE Program
24 Plan has been established for this Agreement, CONSULTANT, subrecipient or subconsultant will not, directly
25 or through contractual or other arrangements, use criteria or methods of administration that have the effect of
26 defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to
27 individuals of a particular race, color, sex, or national origin.

28 **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

29 A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the

1 laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of
2 owner, partner, director, officer or manager:

- 3 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by
4 any federal agency;
- 5 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal
6 agency within the past three (3) years;
- 7 3. Does not have a proposed debarment pending; and
- 8 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent
9 jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

10 B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in
11 denial of recommendation for award, but will be considered in determining responsibility. Disclosures must
12 indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

13 C. Exceptions to the Federal Government excluded parties maintained by the U.S. General Services
14 Administration are to be determined by the Federal Highway Administration (FHWA).

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

16 If Federal funds are identified in this Agreement, in whole or in part, to fund the services performed under this
17 Agreement then compliance with the provisions of Article XVIII as described below is required. If Federal funds are
18 not identified compliance with the requirements of Article XVIII is not required.

19 A. CONSULTANT or subconsultants shall take necessary and reasonable steps to ensure that DBEs have
20 opportunities to participate in the Agreement (49 CFR 26). To ensure equal participation of DBEs provided in
21 49 CFR 26.5, the COUNTY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs
22 and select work parts consistent with available DBE subconsultants and suppliers.

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

1 [search](#).

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

- 5 • 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 6 • 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- 7 • Only fees, commissions, and charges for assistance in the procurement and delivery of materials or
8 supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 40 CFR 26.55
9 defines "manufacturer" and "regular dealer."

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

14 B. The goal for DBE participation for this Agreement is _____%. Participation by DBE CONSULTANT or
15 subconsultants shall be in accordance with information contained in Exhibit 10-02: Consultant Contract DBE
16 Commitment attached hereto and incorporated as part of the Agreement. If a DBE subconsultant is unable to
17 perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if
18 the goal is not otherwise met.

19 C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the
20 Agreement goal, or by documenting adequate good faith efforts to meet the Agreement goal. An adequate
21 good faith means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve
22 a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected
23 to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE
24 Information – Good Faith Efforts to document efforts to meet the goal. Refer to 39 CFR 26 for guidance
25 regarding evaluation of good faith efforts to meet the DBE goal.

26 D. Contract Assurance

27 Under 49 CFR 26.13(b):

28 CONSULTANT, subrecipients or subconsultants shall not discriminate on the basis of race, color, national
29 origin, or sex in the performance of this Agreement. CONSULTANT shall carry out applicable requirements of

1 49 CFR 26 in the award and administration of federal-aid contracts.

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

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

9 E. Termination and Substitution of DBE subconsultants

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

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

- 19 1) Listed DBE fails or refuses to execute a written contract based on plans and specifications for the
20 project.
- 21 2) The COUNTY stipulate that a bond is a condition of executing the subcontract and the listed DBE
22 fails to meet the COUNTY's bond requirements.
- 23 3) Work requires a CONSULTANT's license and listed DBE does not have a valid license under
24 Contractors License Law.
- 25 4) Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to
26 perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith
27 or discrimination).
- 28 5) Listed DBE's work is unsatisfactory and not in compliance with the Agreement.
- 29 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 for 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 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.

CONSULTANT shall:

- 1) Notify the COUNTY 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)

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

3 If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the
4 decertified date. If a business becomes a certified DBE before completing its work, the business must notify
5 CONSULTANT in writing of the certification date. CONSULTANT shall complete a Disadvantaged Business
6 Enterprise (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the COUNTY within
7 thirty (30) days of contract acceptance.

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

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

14 G. A DBE is only eligible to be counted toward the Agreement goal if it performs a commercially useful function
15 (CUF) on the Agreement. CUF must be evaluated on an agreement by agreement basis. A DBE performs a
16 CUF when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by
17 actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be
18 responsible, with respect to quantity, ordering the material and installing (where applicable), and paying for the
19 material itself, industry practices, whether the amount the firm is to be paid under the Agreement is
20 commensurate with the work it is actually performing, and other relevant factors.

21 H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, agreement, or
22 project through which funds are passed in order to obtain the appearance of DBE participation. In determining
23 whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do
24 not participate.

25 I. A DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its
26 Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement
27 than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed
28 that it is not performing a CUF.

