

County of Nevada
Information & General Services
Purchasing Division



Request for Qualifications
For

County of Nevada
On-Call Construction Management and Inspection Services

Date Issued: August 14, 2015

SOQ Submission Deadline:
Friday, October 2nd, 2015 at 3:00 p.m. Pacific Time

Mail SOQ To:

Nevada County Purchasing Division
Eric Rood Administrative Center
950 Maidu Avenue, Nevada City, CA 95959

or

Hand Deliver SOQ To:

Nevada County Auditor/Controller's Office (2nd floor)
Eric Rood Administrative Center
950 Maidu Avenue, Nevada City, CA 95959

Mandatory Pre-Proposal Conference:

Thursday, September 17, 2015 at 2:00 p.m.
Empire Room – 2nd Floor - 950 Maidu Ave
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

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1. SUMMARY

The Nevada County Purchasing Agent, on behalf of the Department of Public Works, hereinafter collectively referred to as "County," is requesting Statements of Qualification ("SOQ") from qualified firms to provide on-call construction management and inspection services.

The term "offeror" as used herein shall refer to providers submitting SOQs in response to this Request for Qualifications (RFQ). The term "Consultant" or "Provider" is also used to describe the successful offeror(s) in the context of providing services under a contract resulting from this RFQ.

An electronic copy of this solicitation is available at <http://www.mynevadacounty.com/nc/igs/purchasing>. Potential offerors must register with the County in order to be notified of addenda and other notices. To register, please send an email to diana.wilburn@co.nevada.ca.us indicating "On-Call Construction Management and Inspection Services" in the subject field. If you do not receive a reply to this email indicating that you have been registered, please call 530-265-1766.

Each SOQ received in response to this RFQ will be evaluated on the criteria described herein. All responses must be sealed, clearly marked "SOQ – On-Call Construction Management and Inspection Services" and must include all elements described in the SOQ CONTENT AND FORMAT REQUIREMENTS section of this RFQ. One original, three (3) paper copies, and 1 electronic copy (CD or USB drive) of the SOQ must be delivered to the address below before the date and time listed in the CONTRACT AWARD SCHEDULE section of this RFQ. The County will not be responsible for a SOQ delivered to a person or location other than that specified herein, and reliance on the postal service will not excuse a late submission.

A pre-SOQ conference will convene at the Eric Rood Administrative Center at the date and time listed in the CONTRACT AWARD SCHEDULE. Attendance at this conference is required. Questions and answers discussed at the conference will be documented and delivered to all potential offerors who attended the conference. Questions or requests for clarification of this Request for Qualifications may be submitted in writing and must be submitted no later than the date and time listed in the contract award schedule. Responses to written questions will be included in the published responses to questions arising at the conference. The County reserves the right to decline to respond to any questions.

Questions or requests for clarification of this Request for Qualifications must be submitted in writing no later than the date and time listed in the CONTRACT AWARD SCHEDULE section of this RFQ. Responses to questions will be published in an addendum after the question submittal deadline has passed. The County reserves the right to decline to respond to any questions.

Any amendment or addendum to this RFQ is valid only if issued in writing by the County of Nevada Purchasing Agent.

2. CONTRACT AWARD SCHEDULE

Publish RFQ	August 14, 2015
Pre-Proposal meeting (mandatory)	September 17, 2015 at 2:00 p.m. 2:00PM at Empire Room – 2 nd Floor Eric Rood Administrative Center – 950 Maidu Ave
Deadline for Questions	September 22, 2015 at 5:00 p.m.
SOQ Submission Deadline	October 2, 2015 at 3:00 p.m.
Final Selection Interviews (tentative)	Week of October 19, 2015
Contract Approval (tentative)	November 2015
Services to Begin (tentative)	December 2015

3. GENERAL CONDITIONS

- 3.1. Prime Responsibility: The selected Contractor(s) will be required to assume full responsibility for all services and activities offered in its/their SOQ(s), whether or not provided directly. Further, the County will consider the selected Contractor(s) to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 3.2. Assurance: Any contract awarded under this RFQ must be carried out in full compliance with Title VI and VII of the Civil Rights Act of 1964 as amended, and Section 504 of the Rehabilitation Act of 1973 as amended. The Provider must guarantee that services provided will be performed in compliance with all applicable county, state and federal laws and regulations pertinent to this project. Prior to executing an agreement the Provider will be required to provide evidence substantiating the necessary skill to perform the duties through the submission of references.
- 3.3. The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-199 (HIPAA): Any contract awarded under this RFQ must comply with the requirement of 42 U.S.C. §§ 1171 et seq., Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its subsequent amendments, related to Protected Health Information (PHI), in performing any task or activity related to this Agreement.
- 3.4. Independent Contractor: In performance of the work, duties and obligations assumed by the offeror, it is mutually understood and agreed that the offeror, including any and all of the offerer’s officers, agents and employees, will at all times be acting and performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner or associate of the County.
- 3.5. Nevada County prohibits discrimination in employment or in the provision of services because of race, color, religion, religious creed, sex, age, marital status, ancestry, national origin, political affiliation, physical disability or medical condition. This clause does not require the hiring of unqualified persons.
- 3.6. Costs will not be considered in evaluating the SOQ. Hourly charge-out rate must be enclosed in a separate sealed envelope and labeled “Pricing Information”. Pricing information will not be opened until after the County has selected the most qualified vendor based on the criteria published herein. The County reserves the right to negotiate specific terms, conditions, compensation, and provisions on any contracts that may arise from this solicitation. Should the County fail to reach a contract with the selected vendor; the County will cease negotiations and begin negotiations with the next highest rated vendor from the SOQ evaluation.
- 3.7. Nevada County reserves the right to:
 - Request clarification of any submitted information;

- Set aside a SOQ for any irregularity including but not limited to missing information;
 - Not enter into any agreement;
 - Not to select any applicant;
 - Amend or cancel this process at any time;
 - Interview applicants prior to award and request additional information during the interview;
 - Negotiate a multi-year contract or a contract with an option to extend the duration;
 - Award more than one contract if it is in the best interest of the County; and/or
 - Issue a similar RFQ in the future.
- 3.8. Qualified offerors must be prepared to enter into the County's standard Contract, a sample of which is attached as Attachment A to this RFQ. Please review the details of Attachment A carefully. By reference, it incorporates many standards, terms and conditions required as part of this RFQ. The County intends to award contracts substantially in the form of the sample agreement to the selected vendor(s). Portions of this RFQ and the vendor's SOQ may be made part of any resultant contract and incorporated in the Contract.
- 3.9. Prior to commencement of services, the Contractor must provide evidence of the following insurance coverages: Worker's Compensation, Commercial General Liability (naming the County of Nevada as additional insured), Comprehensive Business or Commercial Automobile Liability for Owned Automobiles and Non-owned /Hired Automobiles, and Professional Liability insurance. The Contractor will be required to maintain the required coverages, at its sole cost and expense, throughout the entire term and any subsequent renewal terms of the contract.
- 3.10. Pursuant to the County's Green Procurement and Sustainable Practices Policy, each vendor is requested to use recycled products and sustainable practices whenever possible in preparing its SOQ, including using post-consumer recycled content paper and packaging products, and copying on both sides of the paper.
- 3.11. The County of Nevada encourages its contractors and subcontractors to use the US. Citizenship and Immigration Services E-Verify system to verify that employees are eligible to work in the United States. Information about the E-Verify system is available at www.dhs.gov/e-verify.
- 3.12. Proprietary Information: Trade secrets or similar proprietary data that the prospective contractor does not wish disclosed to other than personnel involved in the proposal evaluation effort or post-award contract administration will be kept confidential to the extent permitted by law as follows. Each page alleged to contain proprietary information shall be identified by the prospective contractor in boldface text at the top and bottom as "PROPRIETARY." Any section of the proposal that is requested to remain confidential shall also be so marked in boldface text on the title page of that section. Despite what is labeled as confidential, proprietary, or trade secret, the determination as to whether or not certain material is confidential, proprietary or trade secret shall be determined in accordance with applicable law. If a prospective contractor designates any information in its proposal as proprietary pursuant to this provision, the prospective contractor must also submit one copy of the proposal from which the proprietary information has been excised. The proprietary material shall be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the content of the proposal as possible.