29 J. CONSULTANT shall maintain records of materials purchases or supplied for all subcontracts entered into with

1 certified DBEs. The record shall show the name and business address of each DBE or vendor and the total
2 dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment
3 and the total dollar figure paid to all firms, DBE CONSULTANT's shall also show the date of work performed
4 by their own forces along with the corresponding dollar value of the work.

5 K. If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify
6 CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during
7 the life of the Agreement, the subconsultant shall notify CONSULTANT in writing with the date of certification.
8 Any changes should be reported to COUNTY Contract Administrator within thirty (30) calendar days.

9 L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of
10 the following month, the prime contractor/consultant shall complete and email the Exhibit 9-F: Disadvantaged
11 Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the
12 Agency.

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

14 **ARTICLE XIX INDEMNIFICATION AND INSURANCE**

15 A. Basic Indemnity

16 1. To the fullest extent permitted by applicable law, CONSULTANT agrees to defend (through legal counsel
17 reasonably acceptable to COUNTY), indemnify, and hold harmless the County of Riverside, its Agencies,
18 Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and
19 each of their respective directors, members officers, employees, agents, volunteers and representatives
20 ("Indemnitees") and each of them from any and all Losses that arise out of or relate to any act or omission
21 constituting ordinary and not professional negligence (including, without limitation, negligent breach of
22 contract), recklessness, or willful misconduct on the part of CONSULTANT or its subconsultants or their
23 respective employees, agents, representatives, or independent contractors.

24 2. "Losses" shall mean any and all economic and non-economic losses, costs, liabilities, claims, damages,
25 actions, judgements, settlements and expenses, including, without limitation, full and actual attorney's fees
26 (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees,
27 arbitrator and arbitration fees and mediator and mediation fees.

28 3. CONSULTANT further agrees to and shall indemnify and hold harmless the Indemnitees from all liability
29 arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors

1 of CONSULTANT for salary, wages, compensation, health benefits, insurance, retirement or any other
2 benefit not explicitly set forth in this Agreement and arising out of work performed for COUNTY pursuant to
3 this Agreement. The Indemnitees shall be entitled to the defense and indemnification provided for
4 hereunder regardless of whether the Loss is in part caused or contributed to by the acts or omissions of an
5 Indemnitee or any other person or entity; provided however, that nothing contained herein shall be
6 construed as obligating CONSULTANT to indemnify and hold harmless any Indemnitee to the extent not
7 required under the provisions of Paragraph B. below.

8 **B. Indemnity for Design Professional Services**

9 1. To the fullest extent permitted by Applicable Law, CONSULTANT agrees to defend (through legal counsel
10 reasonably acceptable to COUNTY), indemnify and hold harmless the Indemnitees, and each of them,
11 against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful
12 misconduct constituting professional negligence on the part of CONSULTANT or its subconsultants, or their
13 respective employees, agents, representatives, or independent contractors. The Indemnitees shall be
14 entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is, in
15 part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity;
16 provided, however, that nothing contained herein shall be construed as obligating CONSULTANT to
17 indemnify and hold harmless any Indemnitee to the extent not required under the provisions of this section.
18 CONSULTANT shall defend and pay, all costs and fees, including but not limited to attorney fees, cost of
19 investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings to the extent and
20 in proportion to the percentage, such costs and fees arise out of, pertain to, or relate to the negligence,
21 recklessness or willful misconduct of CONSULTANT arising out of or from the performance of professional
22 design services under this Agreement. The duty to defend applies to any alleged or actual negligence,
23 recklessness, willful misconduct of CONSULTANT. The cost for defense shall apply whether or not
24 CONSULTANT is a party to the lawsuit and shall apply whether or not CONSULTANT is directly liable to
25 the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to be actively
26 negligent, but only in proportion to the percentage of fault or negligence of CONSULTANT.

27 2. Without affecting the rights of COUNTY under any other provision of this Agreement, CONSULTANT shall
28 not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee for a
29 Loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that such

1 negligence, recklessness or willful misconduct has been determined by agreement of CONSULTANT and
2 Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.

- 3 3. CONSULTANT agrees to obtain or cause to be obtained executed defense and indemnity agreements with
4 provisions identical to those set forth in this section from each and every subconsultant, of every Tier.
- 5 4. CONSULTANT's indemnification obligations under this Agreement shall not be limited by the amount or
6 type of damages, compensation or benefits payable under any policy of insurance, workers' compensation
7 acts, disability benefit acts or other employee benefit acts.
- 8 5. The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in
9 pursuing or enforcing their right to defense and/or indemnification under this Agreement.