4. BACKGROUND

In recent years the County has been successful in receiving federal grants for a myriad of maintenance and improvement projects. As these projects complete the design stage and are ready for construction, the County has determined that it has insufficient staff to adequately manage these projects. As a result, the County is interested in retaining a firm that can provide comprehensive construction management and inspection services to successfully deliver these projects.

These services will support and manage construction projects identified in the County's Capital Improvement Plan (CIP). A copy of the County's most recent CIP is available on the County's website at www.mynevadacounty.com. It is anticipated that most (if not all) of the services will be utilized on federally

funded projects. Over the next four construction seasons (2016-2018), the County plans to construct the following projects utilizing various funding sources (along with anticipated construction dates):

- Road Safety and Signage Audit (HSIP – early 2016)
- Maybert Road at Canyon Creek Bridge Replacement (HBP – 2016)
- Retrac Way at Wolf Creek Bridge Replacement (HBP – 2016/17)
- Newtown Road Bike Lane and Shoulder Widening (CMAQ – 2016)
- Nevada City Highway Sidewalk Extension (CMAQ – 2016)
- 2016 Cycle 7 HSIP (projects to be determined)
- Garden Bar Road at Little Wolf Creek (Sanford Crossing) Bridge Rehabilitation (HBP – 2016)
- Garden Bar Road at Little Wolf Creek (Railcar) Bridge Replacement (HBP – 2016)
- McCourtney Road at Rock Creek Bridge Replacement (HBP – 2016)
- Combie Road – PG&E Rule 20a Undergrounding Phase 3a (Rule 20a – 2016)
- Hirschdale Road Bridges at Truckee River and UPRR Tracks (HBP – 2017)
- Soda Springs Road at South Yuba River Bridge Replacement (HBP – 2017)
- Purdon Road at Shady Creek Bridge Replacement (HBP – 2017)
- Combie Road Widening and Corridor Improvements (local funding – 2017)
- Donner Pass Road Widening and Road Rehabilitation (FLAP – 2017)
- 2017 HSIP (projects to be determined)
- North Bloomfield Road at South Yuba River Bridge Rehabilitation (HBP – 2018)
- Dog Bar Road at Bear River Bridge Rehabilitation (HBP – 2018)
- 2018 HSIP (projects to be determined)
- Penn Valley Bridge Widening and Rehabilitation (HBP – 2019)
- McCourtney Road at Dry Creek Bridge Rehabilitation (HBP – 2019)
- 2019 HSIP (projects to be determined)

HSIP – Highway Safety Improvement Program

HBP – Highway Bridge Program

CMAQ – Congestion Mitigation and Air Quality

Rule 20a – PG&E Rule 20a Underground

Local Funding – non-federal funding

FLAP – Federal Lands Access Program

Projects to be Determined – Projects are unknown at this time but may include thermoplastic and recessed marker installation, road signage and safety audits, high friction surface treatment, roadway widening and improvements, etc.

In addition, the County may also utilize this contract for construction inspection and resident engineer work done in County right of way by public agencies (i.e., Caltrans, local cities, other state and federal agencies); public utilities (i.e., PG&E, AT&T, Nevada Irrigation District, Telecommunications); and private development as needed to supplement staff availability.

A specific statement of work will be negotiated with the Consultant for each project.

5. DESCRIPTION OF SERVICES REQUIRED

The Consultant shall perform construction management, construction inspection services, resident engineer services, and constructability review services on an on-call basis and will work under the direction and supervision of the County.

Following are examples of some of the services that will be required. Proposals should describe the approach that the Consultant would expect to take in providing these services. The successful proposal will demonstrate an understanding of how these services come into play in the context of delivering federally funded construction projects.

Construction Management and Construction Inspection**Pre-Construction:**

- Performing a constructability review
- Bid package management
 - Assembling
 - Advertising
 - Reviewing proposals
- Developing a public information plan
- Conducting the pre-construction conference
- Coordinating with utility companies

Construction:

- Monitoring contractor performance and enforcement of all requirements of applicable codes, specifications and contract drawings
- Performing field inspection and other quality control activities, including necessary materials testing
- Monitoring construction schedules throughout the course of construction
- Reviewing working days, contract time and documenting time extensions
- Documentation similar to the Caltrans Local Assistance Procedures Manual (LAPM) Exhibit 16-A, "Weekly Statement of Working Days" will be required in the project file.
- Maintaining a daily inspector's report system that records the hours worked by persons and equipment. Detail must be sufficient to permit the review of the contractor's costs of the work in a manner similar to force account. Equipment must be identified sufficiently to enable determination of the applicable rental rates and operator's minimum wage. The narrative portion of the report shall include a description of the contractor's operation and location of work and any other pertinent information. An example of the daily report forms can be found in the Caltrans Construction Manual.
- Tracking subcontractor's work. Ensuring contractor submits written request prior to substituting a contractor.
- Maintaining well-organized photographic/video records.
- Ensuring contractor properly provides for the safety of the workers.
- Managing change orders and obtaining required local agency approval. This includes keeping track of contingency money and notifying local agency when 80% of contingency money has been used. If using federal funds a Request of Authorization for additional construction funds will be needed if change orders will exceed authorized amount. This must be done prior to the approval of change order.
- Managing submittals and monitor designer's review activities.
- Managing claims.
- Managing contractor's Request for Information (RFI).
- Reviewing and recommending progress payments.
- Determining materials sampling, testing requirements and provide acceptance testing services in compliance with local agency's Quality Assurance Program.
- Enforcing Labor Compliance by preparing daily reports with required information, monitoring Certified Payrolls and doing spot check labor surveys and interviews.
- Supervising contractor's detours, lane closures, and staging plans.
- Providing final inspection and coordinate road openings for each stage.
- Establishing a punch list system.
- Establishing a record file which supports: 1) adequacy of field control, 2) conformance to contract specifications, 3) payments to contractor. The file must be complete, organized and maintained in a manner that permits inspection by the local agency, Caltrans or FHWA. Example of project filing system can be found in the Caltrans Local Agency Procedures Manual, Chapter 16.

Post Construction:

- Completing all project documentation, including but not limited to change order summary, final detail estimate, project acceptance documentation, and claims management/resolution.