10 C. INSURANCE

11 Without limiting or diminishing the CONSULTANT's obligation to indemnify or hold the COUNTY harmless,
12 CONSULTANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following
13 insurance coverage's during the term of this Agreement. As respects to the insurance section only, the
14 COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments,
15 their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or
16 representatives as Additional Insureds.

17 1. Workers' Compensation:

18 If the CONSULTANT has employees as defined by the State of California, the CONSULTANT shall maintain
19 statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of
20 California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits
21 not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in
22 favor of the County of Riverside.

23 2. Commercial General Liability:

24 Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified
25 contractual liability, products and completed operations liability, personal and advertising injury, and cross
26 liability coverage, covering claims which may arise from or out of CONSULTANT's performance of its
27 obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall
28 not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general
29 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence

1 limit. Policy shall name the COUNTY as Additional Insureds.

2 3. Vehicle Liability:

3 If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then
4 CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an
5 amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general
6 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence
7 limit. Policy shall name the COUNTY as Additional Insureds.

8 4. Professional Liability

9 CONSULTANT shall maintain Professional Liability Insurance providing coverage for the CONSULTANT's
10 performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per
11 occurrence and \$2,000,000 annual aggregate. If CONSULTANT's Professional Liability Insurance is written
12 on a claims made basis rather than an occurrence basis, such insurance shall continue through the term
13 of this Agreement and CONSULTANT shall purchase at his sole expense either 1) an Extended Reporting
14 Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a
15 retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through
16 Certificates of Insurance that CONSULTANT has maintained continuous coverage with the same or original
17 insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

18 5. General Insurance Provisions - All lines:

19 a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of
20 California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are
21 waived, in writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager waives a
22 requirement for a particular insurer such waiver is only valid for that specific insurer and only for one
23 policy term.

24 b. The CONSULTANT must declare its insurance self-insured retention for each coverage required
25 herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall
26 have the prior written consent of the COUNTY Risk Manager before the commencement of operations
27 under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at
28 the election of the COUNTY's Risk Manager, CONSULTANT's carriers shall either; 1) reduce or
29 eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a

1 bond which guarantees payment of losses and related investigations, claims administration, and
2 defense costs and expenses.

3 c. CONSULTANT shall cause CONSULTANT's insurance carrier(s) to furnish the County of Riverside
4 with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of
5 Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by
6 the COUNTY Risk Manager, provide original Certified copies of policies including all Endorsements
7 and all attachments thereto, showing such insurance is in full force and effect. Further, said
8 Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty
9 (30) days written notice shall be given to the County of Riverside prior to any material modification,
10 cancellation, expiration or reduction in coverage of such insurance. In the event of a material
11 modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith,
12 unless the County of Riverside receives, prior to such effective date, another properly executed original
13 Certificate of Insurance and original copies of endorsements or certified original policies, including all
14 endorsements and attachments thereto evidencing coverage's set forth herein and the insurance
15 required herein is in full force and effect. CONSULTANT shall not commence operations until the
16 COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of
17 endorsements and if requested, certified original policies of insurance including all endorsements and
18 any and all other attachments as required in this Section. An individual authorized by the insurance
19 carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of
20 Insurance.

21 d. It is understood and agreed to by the parties hereto that the CONSULTANT's insurance shall be
22 construed as primary insurance, and the COUNTY's insurance and/or deductibles and/or self-insured
23 retention's or self-insured programs shall not be construed as contributory.

24 e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope
25 of services; or, there is a material change in the equipment to be used in the performance of the scope
26 of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the
27 COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required
28 under this Agreement, if in the COUNTY Risk Manager's reasonable judgment, the amount or type of
29 insurance carried by the CONSULTANT has become inadequate.

- f. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subconsultants working under this Agreement.
- g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.
- h. CONSULTANT agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if 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 VI Termination, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

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

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling

1 agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this
2 warranty, COUNTY has the right to annul this Agreement without liability; pay only for the value of the work actually
3 performed, or in its discretion to deduct from the Agreement price or consideration, or otherwise recover the full
4 amount of such commission, percentage, brokerage, or contingent fee.

5 **ARTICLE XXIII DISPUTES**

6 A. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith,
7 to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-
8 faith negotiations and as may be otherwise provided herein, then either party may commence legal action
9 against the other. This Agreement shall be governed by the laws of the State of California. Any legal action
10 related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the
11 State of California located in Riverside, California, and the parties waive any provision of law providing for a
12 change of venue to another location. In the event any provision in this Agreement is held by a court of competent
13 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force
14 without being impaired or invalidated in any way.

15 B. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed
16 of by agreement shall be decided by a committee consisting of COUNTY Contract Administrator and Director
17 of Transportation, or designee, who may consider written or verbal information submitted by CONSULTANT.

18 C. Not later than thirty (30) days after completion of all deliverables necessary to complete the plans, specifications
19 and estimate, CONSULTANT may request review by COUNTY Governing Board of unresolved claims or
20 disputes, other than audit. The request for review will be submitted in writing.

21 D. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full
22 and timely performance in accordance with the terms of this Agreement.

23 **ARTICLE XXIV INSPECTION OF WORK**

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

27 **ARTICLE XXV SAFETY**

28 A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety
29 equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety

1 Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests
2 at all times while working on the construction project site.

3 B. Pursuant to the authority contained in Vehicle Code Section 591, COUNTY has determined that such areas are
4 within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the
5 requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all
6 reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public
7 from injury and damage from such vehicles.

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

9 D. In the event CONSULTANT performs trenching of five (5) feet or deeper in the performance any service
10 provided under this Agreement, CONSULTANT must have a Division of Occupational Safety and Health (CAL-
11 OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any
12 practices, work, method, operation, or process related to the construction or excavation of trenches which are
13 five (5) feet or deeper.

14 **ARTICLE XXVI OWNERSHIP OF DATA**

15 A. It is mutually agreed that all materials prepared by CONSULTANT under this Agreement shall become the
16 property of COUNTY, and CONSULTANT shall have no property rights therein whatsoever. Immediately, upon
17 termination, COUNTY shall be entitled to, and CONSULTANT shall deliver to COUNTY, reports, investigations,
18 appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether
19 completed or not, and other such materials as may have been prepared or accumulated to date by
20 CONSULTANT in performing this Agreement which is not CONSULTANT's privileged information, as defined
21 by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to
22 COUNTY which is in CONSULTANT's possession. Publication of the information derived from work performed
23 or data obtained in connection with services rendered under this Agreement must be approved in writing by
24 COUNTY.

25 B. Additionally, it is agreed that the Parties intend this to be an Agreement for services and each considers the
26 products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire.
27 CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation,
28 copyright) belongs to and shall be the sole and exclusive property of COUNTY without restriction or limitation
29 upon its use or dissemination by COUNTY.

1 C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product
2 is suitable in any way for any other project except the one detailed in this Agreement. Any reuse by COUNTY
3 for another project or project location shall be at COUNTY's sole risk.

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

7 **ARTICLE XXVII CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR**

8 A. If claims are filed by COUNTY's construction contractor relating to work performed by CONSULTANT's
9 personnel, and additional information or assistance from CONSULTANT's personnel is required in order to
10 evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation
11 with COUNTY's construction contract administration and legal staff and for testimony, if necessary, at
12 depositions and at trial or arbitration proceedings.

13 B. CONSULTANT's personnel that COUNTY considers essential to assist in defending against construction
14 contractor claims will be made available on reasonable notice from COUNTY. Consultation or testimony will
15 be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel
16 services under this Agreement.

17 C. Services of CONSULTANT's personnel in connection with COUNTY's construction contractor claims will be
18 performed pursuant to a written contract amendment, if necessary, extending the termination date of this
19 Agreement in order to resolve the construction claims.

20 **ARTICLE XXVIII CONFIDENTIALITY OF DATA**

21 A. All financial, statistical, personal, technical, or other data and information relative to COUNTY's operations,
22 which are designated confidential by COUNTY and made available to CONSULTANT in order to carry out this
23 Agreement, shall be protected by CONSULTANT from unauthorized use and disclosure.

24 B. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the
25 Agreement, shall not authorize CONSULTANT to further disclose such information, or disseminate the same
26 on any other occasion.

27 C. CONSULTANT shall not comment publicly to the press or any other media regarding the Agreement or
28 COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the
29 performance of this Agreement, at public hearings or in response to questions from a Legislative committee.

1 D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding
2 work performed or to be performed under this Agreement without prior review of the contents thereof by
3 COUNTY, and receipt of COUNTY's written permission.