- Preparing a final construction project report per Chapter 17 of the Caltrans Local Agency Procedures Manual.

Resident Engineer

- Track progress and process Contractor payment estimates based on accepted installed quantities or project schedules
- Coordinate, review and process change orders in accordance with the County and State Change Order Guidelines as applicable
- Facilitate communication between the County and the Contractor and others, including the designer, the public and other agencies
- Ensure that the work is performed in compliance with the contract documents, or using approved substitute materials, methods or designs
- Maintain records that document the job
- Direct the activities of the County site personnel under their supervision to assist in these responsibilities

Constructability Review

- Evaluate final PS&E bid packages for the ability to successfully advertise and bid and for their construct
- Make bid package recommendations to the designer and County
- Provide bid support during the project bid process

Since the contract will be funded by various federal programs mentioned above, the contract will include (but is not limited to) the following State and Federal contract provisions. The projects will also be subject to the following Federal Lobbying Restrictions, Title 31 U.S.C Section 1352 (incorporated in Attachment B below):

- Notice to Bidders/Proposers Disadvantaged Business Enterprise Information (Exhibit 10-I)
- Consultant Certification of Contract Costs and Financial Management System (Exhibit 10-K)
- Local Agency Proposer DBE Commitment (Consultant Contract - Exhibit 10-O1)
- Local Agency Proposer DBE Information (Consultant Contract – 10-O2)
- Disclosure of Lobbying Activities, Standard Form - LLL and Instruction (Exhibit 10-Q)
- Consultant in Management Position Conflict of Interest and Confidentiality Statement (Exhibit 10-U)

The DBE availability advisory percentage for this project is TBD% percent.

6. CONTENT AND FORMAT REQUIREMENTS

Interested offerors shall submit an original plus three (3) copies of their Statement of Qualifications (SOQ) to one of the locations listed on Page 1 of this RFQ. SOQs should be kept to a reasonable length. The forms included as Exhibits to this RFQ do not need to be included in your SOQ. These are included for informational purposes, as they may be required in the contract with the successful offeror.

SOQs shall be delivered no later than the date and time listed in the CONTRACT AWARD SCHEDULE and shall contain at a minimum the following items:

6.1. Cover Sheet (Attachment B)

The cover sheet **MUST** be signed by an owner, corporate officer, or agent authorized by the Contractor. Failure to include the cover sheet in each SOQ may disqualify the Consultant from the selection process.

6.2. Introductory Letter

Identify the office location or locations where the Consultant and any sub-Consultants will accomplish the work. This letter should contain an expression of the Consultant's interest in the work, a brief summary statement regarding the qualifications of the Consultant to do the work, and a

brief summary of any information about the project team or the Consultant that may be useful or informative to the County.

6.3. Qualifications and Experience

Describe how the team will be organized. Identify any proposed sub-consultants and the work that they are proposed to perform. Discuss the qualifications and experience of the firm, project manager, project team and sub-consultants on similar projects. Detail specific experience with city, county, state or federal projects and procedures, including experience with Caltrans Highway Bridge Programs (HBP). Provide a listing of current work commitments to other projects or activities in sufficient detail to indicate that the organization and all of the individuals assigned to the proposed project will be able to meet the needs of the projects based on the anticipated schedules described in Section 4 of this RFQ.

NOTE: The County must approve any change in key personnel after the award of a contract before the change is made.

6.4. Project Approach

Describe and define in a specific, concise, and straightforward manner, your proposed approach to delivering the services described in Section 5. Describe your approach for ensuring that communication with County staff is adequate and timely, and that submittals are complete and on time. Describe issues that have arisen on previous similar projects and how the Consultant addressed those issues.

6.5. Project Schedule

Provide a sample project schedule for a federal bridge construction project that illustrates your understanding of how the services listed in Section 5 are typically phased, overlap, and are dependent on one another.

6.6. Applicable References

This section should describe work that is similar in scope and complexity to the projects identified in this RFQ and that the consulting team has undertaken in the last five years. A discussion of the challenges faced and solutions developed by the team is highly recommended. Provide a summary table showing the following information:

- Name of project, construction cost, and date services were provided
- Names of project manager and key team personnel
- Scope of the team's assignment on the project
- Name, address and current phone number of the Agency Project Manager

NOTE: A minimum of three references are required for the prime Consultant and any sub-Consultants on the project team. Each may be contacted by County staff. References with incorrect contact information will not count toward the required minimum.

6.7. Cost Information

Please provide in a separate sealed envelope labeled "Pricing Information" your hourly rates for performing the requested services. This information will not be considered in the evaluation of the Statements of Qualifications.

7. SELECTION PROCEDURES

Statements of Qualifications will be evaluated by a Selection Committee using the following evaluation criteria in accordance with Exhibit 10-B of the Caltrans Local Assistance Procedures Manual.

Criteria	Maximum Points
Cover Sheet and Introductory Letter Attached*	n/a
Understanding of the work to be done	25
Experience with similar kinds of work	20
Quality of staff for work to be done	15
Capability of developing innovative or advanced techniques	10
Familiarity with state and federal procedures	10
Financial responsibility	10
Demonstrated Technical Ability	10
TOTAL	100

* - Failure to include the Cover Sheet and Introductory Letter in SOQ may disqualify the Consultant from the selection process.

After an initial review and evaluation of each of the SOQs, the offerors submitting the most highly ranked SOQs may be invited for interviews prior to final selection, to further elaborate on their SOQs. The County reserves the right to award a contract without holding interviews, in the event the written SOQs provide a clear preference on the basis of the criteria described.

When the most qualified offeror has been determined, the sealed pricing information for only that offeror will be unsealed and the County will enter into negotiations with that offeror. In the event that the County is unable to successfully negotiate a contract with that offeror, then the pricing information for the next most qualified offeror will be unsealed, and so on until a contract is successfully negotiated.

The Contractor(s) selected for this project will be required to accept the County's standard contract, a sample of which is included as Attachment A to this RFQ, and to comply with insurance standards as deemed acceptable to the County's Risk Manager. No agreement with the County of Nevada is in effect until both parties have signed a contract.

8. INQUIRIES

Direct all inquiries regarding the SOQ process or SOQ submissions to:

Diana Wilburn – Buyer
 Nevada County Purchasing Division
 950 Maidu Avenue
 Nevada City, CA 95959
 (530) 265-1766
<mailto:diana.wilburn@co.nevada.ca.us>

ATTACHMENT A:

PERSONAL SERVICES CONTRACT

County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§28) _____

SUMMARY OF MATERIAL TERMS

- (§29) **Maximum Contract Price:** _____
- (§30) **Contract Beginning Date:** _____ **Contract Termination Date:** _____
- (§31) **Liquidated Damages:** N/A

INSURANCE POLICIES

Designate all required policies:			Req'd	Not Req'd
(§33)	Commercial General Liability	(\$1,000,000)	_____	_____
(§34)	Automobile Liability	(\$ 300,000) Personal Auto	_____	_____
		(\$1,000,000) Business Rated	_____	_____
		(\$1,000,000) Commercial Policy	_____	_____
(§35)	Worker's Compensation		_____	_____
(§36)	Errors and Omissions	(\$1,000,000)	_____	_____