4 E. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.

5 F. All information related to the construction estimate is confidential and shall not be disclosed by CONSULTANT
6 to any entity other than COUNTY, Caltrans, and/or FHWA. All of the materials prepared or assembled by
7 CONSULTANT pursuant to the performance of this Agreement are confidential and CONSULTANT agrees that
8 they shall not be made available to any individual or organization without the prior written approval of COUNTY
9 or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily
10 provide information in violation of this Agreement, COUNTY has the right to reimbursement and indemnity from
11 CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited
12 to, COUNTY's attorney's fees and disbursements, including without limitation expert's fees and disbursements.

13 **ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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

19 **ARTICLE XXX LEGAL COMPLIANCE**

20 CONSULTANT shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and
21 the orders and decrees of any courts or administrative bodies or tribunals currently in effect and in any manner
22 affecting the performance of this Agreement, including, without limitation, workers' compensation laws and licensing
23 and regulations. Failure to comply with the foregoing by CONSULTANT may be grounds for termination by the
24 COUNTY.

25 **ARTICLE XXXI EVALUATION OF CONSULTANT**

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

29 **ARTICLE XXXII RETENTION OF FUNDS**

- 1 A. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- 2 B. COUNTY will withhold the last ten percent (10%) of the budget for preparation of the final PS&E documents.
- 3 The ten percent (10%) retainage is to be held after ninety percent (90%) of the PS&E phase has been billed
- 4 and is not to be deducted from each invoice. The amount retained will be paid to CONSULTANT after COUNTY
- 5 has approved CONSULTANT's PS&E documents. The CONSULTANT, or subconsultant, shall return all
- 6 monies withheld in retention from a subconsultant within thirty (30) days after receiving payment. Federal law
- 7 (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may take place only
- 8 for good cause and with the COUNTY's prior written approval. Any violation of this provision shall subject the
- 9 violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Section
- 10 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair
- 11 any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant
- 12 in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant
- 13 performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime
- 14 consultant and subconsultants.

15 **ARTICLE XXXIII NOTIFICATION**

16 All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes

17 thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage

18 prepaid, and addressed to the CONSULTANT Project Manager and COUNTY Contract Administrator at the

19 respective addresses provided in Article I.B.

20 **ARTICLE XXXIV CONTRACT**

- 21 A. The two parties to this Agreement, who are the before named CONSULTANT and the before named
- 22 COUNTY, hereby agree that this Agreement constitutes the entire agreement which is made and concluded
- 23 in triplicate between the two parties. Both of these parties for and in consideration of the payments to be
- 24 made, conditions mentioned, and work to be performed, each agree to diligently perform in accordance
- 25 with the terms and conditions of this Agreement as evidenced by the signatures below.
- 26 B. This Agreement may be executed in any number of counterparts, each of which will be an original, but all
- 27 of which together will constitute one instrument. Each party to this Agreement agrees to the use of
- 28 electronic signatures, such as digital signatures that meet the requirements of the California Uniform
- 29 Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this

1 Agreement. The parties further agree that the electronic signatures of the parties included in this
2 Agreement are intended to authenticate this writing and to have the same force and effect as manual
3 signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically
4 associated with an electronic record and executed or adopted by a person with the intent to sign the
5 electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an
6 electronic signature for transactions and contracts among parties in California, including a government
7 agency. Digital signature means an electronic identifier, created by computer, intended by the party using
8 it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon
9 by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined
10 in subdivision (i) of Section 1633.2 of the Civil Code.

11
12 [SIGNATURE PAGE FOLLOWS]
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1 **ARTICLE XXXV • APPROVALS**

2 **COUNTY** Approvals

3 RECOMMENDED FOR APPROVAL:

4
5
6 _____ Dated: _____

7 MARK LANCASTER
8 Director of Transportation

10 APPROVED AS TO FORM:

11 County Counsel

13 _____ Dated: _____

14 By Deputy

16 APPROVAL BY THE BOARD OF SUPERVISORS

19 _____ Dated: _____

20 _____
21 **PRINTED NAME**
22 Chair, Riverside County Board of Supervisors

23 ATTEST:

26 _____ Dated: _____

27 KIMBERLY RECTOR
28 Clerk of the Board (SEAL)

29

CONSULTANT Approvals

CONSULTANT:

_____ Dated: _____

PRINTED NAME

TITLE

CONSULTANT:

_____ Dated: _____

PRINTED NAME

TITLE