LICENSES

Designate all required licenses:

(§41) _____

NOTICE & IDENTIFICATION

- (§53) **Contractor:** **County of Nevada:**
950 Maidu Avenue
Nevada City, California 95959
- Contact Person: Contact Person:
(530)
- e-mail: e-mail:
Org Code:

Contractor is a: (check all that apply)

- Corporation: _____ Calif., _____ Other, _____ LLC, _____ Non-profit
- Partnership: _____ Calif., _____ Other, _____ LLP, _____ Limited
- Person: _____ Indiv., _____ Db, _____ Ass'n, _____ Other

- EDD:** Independent Contractor Worksheet Required: _____ Yes _____ No
- HIPAA:** Schedule of Required Provisions (Exhibit D): _____ Yes _____ No

ATTACHMENTS

Designate all required attachments:		Req'd	Not Req'd
Exhibit A:	Schedule of Services (Provided by Contractor)	<u>X</u>	_____
Exhibit B:	Schedule of Charges and Payments (Paid by County)	<u>X</u>	_____
Exhibit C:	Schedule of Changes (Additions, Deletions & Amendments)	_____	_____
Exhibit D:	Schedule of HIPAA Provisions (Protected Health Information)	_____	_____

Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

1. Scope of Services:

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

Payment

2. Charges and Payments:

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §29, page one (1), above.

Time for Performance

3. Contract Term:

This Contract shall commence on the **Contract Beginning Date** set forth at §30, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §30, page one (1), above.

4. Liquidated Damages:

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §31 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

5. Time of the Essence:

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §31 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

6. Commercial General Liability Insurance: (County Resolution No. 90674)

If §33 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §33;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;

- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

7. Automobile Liability Insurance: (County Resolution No. 90676)

If §34 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §34;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §34 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

8. Worker's Compensation: (County Resolution No. 90674)

If §35 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

9. Errors and Omissions:

If §36 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

10. Miscellaneous Insurance Provisions: (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §40, ¶2, below, as these provisions additionally apply to subcontractors.)

11. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services**12. Contractor as Independent:**

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

13. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§33, 34, 35, 36 and 37, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

14. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §41, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts**15. Prevailing Wage and Apprentices:**

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

16. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

17. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

18. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

19. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report

Default and Termination**20. Termination:**

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

Miscellaneous**21. Books of Record and Audit Provision:**

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

22. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

23. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

24. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

25. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

26. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §53, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §53 Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

27. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

CONTRACTOR:

COUNTY OF NEVADA:

Name:
Title:
Dated: _____

Honorable Edward C. Scofield
Chair, Board of Supervisors
Dated: _____

Attest: _____
Julie Patterson Hunter
Clerk of the Board

ATTACHMENT A:

PERSONAL SERVICES CONTRACT

County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

[Redacted Name]

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§28) [Redacted Description]

SUMMARY OF MATERIAL TERMS

- (§29) **Maximum Contract Price:** _____
- (§30) **Contract Beginning Date:** _____ **Contract Termination Date:** _____
- (§31) **Liquidated Damages:** _____ N/A _____

INSURANCE POLICIES

Designate all required policies:		Req'd	Not Req'd
(§33)	Commercial General Liability (\$1,000,000)	_____	_____
(§34)	Automobile Liability (\$ 300,000) Personal Auto	_____	_____
	(\$1,000,000) Business Rated	_____	_____
	(\$1,000,000) Commercial Policy	_____	_____
(§35)	Worker's Compensation	_____	_____
(§36)	Errors and Omissions (\$1,000,000)	_____	_____

LICENSES

Designate all required licenses:

(§41) _____

NOTICE & IDENTIFICATION

- (§53) **Contractor:** **County of Nevada:**
950 Maidu Avenue
Nevada City, California 95959
- Contact Person: Contact Person:
(530)
- e-mail: e-mail:
Org Code:

Contractor is a: (check all that apply)

- Corporation: _____ Calif., _____ Other, _____ LLC, _____ Non-profit
- Partnership: _____ Calif., _____ Other, _____ LLP, _____ Limited
- Person: _____ Indiv., _____ DbA, _____ Ass'n _____ Other

- EDD:** Independent Contractor Worksheet Required: _____ Yes _____ No
- HIPAA:** Schedule of Required Provisions (Exhibit D): _____ Yes _____ No

ATTACHMENTS

Designate all required attachments:		Req'd	Not Req'd
Exhibit A:	Schedule of Services (Provided by Contractor)	<u> X </u>	_____
Exhibit B:	Schedule of Charges and Payments (Paid by County)	<u> X </u>	_____
Exhibit C:	Schedule of Changes (Additions, Deletions & Amendments)	_____	_____
Exhibit D:	Schedule of HIPAA Provisions (Protected Health Information)	_____	_____

Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

28. Scope of Services:

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

Payment

29. Charges and Payments:

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §29, page one (1), above.

Time for Performance

30. Contract Term:

This Contract shall commence on the **Contract Beginning Date** set forth at §30, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §30, page one (1), above.

31. Liquidated Damages:

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §31 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

32. Time of the Essence:

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §31 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

33. Commercial General Liability Insurance: (County Resolution No. 90674)

If §33 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §33;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;

- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

34. Automobile Liability Insurance: (County Resolution No. 90676)

If §34 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §34;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §34 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

35. Worker's Compensation: (County Resolution No. 90674)

If §35 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

36. Errors and Omissions:

If §36 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

37. Miscellaneous Insurance Provisions: (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §40, ¶2, below, as these provisions additionally apply to subcontractors.)

38. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services**39. Contractor as Independent:**

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

40. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§33, 34, 35, 36 and 37, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

41. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §41, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts**42. Prevailing Wage and Apprentices:**

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

43. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

44. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

45. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

46. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report

Default and Termination**47. Termination:**

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

Miscellaneous**48. Books of Record and Audit Provision:**

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

49. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

50. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

51. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

52. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

53. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §53, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §53 Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

54. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

CONTRACTOR:

COUNTY OF NEVADA:

Name:

Honorable Edward C. Scofield

Title:

Chair, Board of Supervisors

Dated:

Dated:

Attest:

Julie Patterson Hunter
Clerk of the Board

EXHIBIT "A"

SCHEDULE OF SERVICES

(Provided By Contractor)

EXHIBIT "B"

SCHEDULE OF CHARGES AND PAYMENTS

(Paid by County)

EXHIBIT "C"

SCHEDULE OF CHANGES

Amendments and additions to the Contract are hereby set-forth as follows:

2. Charges and Payments: Paragraph 2 of the contract is hereby amended to read:

The Consultant will be reimbursed for hours worked at the hourly rates specified in the Consultant's Cost Proposal (**Exhibit B**). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.

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

Specific projects will be assigned to the Consultant through issuance of Task Orders.

After a project to be performed under this contract is identified by the County, the County will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a County Project Coordinator. The draft Task Order will be delivered to the Consultant for review. The Consultant shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both the County and the Consultant.

Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in the Consultant's Cost Proposal.

Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

When milestone cost estimates are included in the approved Cost Proposal, the Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

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

The Consultant shall not commence performance of work or services until this contract has been approved by the County, and notification to proceed has been issued by the County's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.

A Task Order is of no force or effect until returned to the County and signed by an authorized representative of the County. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by the County.

The Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by the County's Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which the Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due the County that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by the Consultant prior to the expiration or termination of this contract. Invoices shall be mailed to the County's Contract Administrator.

The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Contract.

The total amount payable by the County for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.

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

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

The total amount payable by the County for all Task Orders resulting from this contract shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

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

13. Assignment and Subcontracting: Paragraph 13 of the contract is hereby amended to read:

Nothing contained in this contract or otherwise, shall create any contractual relation between the County and any subconsultant(s), and no subcontract shall relieve the Consultant of its responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the 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 the Consultant. The Consultant's obligation to pay its subconsultant(s) is an independent obligation from the County's obligation to make payments to the Consultant.

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

The Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the County.

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

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

15. Prevailing Wage and Apprentices: Paragraph 15 of the contract is hereby amended to read:

The Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

20. Termination: Paragraph 20 of the contract is hereby amended to read:

The County may terminate this contract with the Consultant should the Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. If the County terminates this contract with the Consultant, the County shall pay the Consultant the sum due to the Consultant under this contract prior to termination, unless the cost of completion to the County exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due the Consultant under this contract and the balance, if any, shall be paid to the Consultant upon demand.

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

The maximum amount for which the Government shall be liable if this contract is terminated is _____ dollars.

21. Books of Record and Audit Provision: Paragraph 21 of the contract is hereby amended to read:

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; Consultant, subconsultants, and the County shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, the County, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of the Consultant and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

28. Audit Review Procedures:

Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by the County's Chief Financial Officer.

Not later than 30 days after issuance of the final audit report, the Consultant may request a review by the County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

Neither the pendency of a dispute nor its consideration by the County will excuse the Consultant from full and timely performance, in accordance with the terms of this contract.

29. Cost Principles And Administrative Requirements:

The Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

The Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by the Consultant to the County. All subcontracts in excess of \$25,000 shall contain the above provisions.

30. Covenant Against Contingent Fees:

The Consultant warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract 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 the Consultant for the purpose of securing business. For breach or violation of this warranty, the County has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

31. Disputes:

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

Not later than 30 days after completion of all work under the contract, the Consultant may request review by the Local Agency Review Committee (Public Works Director and Purchasing Agent) of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

Neither the pendency of a dispute, nor its consideration by the committee will excuse the Consultant from full and timely performance in accordance with the terms of the contract.

32. Disadvantaged Business Enterprise (DBE) Participation:

This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

The goal for DBE participation for this contract is TBD %. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (**Exhibit 10-O1**), or in the Consultant Contract DBE Information (**Exhibit 10-O2**) attached hereto and incorporated as part of the Contract. 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.

DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate.

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

A DBE firm may be terminated only with prior written approval from the County and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting the County consent for the termination, the Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, 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 contract is commensurate with the work it is actually performing, and other relevant factors.

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

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

The 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 prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by the Consultant or Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the County's Contract Administrator within 30 days.

33. Equipment Purchase:

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

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

Any equipment purchased as a result of this contract is subject to the following: "the Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the County shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the Consultant may either keep the equipment and credit the County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established the County procedures; and credit the County in an amount equal to the sales price. If the Consultant elects to keep the equipment, fair market value shall be determined at the Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the County and the Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the County." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

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

34. Inspection of Work:

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

- (i) The employee, officer, or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

- I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.
- I fully understand that any violation of the above could be a basis for ineligibility of reimbursement of State or Federal project funds.

Date: _____ Signed: _____
 Name: _____
 Title: _____
 Dept./Local Agency: _____
 Employer: _____

REVIEW BY SUPERVISOR OF CONSULTANT IN MANAGEMENT POSITION

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

- that the foregoing named local agency consultant who is under contract and in a management position with our local agency, abides by the foregoing terms and conditions;
- that should the foregoing named local agency consultant, who is under contract and in a management position with our local agency, violate any of the foregoing terms and conditions, the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.

Date: _____ Signed: _____
 Name: _____
 Title: _____
 Dept./Local Agency: _____
 Employer: _____

REVIEWED/CONCURRENCE BY DISTRICT LOCAL ASSISTANCE ENGINEER

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and Supervisor's statement.

- Based upon the foregoing, I concur that the consultant, who is under contract and in a management position with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for Federal and State reimbursement.
- Based upon the foregoing, I do not concur as I believe that the consultant, who is under contract and in a management position with the local agency, does appear to present a conflict of interest.
- The consultant's time is not considered eligible for either Federal or State reimbursement.
- The local agency is not considered eligible for either Federal or State reimbursement.

Date: _____

(DLAE) Signed: _____

Name: _____

Distribution: 1) Copy to: DLAE for each Federal/State funded project
2) Copy to be returned to Local Agency by DLAE with signature

CONTRACT ADMINISTRATOR'S REVIEW

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and have determined, according to the information provided, that this individual:

does not have a conflict of interest and can participate in the "Selection Panel"

does have a conflict of interest and cannot participate in the "Selection Panel"

Date: _____

Signed: _____

Name: _____

Title: _____

Dept./Local Agency: _____

Employer: _____

35. Safety:

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

Pursuant to the authority contained in Section 591 of the Vehicle Code, Nevada 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 necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

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

Consultant must have a Division of Occupational Safety and Health (CAS-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

36. Confidentiality of Data:

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

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

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

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

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

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

37. National Labor Relations Board Certification:

In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final 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.

38. Evaluation of Consultant:

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

39. Statement of Compliance:

Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 1299 and Title 2, California Administrative Code, Section 12990.

During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and

harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12990 (a-f) et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. 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.

The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California 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.

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

40. Debarment and Suspension Certification:

Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (non-procurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Nevada County.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

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

41. Conflict of Interest:

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

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

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

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

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

42. Rebates, Kickbacks or Other Unlawful Consideration:

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

43. Prohibition of Expensing Local Agency, State or Federal Funds:

Consultant certifies to the best of his or her knowledge and belief that:

- a. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of to any person for influencing or attempting to influence an officer or employee of any state or federal agency; an Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer of employee of Congress, or any employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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

44. Funding Requirements:

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

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

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

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

45. Change In Terms:

This contract may be amended or modified only by mutual written agreement of the parties.

The Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the County's Contract Administrator.

There shall be no change in the Consultant's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by the County's Contract Administrator.

46. Ownership Of Data:

Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in the County; and no further agreement will be necessary to transfer ownership to the County. The Consultant shall furnish the County all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

The Consultant is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by the County of the machine-readable information and data provided by the Consultant under this contract; further, the Consultant is not liable for claims, liabilities, or losses arising out of, or connected with any use by the County of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by the Consultant.

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).

The 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.

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

47. Claims Filed By Local Agency's Construction Contractor:

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

The Consultant's personnel that the County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from the County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this contract.

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

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

48. Retention Of Funds:

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

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the

prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

49. Consultant's Reports Or Meetings:

The Consultant shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for the County's Contract Administrator or Project Coordinator to determine, if the 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.

The Consultant's Project Manager shall meet with the County's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

50. Performance Period:

The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

Approved:

County Counsel

ATTACHMENT B: COVER SHEET

Name of Person, Business or Organization:	
Type of Entity: (e.g. Sole-Proprietorship, Partnership, Corp., Non-Profit, Public Agency)	
Federal Tax ID Number:	
Contact Person – Name	
Contact Person – Address	
Contact Person – Phone Number (s)	
Contact Person – e-mail address	

By signing this **Cover Sheet** I hereby attest: that I have read and understood all the terms listed in the RFQ; have read and understood all terms listed in this Statement of Qualifications; that I am authorized to bind the listed entity into this agreement; and that should this SOQ be accepted, I am authorized and able to secure the resources required to deliver against all terms listed within the RFQ as published by the County of Nevada, including any amendments or addenda thereto except as explicitly noted or revised in my submitted SOQ.

Signature of Authorized Representative

Printed Name of Authorized Representative

Date

Exhibit 10-A A&E Consultant Audit Request Letter and Checklist

(For Proposed A&E Consultant Contracts of \$1 Million or More)

[Attach this form to local agency cover letter for transmittal]

Department of Transportation
 Audits and Investigations, MS 2
 Attention: External Audit Manager
 P.O. Box 942874
 Sacramento, CA 94274-0001

Date: _____
 Federal Project Number: _____
 Project Description: _____

Dear External Audit Manager:

The following information is attached for proposed A&E consultant contract number _____ at a proposed cost of \$ _____, with [Consultant's Name, Address, Contact Name, Phone Number]:

1. Proposed contract between the local agency and the consultant.
2. Cost proposal(s) for prime consultant and subconsultant.
3. Names, mailing addresses, phone numbers, and email addresses for all subconsultants.
4. Name of local agency contact person, phone number, and e-mail address.
5. All that apply: Consultant generated Indirect Cost Rate(s) schedule prepared in accordance with applicable Code of Federal Regulations (CFRs) and/or Safe Harbor Indirect Cost Rate certification and supplemental questionnaire, see:
[DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts.](#)
6. A completed Internal Control Questionnaire ([AASHTO Uniform Audit and Accounting Guide, Appendix B](#)).
7. Exhibit 10-K *Consultant Certification of Contract Costs and Financial Management System*, completed for the prime and all subconsultants. If requesting to use the Safe Harbor Indirect Cost Rate see: [DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts.](#)
8. *Include one of the following; if applicable:*
 - a. A copy of the prior fiscal year and most recently completed fiscal year Cognizant approved indirect cost rate(s) and approved State Department of Transportation letters for the consultant (must be provided if issued);
 - b. A copy of the prior fiscal year and most recently completed fiscal year Indirect Cost Rate(s) Schedule and audited report by an independent Certified Public Accountant (CPA). If a CPA-audited Indirect Cost Rate is available for the appropriate fiscal year (applicable one-year accounting period), then the consultant must use the Indirect Cost Rate(s), or lower (*see 23 CFR 172.7(b) for guidelines*), in the cost proposal.
 - c. A copy of the prior and most recently completed fiscal year Indirect Cost Rate(s) Evaluation or audit report on a prior Caltrans or local agency contract; and any other governmental agency report, review or attestation.
9. Check this box if the proposed cost (including amendments) is \$3.5M or more, in which case the Indirect Cost Rate provided by the prime consultant has been audited by a CPA. Forward the following documents to Caltrans Audits & Investigations:

- a. A copy of the consultant’s approved State DOT Cognizant Indirect Cost Rate(s) Schedule and Report (must be provided if issued), and the Cognizant Approved State DOT Cognizant Concurrent Letter (if issued); OR
- b. A CPA Audited Indirect Cost Rate Audit Report (if there is not an approved State DOT Cognizant Indirect Cost Rate); AND
- c. A copy of the CPA audited financial statements, if any.

[Local Agency Name] understands that any work with costs incurred prior to the approval of the “*Authorization to Proceed (E-76)*” is not eligible for federal fund reimbursement. [Local Agency Name] further understands that a Conformance Letter will be issued to us within 30 business days of your receipt of complete documentation.

If you need further information, please contact [Local Agency Contact Name] at:

[Phone # and email address].

Sincerely,

Signed _____

Title _____

Agency _____

Attachments: Proposed Contract, Cost Proposal(s), Certifications, Indirect Cost Rate Schedules and Reports and other supporting documentation

c: Caltrans District Local Assistance Engineer

- Distribution:**
- 1) Original – Caltrans Audits & Investigations
 - 2) Copy – DLAE
 - 3) Local Agency Project files

Exhibit 10-B Suggested Consultant Evaluation Sheet *

<u>Consultant/Firm Name:</u>		
Criteria	Max Points	Rating
Understanding of the work to be done	25	
Experience with similar kinds of work	20	
Quality of staff for work to be done	15	
Capability of developing innovative or advanced techniques	10	
Familiarity with state and federal procedures	10	
Financial responsibility	10	
Demonstrated Technical Ability	10	
Total	100	

Evaluator

Contract Office

Print Name: _____

Initials: _____

Signature: _____

Date: _____

Date: _____

***Notes:**

1. To maintain the integrity of a competitive negotiation/qualifications based selection procurement, the total of all allowable non-qualifications based evaluation criterion (such as locality preference or DBE participation) cannot exceed ten (10) percent of the total evaluation criteria. The ten percent limitation applies only to non-qualifications based evaluation criterion and should not be considered as a limitation for specific DBE contract goals established by a contracting agency in accordance with its approved DBE program. (see http://www.fhwa.dot.gov/programadmin/172qa_07.cfm).
2. For projects other than "Architectural & Engineering" services, as defined in Section 10.1, cost is one of the criteria, or may be the sole criterion. DBE participation by the consultant shall not be used as one of the criteria listed above.
3. The evaluation criteria and suggested maximum points shown above are not mandatory, but are recommended in the interest of maintaining consistency among the hundreds of agencies utilizing federal or state funds.
4. The evaluation criteria and weighted values must be identified in the RFP. If the RFP has different evaluation criteria or weighted values then the information above would have to be changed to match. The Contract Office is to initial and date in the space provided to verify that the criteria and weighted values used in the evaluation sheet are appropriate and that the sheet has been completed correctly.
5. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and requirements are met.

Distribution: Local Agency Project Files

Exhibit 10-C Consultant Contract Reviewers Checklist

Date: _____

Agency Name: _____

Federal or State Project Number: _____

Local Agency Contract Number: _____

Project Location: _____

Consultant Name: _____

Contract Begin and End Dates: _____ to _____

Contract Max Dollar Amount: \$ _____

I. SELECTION PROCEDURES ITEMS NEEDED FOR REVIEW

	<u>Project File Location</u>	
	<u>Tab No.</u>	
A. Description of need for consultant	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
B. Request For Proposal (RFP), or Request For Qualification (RFQ) documents	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
C. Records of Publication for RFP or RFQ	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
D. DBE Utilization Goal Setting (Exhibit 10-I)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
E. Records of Response to Solicitation	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
F. Independent cost estimates - documented	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
G. Conflict of Interest and Confidentiality statement of panel members (Exhibit 10-T)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
H. Evaluation criteria and Weights (Exhibit 10-B)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
I. Documentation of consultant selection (retain all original score sheets and final rankings)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
J. Plan to monitor work (Designated Contract Administrator)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____
K. Audit and Review documents (Exhibit 10-K for contracts over \$150,000, and Exhibit 10-A for contracts over \$1M, or past audits)	<input type="checkbox"/> YES	<input type="checkbox"/> NO _____

II. CONSULTANT CONTRACT APPROVAL CHECKLIST (See Exhibit 10-R A&E Sample Contract Language)

For contracts over \$1M, document the resolution of all identified deficiencies in A&I Conformance Review Letter and obtain Caltrans DLAE concurrence.

Consultant Contract
Page No.

A. Introduction (See Exhibit 10-R, Article I)

- 1. Date of Contract YES NO _____
- 2. Names, Address and Identifying Data of Agreeing Parties
- 3. Location and Description of Project
- 4. Name of Local Agency Contract Administrator
- 5. Name of Consultant Project Manager

B. Contract

1. Statement of Work (See Exhibit 10-R, Article II)

Include description of work to be done by Consultant, including deliverables and delivery schedules, standards for design and other work, quality control measures, acceptance criteria, meetings and site visits, and professional license requirements. Each phase of the work should be described in detail, including engineering studies, preliminary and final design, environmental analysis and clearance documents (NEPA/CEQA), right of way, surveys, landscape architecture, geotechnical investigation, design support during construction, and construction management. This section should also include the description of work to be done by the local agency.

2. Consultant’s Reports or Meetings (See Exhibit 10-R, Article III)

3. Mandatory Fiscal and Federal provisions (See Exhibit 10-R) YES NO _____

- 1. Performance Period (begin and end date) (Article IV)
- 2. Allowable Costs and Payments (Article V)
- 3. Termination (Article VI)
- 4. Cost Principles and Administrative Requirements (Article VII)
- 5. Retention of Records/Audit (Article VIII)
- 6. Audit Review Procedures (Article IX)
- 7. Subcontracting (Article X)
- 8. Equipment Purchase (Article XI)
- 9. State Prevailing Wage Rates (Article XII)
- 10. Conflict of Interest (Article XIII)
- 11. Rebates, Kickbacks or other Unlawful Consideration (Article XIV)
- 12. Prohibition of Expending State or Federal Funds for Lobbying (Article XV)
- 13. Statement of Compliance (Article XVI)
- 14. Debarment and Suspension Certification (Article XVII)

4. Miscellaneous Provisions (See Exhibit 10-R)

YES NO _____

- 1. Funding Requirements (Article XVIII)
- 2. Change in Terms (Article XIX)
- 3. Disadvantaged Business Enterprises (DBE) Participation (Article XX)
- 4. Contingent Fee (Article XXI)
- 5. Disputes (Article XXII)
- 6. Inspection of Work (Article XXIII)
- 7. Safety (Article XXIV)
- 8. Insurance (Article XXV)
- 9. Ownership of Data (Article XXVI)
- 10. Claims Filed by LOCAL AGENCY's Construction Contractor (Article XXVII)
- 11. Confidentiality of Data (Article XXVIII)
- 12. National Labor Relations Board Certification (Article XXIX)
- 13. Evaluation of Consultant (Article XXX)
- 14. Retention of Funds (Article XXXI)
- 15. Notification (Article XXXII)
- 16. Contract (Article XXXIII)
- 17. Signatures (Article XXXIV)

List any provision that is not included in contract and reason for non-inclusion.

C. All findings in the Conformance Review Letter (for contracts over \$1M only) have been resolved, and a copy retained in project/contract file

YES NO _____

D. Record of cost/profit negotiations

YES NO _____

E. DBE Commitment (Exhibit 10-O1 and 10-O2), or GFE

YES NO _____

F. Signatures

YES NO _____

G. Cost Proposal – Final Cost proposal to be incorporated into contract

YES NO _____

Local Agency Contract Administrator

Date

Distribution: 1) Copy - Caltrans DLAE within 30 days of Contract Award
2) Original copy for the Local Agency Project file

Exhibit 10-H Sample Cost Proposal (Example #1) PAGE 1 OF 2

Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

Consultant _____ Contract No. _____ Date _____

DIRECT LABOR

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

LABOR COSTS

- a) Subtotal Direct Labor Costs \$ _____
- b) Anticipated Salary Increases (see page 2 for sample) \$ _____
- c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$ _____

FRINGE BENEFITS

- d) Fringe Benefits (Rate: _____%) e) **TOTAL FRINGE BENEFITS**
- [(c) x (d)] \$ _____

INDIRECT COSTS

- f) Overhead (Rate: _____%) g) Overhead [(c) x (f)] \$ _____
- h) General and Administrative (Rate: _____%) i) Gen & Admin [(c) x (h)] \$ _____
- j) **TOTAL INDIRECT COSTS [(e) + (g) + (i)]** \$ _____

FEE (Profit)

- q) (Rate: _____%) k) **TOTAL FIXED PROFIT [(c) + (j)] x (q)]** \$ _____

OTHER DIRECT COSTS (ODC)

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

TOTAL COST [(c) + (j) + (k) + (p)] \$ _____

NOTES:

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

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

Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts
 (Sample Calculations for Anticipated Salary Increases)

Consultant _____ Contract No. _____ Date _____

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

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

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

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

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

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

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

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

NOTES:

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

Exhibit 10-H Sample Cost Proposal (Example #2)

Specific Rate of Compensation (use for on-call or as-needed contracts)
(Construction Engineering and Inspection Contracts)

Note: Mark-ups are Not Allowed
Consultant or Subconsultant _____

Contract No. _____ Date _____

Fringe Benefit % + Overhead % + General Administration % = Combined Indirect Cost Rate (ICR) %
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE % = _____

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²		Effective date of hourly rate		Actual or Avg. hourly rate ³	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x) OT(2x)	From	To			
John Doe – Project Manager Civil Engineer II	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Buddy Black – Claims Engineer Engineer III	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Land Surveyor *	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Technician	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

NOTES:

- Denote all employees subject to prevailing wage with an asterisks (*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

Specific Rate of Compensation (use for on-call or as-needed contracts)
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant _____

Contract No. _____

Date _____

SCHEDULE OF OTHER DIRECT COST ITEMS															
PRIME CONSULTANT					SUBCONSULTANT #1					SUBCONSULTANT #2					
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
Special Tooling				Special Tooling				Special Tooling							
A.				A.				A.				A.			
B.				B.				B.				B.			
C.				C.				C.				C.			
Travel				Travel				Travel				Travel			
A.				A.				A.				A.			
B.				B.				B.				B.			
C.				C.				C.				C.			
PRIME TOTAL ODCs =					SUBCONSULTANT #1 ODCs =					SUBCONSULTANT #2 ODCs =					

IMPORTANT NOTES:

1. List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
2. Proposed items should be consistently billed directly to all clients (Commercial entities, Federal Govt., State Govt., and Local Govt. Agency), and not just when the client will pay for them as a direct cost.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency.
7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is their standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.

Exhibit 10-H Sample Cost Proposal (Example #3)

Cost Per Unit of Work Contracts
(Geotechnical and Material testing)

Note: Mark-ups are Not Allowed

Consultant _____ Contract No. _____ Date _____

Page ___ of ___

Unit/Item of Work:

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)

Include as many Items as necessary.

DIRECT LABOR	Hours	Hourly Billing Rate (\$)	Total (\$)
Professional (Classification)	_____	_____	_____
Sub-professional/Technical*	_____	_____	_____
EQUIPMENT (with Operator)	_____	_____	_____
 OTHER DIRECT COST			
Description	Unit(s)	Unit Cost	
Mobilization/De-mobilization	_____	\$ _____	_____
Supplies/Consumables (Itemize)	_____	\$ _____	_____
Travel/Mileage	_____	\$ _____	_____
Report (if applicable)	_____	\$ _____	_____
 TOTAL COST PER UNIT OF WORK			 _____

NOTES:

- Denote labor subject to prevailing wage with asterisk (*).
- Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Hourly billing rates include hourly wage rate, net fee/profit, indirect cost rate, and actual direct equipment rate.
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.

Exhibit 10-I Notice to Proposers DBE Information

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

OR

The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-01 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-02 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 1. The proposer is a DBE and will meet the goal by performing work with its own forces.

2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
 - E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
 - F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
 - G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

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

Searches can be performed by one or more criteria. Follow instructions on the screen.

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the

materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

Exhibit 10-K Consultant Certification of Contract Costs and Financial Management System

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

Certification of Final Indirect Costs:

Consultant Firm Name: _____

Indirect Cost Rate: _____ * for fiscal period _____ (mm/dd/yyyy to mm/dd/yyyy)

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

Local Government: _____

Contract Number: _____

Project Number: _____

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

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

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

Certification of Financial Management System:

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

Certification of Dollar Amount for all A&E Contracts:

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

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

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

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

Subconsultants (if applicable)

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

Prime Consultants (if applicable)

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

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

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

Consultant Certifying (Print Name and Title):

Name: _____

Title: _____

Consultant Certification Signature **: _____

Date of Certification (mm/dd/yyyy): _____

Consultant Contact Information:

Email: _____

Phone number: _____

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

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

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

Exhibit 10-O1 Consultant Proposal DBE Commitment

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

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

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

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

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

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

LOCAL AGENCY SECTION

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

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

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

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

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

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

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

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

LOCAL AGENCY SECTION

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

Local Assistance Procedures Manual

EXHIBIT 17-F
Final Report Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES
(DBE), FIRST-TIER SUBCONTRACTORS

CEB-3462F (REV. 02/2004)

ADA Notice
For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6411 or TDD (916) 654-3880 or write Records and Forms Management, 1123 N Street, MS-49, Sacramento, CA 95814.

PRIME CONTRACTOR	COUNTY	ROUTE	POST MILES	BUSINESS ADDRESS	FEDERAL AID PROJECT NO.	ADMINISTERING AGENCY	CONTRACT COMPLETION DATE	ESTIMATED CONTRACT AMOUNT \$	CONTRACT PAYMENTS		DATE OF FINAL PAYMENT
									DBE CERT. NUMBER	NON-DBE	
ORIGINAL COMMITMENT									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
									\$	\$	
TOTAL								\$	\$		

List all first-tier subcontractors. Disadvantaged Business Enterprises (DBE) regardless of size, whether or not the firms were originally listed for your credit. If actual DBE utilization per line of work is different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT.

CONTRACTOR REPRESENTATIVE'S SIGNATURE	BUSINESS PHONE NUMBER	DATE
RESIDENT ENGINEER'S SIGNATURE	BUSINESS PHONE NUMBER	DATE

TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT.

Copy: Disadvantaged Business Enterprises
Copy: Disadvantaged Agency contacts

Original - District Construction
Original - District Local Assistance Engineer (submitted with the Report of Engineer)

Copy: Business Enterprises Program
Copy: District Local Assistance Engineer

Copy: Contract
Copy: Local Agency file

Copy: Resident Engineer

LPP 09-02

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

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
<input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:	
<input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known		
Congressional District, if known		
6. Federal Department/Agency:	7. Federal Program Name/Description:	
	CFDA Number, if applicable _____	
8. Federal Action Number, if known:	9. Award Amount, if known:	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI)	11. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)	
(attach Continuation Sheet(s) if necessary)		
12. Amount of Payment (check all that apply)	14. Type of Payment (check all that apply)	
\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply):		
<input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:		
(attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL	

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

Exhibit 10-T Panel Member Conflict of Interest and Confidentiality Statement

RFP/RFQ PROCUREMENT NUMBERS: _____

PROJECT NAME:

APPLICABILITY: Applicable to local agency consultant procurements which will contain Federal or State funds in the consultant contract.

- I am an employee of the local agency that is responsible for this procurement.
- I am an employee of a consultant under contract to the local agency that is responsible for this procurement but I am not in a management position with the local agency.
- I have a personal, financial, or business interest in past employment activity or a personal relationship regarding the firms (including subconsultants) that are the subject of this evaluation. A brief description is provided on the back of this form.
- I certify that I have no current contractual relationship with any of the firms (including subconsultants) that are the subject of this evaluation.
- I certify that I have no personal or financial interest and no present or past employment activity or personal relationship or prior contractual relationship which would be incompatible with my participation in this solicitation process and I am fully able to give full, fair and impartial consideration to all proposals/bids as an appointee to the related evaluation.
- I certify that I have read **49 CFR 18.36(b)(3)** below and I agree not to participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. **Note:** Caltrans is the Grantee and the local agency is the sub-grantee.
49CFR 18.36(b)(3)

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer, or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents.

The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

- I fully understand and agree to immediately disqualify myself as soon as I am aware of a conflict of interest that may compromise my fair and impartial consideration of the proposals/bids.

- I certify that I will hold in the strictest confidence all bids, proposals, correspondence, memoranda, working papers, or any other media which has any bearing on, or disclose any aspect of, any respondent or potential respondent to the RFP/RFQ above. I will not discuss the evaluation process with anyone not involved in the evaluation process until its completion.

- I fully understand that it is unlawful for a person to utilize any organization name or auxiliary organization information, which is not a matter of public record, for personal gain.

- I fully understand that any violation of the above is a basis for disciplinary action, up to and including termination or referral to the appropriate authorities for further investigation.

- I am aware that the following firms and subconsultants/subcontractors have submitted proposals in response to the above referenced solicitation:

List firms including subconsultants/subcontractors:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- etc. _____

Date: _____

Signed: _____

Name: _____

Title: _____

Dept./Local Agency: _____

Employer: _____

Exhibit 10-U Consultant in Management Position Conflict of Interest and Confidentiality Statement

RFP/RFQ PROCUREMENT NUMBERS: _____

PROJECT NAME: _____

APPLICABILITY: Applicable to local agency consultants in management positions that exercise authority over the Architect & Engineering Selection Panel from which the local agency has or plans to have one or more consultant contracts containing Federal or State funds.

I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

I am in a management position with the local agency, my title is listed below and I have attached my duty statement.

The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all Federal and State requirements. Also this contract has a specific beginning and ending date.

I hereby certify as follows:

1. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
2. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
3. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in managing the work; and not approving changes in the schedule, scope, deliverables or invoices.
4. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

I certify that I have read 49 CFR 18.36(b)(3) below and I agree not to participate in selection, or in the award or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. Note: Caltrans is the Grantee and the local agency is the sub-grantee.

49CFR 18.36(b)(3)

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: